

Torres Strait Islander people in Queensland: a brief human rights history



On the beach of Mer (Murray Island) looking towards Waier and Dauar. Photo by Ludo Kuipers.

Anti-Discrimination Commission Queensland



Cover photo

The cover photo shows the beach at Mer looking towards Waier and Dauar.

In 1992, after a ten-year court battle by Eddie Mabo and other traditional land owners of the Murray Islands, the High Court of Australia delivered one of the most significant legal decisions in Australia's history.

In the *Mabo* decision, the High Court recognised the land rights of the Meriam people, traditional owners of the Murray Islands (which includes the islands of Mer, Dauar, and Waier) in the Torres Strait.

The High Court ruled that the lands of this continent were not *terra nullius* or 'land belonging to no-one' when European settlement occurred, and that the Meriam people were 'entitled as against the whole world to possession, occupation, use and enjoyment of (most of) the lands of the Murray Islands'.

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Preface

Torres Strait Islander people from the islands between Australia and Papua New Guinea have maintained their identity through continuous occupation and use of islands, reefs, and waters of their homelands. This sea-based society does not regard land and sea as separate spheres.

Before colonisation, Torres Strait Islanders were a fiercely territorial, seafaring people, who grew food, fished and hunted, travelled long distances in search of turtle and dugong, and traded with other islands and villages.

After the arrival of the London Missionary Society at Erub (Darnley Island) in 1871, Christianity was adopted throughout Island communities and incorporated into Islander identity, coexisting with traditional stories.

Queensland annexed the islands up to sixty miles from the coast of Cape York in the Torres Strait in 1872, and the majority of the remaining islands in Torres Strait were annexed to Queensland in 1879. The resulting struggle for control over Islanders' homelands and lives has been an ongoing issue in the Strait.

Colonial Protectionist legislation restricted movement between islands, regulated the lives of Torres Strait Islanders, and permitted control of earnings. Under this regime, no recognition was given to Islanders' traditional homelands or sea rights, and Islanders inhabited their homelands under the supervision of non-Islander 'Protectors'.

In the 1930s, Islanders organised strikes in the maritime industry, and in the 1940s against discriminatory pay rates in the armed services. In 1991, the successful *Mabo* case finally achieved recognition of the traditional ownership of their island homeland for the Meriam people. The case had ramifications for Aboriginal and Torres Strait Islander people across Australia.

This publication gives a brief history of the major events in Queensland that have affected the human rights of Torres Strait Islander people since contact with Europeans. It is presented to acknowledge that these events took place, and that human rights abuses occurred.

The contribution made by Torres Strait Islander people also needs to be acknowledged: to maritime industries, to the development of mainland infrastructure, to the defence of Australia in time of war, and to all aspects of cultural and community life.

The Anti-Discrimination Commission Queensland acknowledges Torres Strait Islander people, and recognises their culture, history, diversity, and deep connection to their traditional lands and waters.

The Commission works to educate the community about the human rights of all people, and to reduce the inequality, racism, and injustice experienced by Torres Strait Islander people.

This work contains the stories, names, and photographs of Aboriginal and Torres Strait Islander people who have died, and may cause distress to some readers.

Contents

Introduction	1
Torres Strait Islander people	2
Kaurareg people	2
Islands in the Strait.....	2
Languages of the Torres Strait	5
Torres Strait Creole (Kriol)	5
European contact	6
Conflict with Europeans.....	6
Colonial settlement in the Strait	7
Annexation of Torres Strait islands.....	8
Colonial administration	8
Coming of the Light and Christianity	9
Church influence	10
Torres Strait social hierarchy	11
Regulating labour	11
Pacific Islander influence.....	11
Legislative control.....	11
Immigration restrictions	13
Protection Era	13
Reserves.....	13
Living under the Act.....	14
Maritime Strike of 1936.....	15
Torres Strait Islanders Act 1939	15
Kaurareg Aboriginal people	16
World War II and aftermath	18
Torres Strait Light Infantry wages compensation	19
Movement of communities from the Strait	19
Cape York migration.....	19
Mainland migration	19
Voting and being counted.....	20
Federal elections.....	20
Queensland elections	20
1967 Referendum	20
Governance in the Strait	20
DOGIT lands	21
Local government in the Torres Strait.....	22

Torres Strait Island Regional Council (TSIRC)	22
Northern Peninsular Area Regional Council (NPARC)	22
Torres Shire Council	22
Torres Strait Regional Authority (TSRA)	23
Torres Strait Treaty.....	23
Torres Strait Islander Parliamentary representation	24
Activists.....	25
The Torres Strait flag.....	28
Human Rights.....	28
International instruments	29
Convention on the Elimination of all forms of Racial Discrimination.....	29
Declaration on the Rights of Indigenous Peoples	29
Federal Racial Discrimination Act 1975	30
Under-award payment of wages	30
Queensland legislation	31
Land and sea rights	31
The Mabo case.....	32
The legal challenge.....	33
High Court decisions.....	33
Native title following the Mabo decision	34
Sea Rights.....	34
Campaigns for self-governance and independence.....	35
Border dispute	35
Wacando and the Torres United Party	35
Torres Strait Islander Mainlanders	36
Torres Strait Islander Advisory Board	36
Greater autonomy for Islanders report.....	37
Torres Strait Islander identity	37
Pan-Islander identity	37
Torres Strait Islander people today	38
The Future.....	38
Appendix 1	39
Timeline of the Queensland Torres Strait	39
Appendix 2	46
Reserves: Queensland Torres Strait Islands.....	46
Appendix 3	53
Native title claims: Torres Strait, Queensland	53

Appendix 4	58
Reading list	58
Books, articles, reports and online resources	58
Legislation.....	61
Cases	62

Introduction

The *Declaration on the Rights of Indigenous Peoples* identifies the fundamental rights of Indigenous peoples as: self-determination, participation in decision-making, respect for and protection of culture, and equality and non-discrimination. Since European colonisation, the rights available to Torres Strait Islander people have fallen well short of those outlined in the Declaration.

This publication gives a brief outline of historical and more recent events that have had an impact on the human rights of Torres Strait Islander people in Queensland.

It is provided to:

- inform the reader about the history of Torres Strait Islander people;
- acknowledge the colonial and post-colonial history, and that certain events took place; and
- acknowledge breaches of human rights experienced by Torres Strait Islander people.

Torres Strait Islander people

The traditional people of the Torres Strait are of Melanesian cultural heritage, and are separate in origin, history, and way of life from mainland Aboriginal peoples. For at least 2,500 years Torres Strait Islanders have lived in family communities, named their islands and waters, established gardens, harvested the sea, and developed extensive trade networks.

'Torres Strait Islanders are a saltwater people, proud of their separate and distinct culture, rich in language, music and dance, strong in dignity and community solidarity, and exuberant in spirit.'

Michael C Quinnell, from Queensland Museum's *Awakening: Stories from the Torres Strait* exhibition, 2011.

Before European contact, the Torres Strait was a contested area where skirmishes between Island communities were a regular feature of life. At the same time, years of trading with passing peoples had made Torres Strait Islanders master negotiators. People from islands near New Guinea had ties and customary exchange networks with that country. Fishing spears used throughout the Strait and red ochre were acquired through trade with Aboriginal peoples on Cape York, while feathers, bows, arrows, and large canoes came from the New Guinea coast.



Aukam canoe belonging to Elu Family, Saibai, Torres Strait Island
June 1931. Queensland State Archives, Digital image ID 5757.

The colonial Queensland government annexed the strategically important islands in the Torres Strait, bringing them within the Queensland and Australian border in 1879.

Torres Strait Islander people have been recognised in Australian law as the traditional owners of

lands and waters in the Torres Strait.

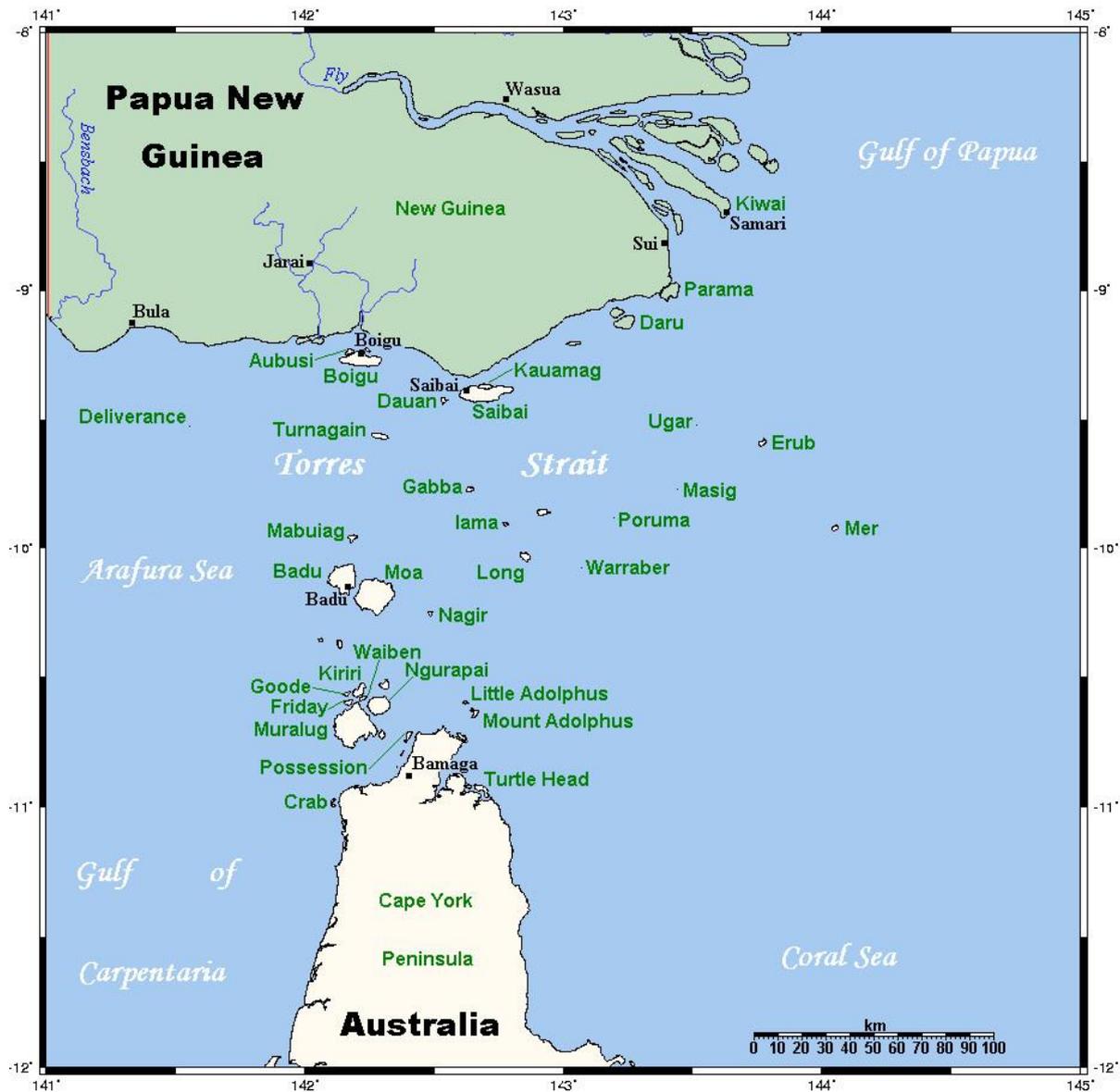
Kaurareg people

The Kaurareg are seafaring Aboriginal people, and are acknowledged as the traditional owners of the Inner Islands of the Torres Strait (or Prince of Wales Island group). Before European contact, traditional Kaurareg used outrigger canoes and other watercraft to navigate their homelands, while maintaining close cultural, marriage, and trading ties with Aboriginal groups on the northern part of Cape York.

Islands in the Strait

More than two hundred islands lie in the Torres Strait, which separates the Cape York Peninsula in Australia from Papua New Guinea, but only seventeen of these islands are permanently inhabited today.

The islands of Saibai, Boigu, and Dauan mark Australia's only international border with another country.



Torres Strait Islands map. 2006. Photo by Kelisi at the English language Wikipedia.

Each of the five major island groups have their own sea and landscapes that have created varied cultural heritages, languages, beliefs, and practices across the Strait.

The five Island groups are:

- Top Western Islands (Boigu, Dauan, Saibai) — traditionally known as Saibailgal;
- Eastern Islands (Mer, Ugar, Erub) — traditionally known as Meriam Le;
- Lower Western Islands (Badu, Mabuyag, Mua or Moa) — traditionally known as Maluilgal;
- Central Islands (Iama, Masig, Poruma, Warraber) — traditionally known as Kulkalgal; and
- Inner Islands (Keriri, Muralug, Ngurupai, Waibene) — traditionally known as Kaurareg.

In this resource, we use traditional Island names, and the following table gives traditional, as well as post-colonial names, and an indication of the traditional owners.



The Drums of Mer perform a dance with a traditional sardine scoop, 1988. Photo by Ludo Kuipers

Traditional name	Post-colonial name	Traditional owners
Badu	Mulgrave Island	Badulgal and Mualgal known collectively as Mura Badulgal
Bedanug / Tuidin	Possession Island	Gudang and Kaurareg peoples
Boigu	Talbot Island	Malu Ki'ai
Dauan	Mt Cornwallis Island	Dauanalgal
Erub	Darnley Island	Erubam Le
Iama	Yam or Turtle-Backed Island	Iama people
Kirri / Keriri	Hammond Island	Kaurareg Aboriginal people
Mabuyag / Gumu	Jervis Island	Mabuygilgal and Gumuligal peoples
Masig	Yorke Island	Masigalgal
Mer	Murray Island	Meriam – 8 tribes of the Miriam People, the Komet, Zagareh, Meuram, Magaram, Geuram, Peibre, Miriam-Samseq, Piadra Dauer-Meriam

Traditional name	Post-colonial name	Traditional owners
Mua / Moa	Banks Island	Mualgal or Italgal
Muralag	Prince of Wales Island	Kaurareg Aboriginal people
Nagi	Mt Ernest Island	Kulkalgal
Ngurapal / Narupai	Horn Island	Kaurareg Aboriginal people
Puruma / Poruma	Coconut Island	Billy and Faid (Fy-hood) families
	Raine Island	Wuthathi, Erubam Le, Meriam Le and Ugarem Le
Saibai	Saibai	Koeybuway and Moegilbuway
Tudu	Warrior Island	Iama people and Tudulaig
Ugar	Stephen Island	Ugarem-Le
Waibene / Waiben	Thursday Island	Kaurareg Aboriginal people
Waraber / Warraber	Sue Island	Gau and Wahmer clans

Languages of the Torres Strait

There are two traditional languages of the Torres Strait, each of which has a number of dialects:

- Miriam Mir (Miriam Mer) is the language of the Eastern Islands, and is connected to Papuan languages.
- Kala Lagaw Ya (Kalaw Lagaw Ya) is the traditional language of the Western and Central islands, as well as the Cape York communities of Bamaga and Siesia, which were settled by people from Saibai in the 1950s, and is linguistically connected to the Aboriginal languages of the Australian mainland.

Recognising that the traditional Torres Strait languages are becoming critically endangered, the Torres Strait Regional Authority procured funding from the federal government for a Regional Language Centre. In February 2017, the Torres Strait Traditional Languages Plan and Charter, which was developed by elected representatives of each of the six language and dialect groups, were launched. A guiding principle of the Charter is that traditional languages are essential to the wellbeing, culture, and identity of Torres Strait Islander peoples.

Torres Strait Creole (Kriol)

Torres Strait Creole (also known as Brokan, Ailan Tok or Yumplatok) is an English-based creole language widely spoken in the Strait. The development of a Pidgin English resulted from contacts with people from many countries, as well as missionaries.

European contact

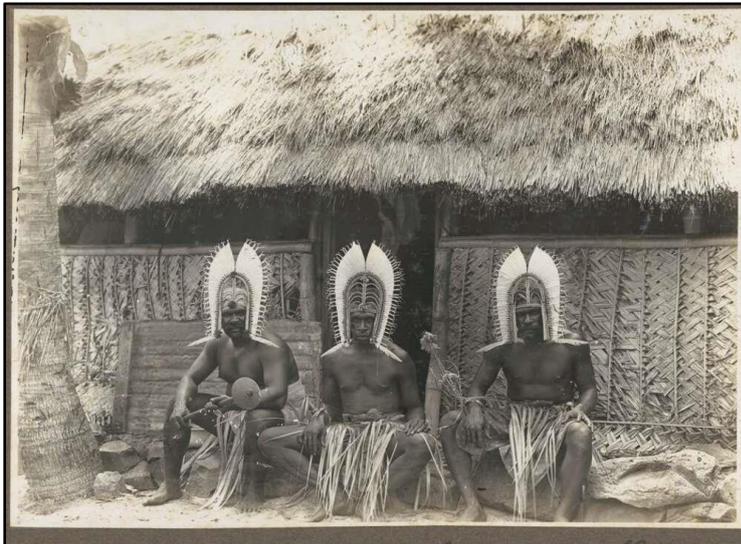
The Torres Strait is named after Luis Vaez de Torres who, in 1606, was the first European to navigate the strait that separates Australia and Papua New Guinea. From the eighteenth century, the strategically important shipping channel of the Torres Strait was frequently visited by European vessels, with whalers and sandalwood cutters among the first crews.

In 1770, Lieutenant James Cook landed at Bedanug in the Torres Strait (which he renamed Possession Island) and claimed the east coast of Australia in the name of King George III of England.

After the colonial settlement at Port Jackson in New South Wales was established in 1788, traders made increasing use of the shipping route through the Great Barrier Reef and Torres Strait.

In 1792 the British Navy captain, William Bligh, mapped the main reefs and channels of the Torres Strait. Violent exchanges between Island warriors in canoes and British naval ships were recorded during this time, with deaths on both sides.

Conflict with Europeans



Three men wearing head dresses sitting outside hut, 1921. Photo by Frank Hurley, National Library of Australia, obj-149360437.

Accounts from ships' journals record many conflicts. According to European accounts, the conflicts often resulted from the killing of shipwrecked castaways by local Islanders. However, Torres Strait Islander men strongly identified as warriors, and provocation, incursion, and abuses were dealt with violently — whether those involved were European, or from other islands.

In 1793, five crew members from the ships *Chesterfield* and *Homuzzer* were killed at what became known as Treacherous

Bay on Erub (Darnley Island). Island tradition has it that the men were attacked because they were caught washing clothes at a fresh water spring. The attack provoked revenge raids in which several Islanders were killed, and 135 huts, 16 sea-going canoes, and extensive gardens were destroyed. Other Islanders on nearby Ugar (Stephen Island) were also killed, a boy was kidnapped, and a village destroyed as the sailors searched for survivors of the original attack.

In 1834, the *Charles Eaton* struck the outer reef, and a number of passengers and crew set out on makeshift rafts. All adult survivors were killed by Islanders (probably to the south of Raine Island) but two young boys, John Ireland and William D'Oyley, were taken to Mer (Murray Island) where they lived for 18 months with a family, and became proficient in the local language, before being returned to England on the schooner *Isabella* that had been sent to search for survivors.

In 1859, castaway crew members from the *Sapphire*, which was wrecked near Raine Island, were killed by local Islanders on Gealug (Friday Island, part of the Prince of Wales island group).

The British Royal Marines provided protection for the settlement at Somerset on the eastern tip of Cape York, but in 1865 conflict between Royal Marines and local Aboriginal people resulted in two marines being seriously wounded. The Police Magistrate in charge of the settlement reported that the Aboriginal aggression had been met with 'severe and just punishment'.

In 1869, the crew of the cutter *Sperwer* were killed after the ship anchored off Muralug (Prince of Wales Island) and the Kaurareg Aboriginal people of the island were blamed for the killings. Three Kaurareg men were captured, found guilty of the killings, and executed by a party of Native Police led by the Police Magistrate. Additional retaliatory attacks against the Kaurareg people occurred in 1870 on Muralag to the point of their near extinction. It was later discovered that the killings of the *Sperwer* crew were in fact carried out by Kulkalgal people from Nagi (Mt Ernest Island).

Colonial settlement in the Strait

In 1859 Queensland became a separate colony from New South Wales, and in 1864 an official outpost — Somerset — was established at Pabaju (Port Albany) on Cape York, with John Jardine as Police Magistrate in charge of the settlement.

Somerset was established to provide a major trading port in the north, as the British Government needed a strategic outpost to guard the Torres Strait, which was becoming an increasingly important trade route linking the Pacific and Indian Oceans.

At this time, the total Torres Strait Islander population was estimated to be no more than about 3,000 people. Europeans living in the Torres Strait were mostly government-appointed magistrates, customs officers

(sometimes with their families), and other people engaged as missionaries or working in the maritime industries. But by 1872, many Papuans, South Sea Islanders, Aboriginal, Malay, Indian, Sri Lankan, Indonesian, and Japanese people were employed in the maritime industries in Torres Strait.

In 1877, the government administration residency and garrison at Somerset was moved to Waibene (Thursday Island) which became the administrative centre for the region.



Women on Darnley Island, 1899. Three sisters (left to right): Louisa, Moarah, and Mary. In 1899 Moarah was awarded a bravery medal on Darnley Island. John Oxley Library, State Library of Queensland, Neg: 49780.

Annexation of Torres Strait islands

The Queensland Government first moved to secure the Torres Strait under its jurisdiction in 1872, when letters patent were issued by the British Government to extend the boundary of the colony to encompass all islands within a 60 nautical mile radius of the coast of Queensland. In this annexation, the northern islands including Boigu, Dauan, Saibai, and the eastern island of Mer, were left outside the boundary, and came under the nominal control of the Governor of Fiji and the British Western Pacific High Commission.

In 1879, the Queensland Government passed the Queensland Coast Islands Act, which extended the colony's boundary to include the remaining islands in the north and east.



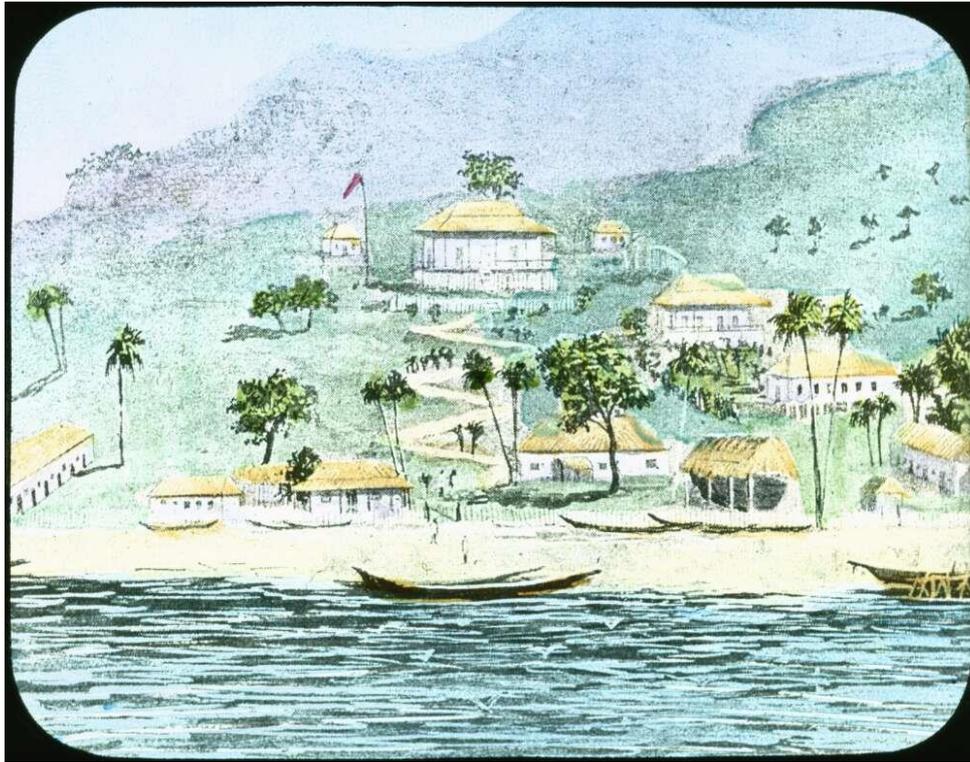
Green Hill Fort, Thursday Island built between 1891 and 1893 to defend Australian colonies against a possible Russian invasion. Photo by Ludo Kuipers, 2001.

The annexation effectively meant that the Torres Strait area came within the Australian and Queensland borders, giving the Australian and Queensland Governments control over marine and other industries, as well as the movement of people between Papua New Guinea, the Torres Strait, and mainland Australia.

Colonial administration

Control of the Torres Strait was first exercised by the Police Magistrate at Somerset on the mainland.

In 1885, the position of Government Resident was gazetted to formalise administrative control of the Strait, and John Douglas (a former Premier of Queensland) was appointed Government Resident and Police Magistrate at Waibene (Thursday Island).



Murray Island 1900, reproduction of a watercolour. National Library of Australia. obj-138062606.

Because of the remoteness from Brisbane, Douglas was able to operate with a minimum of interference from the government of the day, and exercised his role with an eye to the best interests, as he saw them, of Islander people. In this role, he advised the people of each island to pick a chief and submit to his authority, which he would support. The title of 'Mamoose' was given to the person chosen on each of the islands, who was given a boat and six designated constables.

When the *Aboriginal Protection and Restriction of the Sale of Opium Act 1897* (the Act) was passed, Torres Strait Islanders were still under administrative control of the Government Resident. Douglas opposed Torres Strait Islanders becoming subject to the Act, preferring the system of Mamoooses, or Island leaders.

Coming of the Light and Christianity

In July 1871, the Reverend Samuel MacFarlane, a member of the London Missionary Society, anchored off Kemus Beach at Erub (Darnley Island) in the Torres Strait, where the inhabitants were known to be fierce warriors. He was accompanied by New Caledonian mission teachers and their wives.

Dabad, a warrior clan Elder on Erub, met them on the beach, and in defiance of tribal law welcomed the missionaries.

This event became known as the Coming of the Light, and recognises the adoption of Christianity throughout Island communities during the late nineteenth century. Coming of the Light is celebrated by Torres Strait Islanders on 1 July each year with church services, re-enactment of the landing at Kemus, hymn singing, feasting, and 'Ailan dans'.

For Torres Strait Islanders, the arrival of the missionaries marked the beginning of a new era, and Islanders use the Torres Strait Creole (Kriol) word 'bipotaim' (meaning 'before time') to refer to the era before the coming of the missionaries.



Holy Cross Anglican church on Dauan Island with a memorial to the missionaries of the London Missionary Society. The memorial is in the shape of the boat in which the missionaries arrived.
Photo by Ludo Kuipers, 2001

The Torres Strait Islanders' acceptance of the missionaries and Christianity has been credited with ending conflict between different Island groups. Pacific Islander missionaries also brought new language, songs, dances and customs, and new cultural influences from the Pacific islands. On a practical level, the missionaries also provided Torres Strait Islanders with some protection from exploitation in the maritime industries.

The acceptance of missionaries and Christianity in the Torres Strait led to profound changes that have affected every aspect of life since then.

Church influence

By the end of the nineteenth century, most Islander communities were nominally Christian and formed around the nucleus of the church.

In the second half of the nineteenth century, the colonial administration allowed the London Missionary Society (LMS) an extremely broad sphere of influence in all aspects of Islander life, including education. The LMS employed Pacific Islanders as pastors to minister to local Torres Strait Islander people, at a time when other Melanesian and Polynesian cultures were having a profound impact on local customary practices. The missionaries maintained their influence until the end of 1914, when the LMS handed over its activities to the Church of England.

In 1915, the Queensland Government took over responsibility for school education, and the Church of England took responsibility for the spiritual welfare of the Islanders.



Portrait of priests Joseph Lui Snr. and Poey Passi at their graduation ceremony on Mua, 1925. John Oxley Library, State Library of Queensland Neg 142906.

Torres Strait social hierarchy

The divisions established in colonial society in the Torres Strait were firmly structured on racial grounds, with Europeans assuming the position at the top. Pacific and South Sea Islanders — with their longer relationships with, and experience of European habits, language, morality, and work ethic — were regarded as superior in ability and skill to Torres Strait Islanders, who were relegated to the lowest position. Later, Japanese labourers were to take their place below Europeans in the social hierarchy.

In time, the skills of Torres Strait Islanders, their conversion to Christianity, inter-marriage with Pacific and South Sea Islanders, and adoption of their customs differentiated Torres Strait Islanders from both neighbouring Melanesian and mainland Aboriginal peoples. The geographic place of the Torres Strait has been, and continues to be, socially constructed and reconstructed.

Ailan Kastom

It was only with European contact that the various Island communities came to be considered as a single cultural group. Until then, identity for Islanders was connected with their individual islands. Torres Strait Islanders now identify as belonging to the wider cultural group of Torres Strait Islanders from which a body of customs, traditions, observances and beliefs, referred to as 'Ailan Kastom', has developed and continues to develop.

Regulating labour

Pacific Islander influence

In the 1860s, the first Pacific Islanders were brought to work in the *bêche-de-mer* (trepang or sea cucumber) industry on Jiigurru (Lizard Island), and from 1863 to 1904 South Sea Islanders arrived in coastal areas to work in the Queensland sugar industry.

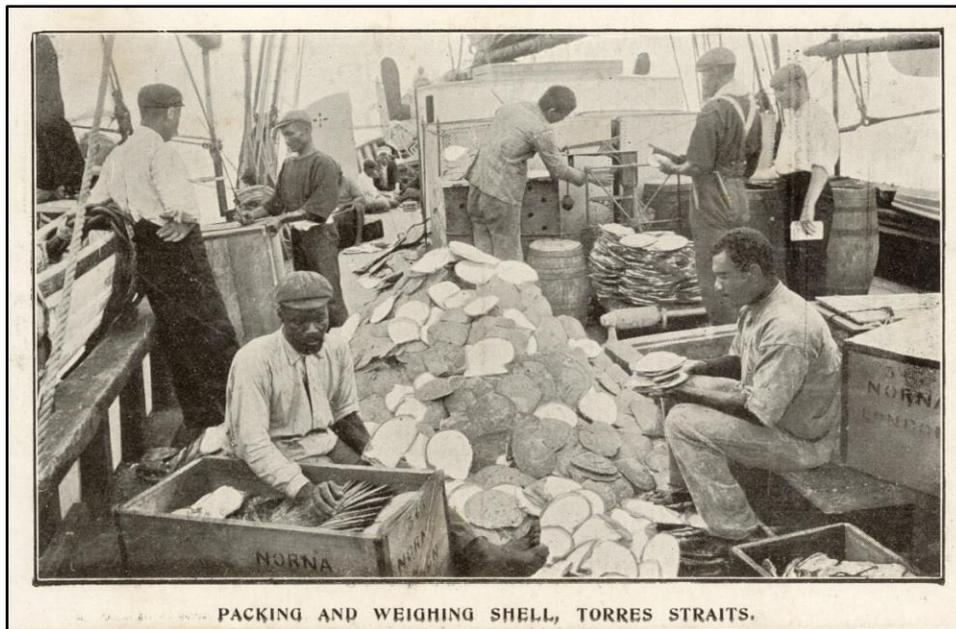
Pacific Islanders were 'recruited' from various islands including the Solomon Islands, Vanuatu (then the New Hebrides), and the Loyalty Islands of New Caledonia to supply labourers for Queensland's growing sugar industry. This human trafficking is euphemistically known as 'blackbirding', and the people referred to as 'Kanakas'. However, Islander communities in the Pacific and Australia consider the work 'Kananka' derogatory. Islanders worked in harsh conditions in the Queensland sugar fields, some in conditions close to slavery. Between 1863 and 1904, over 60,000 Pacific Islanders were transported to Queensland.

In 1869, pearl shell — a highly desirable and valuable commodity — was discovered at Tudu (Warrior Island) in the Torres Strait. This brought more Pacific Islanders to work as crew and divers on the pearling boats operating from shore stations. Islander men from Mabuyag, Tudu, and other places in the central and eastern parts of Torres Strait also worked as crew, deck hands, and divers.

Legislative control

By 1872, Pacific Islanders were living on practically every inhabited central and north-eastern island, and had intermarried with local women and adopted the Torres Strait Islander kinship system.

By 1877, 16 pearling firms were established on Waibene (Thursday Island) and employed 700 people on more than 100 pearling luggers.

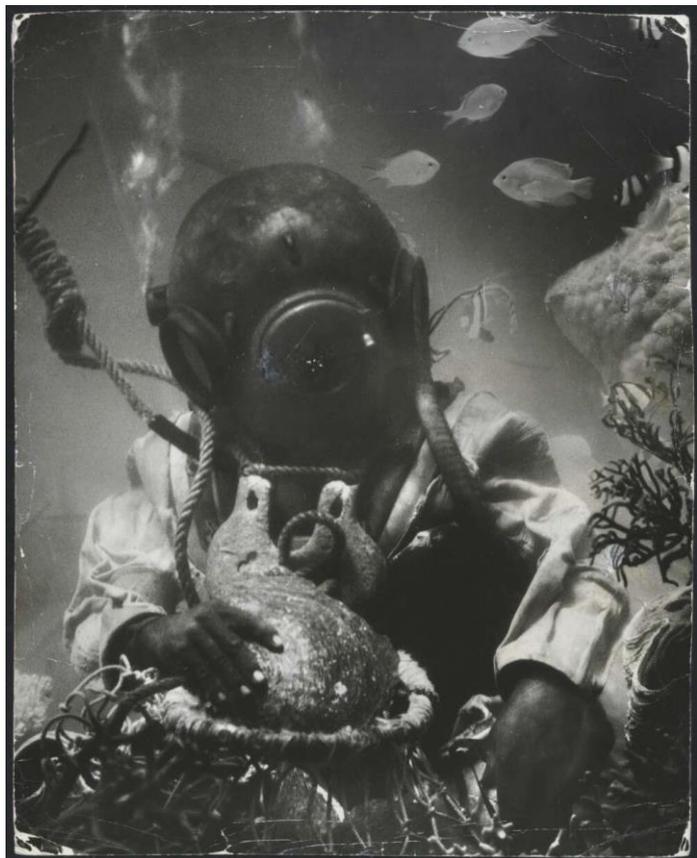


Packing and weighing shell, Torres Strait, (c1910), Fryer Library Postcard Collection, UQFL 478, Postcard 157, Fryer Library, The University of Queensland Library.

Trade in Pacific Island labourers was condemned in some quarters in the colonial period. The British Government, which had played an active role in the abolition of slavery and did not wish to see a variant of this practice introduced in one of its colonies, also voiced its opposition. In the face of mounting pressure, the Queensland Government passed legislation to control the trade and quell humanitarian concerns over the treatment of workers.

The Queensland and Commonwealth Governments enacted legislation to regulate labour, and some had particular application in the Torres Strait, including:

- *Pearl Shell and Beche-de-mer Fishery Act 1881 (Qld)*: This Act was passed to regulate the engagement and employment of 'natives'. It was intended that the presence of a Government Resident on Waibene (Thursday Island), who had authority to enforce the Act, would check the exploitation that had become rampant in the pearling industry, due to its lucrative nature.
- *Native Labourers' Protection Act 1884 (Qld)*: This Act was, in part, the result of the British presence in New Guinea (the British



Pearl diver collecting shells from the beds of Torres Strait. Photo by Frank Hurley created between 1921 and 1939. National Library of Australia. obj-151335501.

protectorate there was proclaimed in 1884) and required the employment of all 'native labourers' on ships in Queensland to be documented with an agreement of hiring stating the nature of the work and rate of pay.

- *Pacific Island Labourers Act Amendment Act 1884* (Qld): This Act was the model for the Commonwealth legislation from 1901 to 1904, including the *Pacific Islanders Labourers Act 1901* and the *Immigration Restriction Act 1901*, which provided the legislative basis for the White Australia Policy. Although this was not the first Queensland Act introduced to regulate Pacific Islander labour trade, it had the most enduring significance, as it created class-like groups amongst the Islanders: first-indenture labourers limited to tropical agriculture; time-expired labourers, some also limited to tropical agriculture, and others who could work anywhere in the colony; and lastly, 'ticket-holders', the pre-September 1879 immigrants who were bound only by the normal laws of Queensland.
- *Pacific Island Labourers Act 1901* (Cth): This Act was modelled on Queensland's 1880–84 legislation and aimed to deport nearly all Pacific Island workers in Australia. It formed the basis of the White Australia Policy.
- *Commonwealth Restriction of Immigration Act 1901* (also referred to as the White Australia Policy).

Immigration restrictions

With the enactment of the *Commonwealth of Australia Constitution Act 1901* and the *Restriction of Immigration Act 1901* (the basis for the White Australia Policy), the immigration of non-Europeans was severely restricted. By 1903 the continued employment of Pacific Islanders in Australia was to cease, and the deportation of all Pacific Islanders from Australian territory after 1906 was proposed.

A period of repatriation of Pacific Islanders from Queensland and the Torres Strait was implemented, and stayed in place until 1914. However, a significant number of South Sea Islanders were allowed to remain working and living in the Torres Strait, as well as on mainland Queensland and in northern New South Wales.

By the turn of the twentieth century, Pacific Islanders had become a dominant group in communities close to the pearling grounds of Erub (Darnley Island), Ugar (Stephens Island), Poruma (Coconut Island), Nagi and Warraber (Sue Island).

This history has created a racially and culturally mixed Torres Strait population, including the indigenous Torres Strait Islander peoples.

The difference in colonial contact in the Torres Strait compared with the experience of mainland Aboriginal peoples reflects the influences of Pacific Islanders, Polynesian workers, missionaries, and the cultural influences of other peoples employed in the local marine industries, along with the widespread acceptance and incorporation of Christianity into Island life.

Protection Era

Reserves

From 1881 until the mid-twentieth century, the Crown reserved lands in Torres Strait for the use of 'native inhabitants'. The *Aboriginal Protection and Restriction of the Sale of Opium*

Act 1897 introduced a system of closed reserves on islands, and Protectors determined who could live on a particular reserve, as well as controlling movement between reserves. The autonomy, ostensible ownership, and control of the lands by the traditional owners could not be realised under the reserve system.

The legal implications of the creation of reserves by the Crown was a major issue for native title applicants, as shown in the claim for ownership of lands on Mer (Murray Island) by Eddie Mabo and other Meriam people.

Living under the Act

The death of Government Resident Douglas in 1904 provided the opportunity for the state government to bring Torres Strait Islanders under the *Aboriginal Protection and Restriction of the Sale of Opium Act 1897*, and Islanders were made increasingly subject to the Protector's oversight. The Government justified this because, in its view, Islanders were not able to appreciate European methods of trading and money, and were vulnerable in business dealings.



Funeral of John Douglas on Thursday Island, July 1904. John Oxley Library, State Library of Queensland Neg 159748.

Superintendent-teachers were appointed to all the permanently settled islands to oversee the Islanders' daily activities. A curfew and pass system was instituted, whereby Islanders had to ask permission of the local superintendent to travel to their traditional lands or to the mainland. Islanders' wages now came under the Protector's control, and workers had to ask permission to withdraw their own money.

The Protector also became responsible for recruiting crews and controlling the earnings of Islanders who worked the boats. If the boats were not worked to the Protector's satisfaction, they were confiscated, and through these measures Islanders lost the right to control how they made a living.

While the Island councils continued through the Protection era, in practice, control was largely exercised by the superintendent-teachers, who were the Protector's agents.

Islanders needed permission for everything they did.

The accumulation of interference that affected everyday freedoms and the harsh punishment meted out for transgressions or non-cooperation caused much resentment. Not only was travel between the islands restricted, it was also necessary to have a permit. Without a permit individuals who were caught by the police were taken before the courts and fined.

In 1913, an Island provident fund, known as the Island Fund commenced operation to receive money deducted from the earnings of Islander workers. This involved the deduction of 20%, later 50%, of Islanders' earnings. The government reserved the right to access this fund in times of famine to pay for services on the island, and for the care of the aged, sick, or those unable to work.

Following the death of the last Government Resident in 1917, administration of the Torres Strait passed to the Office of the Chief Protector of Aboriginals (through the local Protector) with the result that Torres Strait Islander people lost many civil rights, and suffered the same oppression as mainland Aboriginal peoples 'living under the Act'.

By the 1920s and 1930s, the lives of most Torres Strait Islander residents in the Strait were increasingly constrained by the Protectionist Act. In 1934, the Act was amended to include Torres Strait Islanders specifically. This amendment included a new definition of 'half-caste' that was extended to provide 'for the care of all cross-breed elements of Aboriginal or Pacific Islander extraction who live or associate with Aboriginals', and resulted in forced removals of some Torres Strait Islanders to Aboriginal reserves on Palm Island and Yarrabah.

Maritime Strike of 1936

When the Protector visited the islands to recruit men to work the boats in mid-January 1936, around 70% of the Torres Strait workforce went on strike, refusing to work the boats until conditions improved. The strike was the first organised Islander challenge to European authority.

At one level, the strike was caused by anger and resentment at increased government control over Islanders' livelihoods. It was a protest about the control over recruitment of boat crews, interference in wages, and unpopular regulations, such as the permit system for inter-island travel and evening curfews.

But it was not only a protest against increasing control over Islanders' lives, it was also a demand to be recognised as a distinct people, and for the right of Islanders to manage their own affairs through local councils, rather than superintendent-teachers.

The strike lasted for up to nine months in some places, with the result that superintendent-teachers were removed, a new Protector (Cornelius O'Leary) was appointed, and a system of regular consultations with elected Islander council representatives commenced. The Maritime Strike heralded the turning point in Islander and government relations.

Torres Strait Islanders Act 1939

Protector O'Leary convened the first Inter-Islander Councillors Conference in 1937 at Masig (Yorke Island) attended by representatives from 14 Island communities, at which a call for 'Ilan' (Island) government was made. After lengthy discussions, unpopular by-laws (including

the evening curfews) were cancelled and a new code of local representation was agreed upon.

In 1939, the Queensland Government passed the *Torres Strait Islanders Act 1939*, which incorporated many of the recommendations discussed at the conference. A key section of the new Act officially recognised Torres Strait Islanders as a separate people from Aboriginal Australians.

However, alongside these positive features, the 1939 Act authorised the Director of Native Affairs (the successor to the Chief Protector of Aboriginals) to remove an Islander from one reserve to another reserve, or to a reserve under the *Aboriginals Act 1939*, and be kept there. These removals, however, could not be effected without the recommendation of the Island court.

Kaurareg Aboriginal people

For the Kaurareg people who come from the Inner Islands group, the arrival of Europeans in the Torres Strait led to an extreme degree of social and cultural dislocation.

Following the killing of crew members from the *Sperwer* in 1867, the Kaurareg were falsely blamed for the killings. The Police Magistrate at Somerset, accompanied by Native Police



troopers, conducted raids on Muralag (Prince of Wales Island) and Maururra (Wednesday Island) and the Kaurareg were massacred almost to the point of extinction. The survivors of this massacre were moved to Kirriri (Hammond Island).

In 1877, the government administration was moved from

Somerset on Cape York to Waibene (Thursday Island), and the island rapidly became the commercial centre of the Torres Strait. The island was then opened to private settlement in 1885, and immigrants from Asia (predominately Japan), the South Pacific, and Europe moved to Waibene to work in the pearling industry. An underwater telegraph cable linking Waibene with Cape York was laid in 1887 to provide a communications link with the mainland.

Initially, the *Aborigines Protection and Restriction of the Sale of Opium Act 1897* was only applied to the Kaurareg people of the Inner Islands group, and not Torres Strait Islander people. In 1922, the government forcibly removed the Kaurareg at gunpoint from Kirriri to Mua Island. This removal, authorised by the Act, reflected a general tightening of racial segregation justified as a 'betterment scheme' to save 'the native' from 'hopeless contamination' through 'complete segregation'. From this time, the Kaurareg people were marginalised, isolated, and excluded from participation in the wider Torres Strait community and the Torres Strait council system.

In 1947, Kaurareg elder, Elikiam Tom, left Mua for Kirriri, but moved to Narupai (Horn Island) after refusing to convert to Catholicism. He was joined there later by other Kaurareg Elders from Mua and built a village now known as Wasaga village. Even then, the Kaurareg people were not considered a community for the purpose of forming an Island council.

In 1996, the Kaurareg people lodged five native title claims over parts of Muralag, Narupai, Tarilag (Packe Island), Damaralag (Dumuralug Islet), Mipa (Pipa Islet, also known as Turtle Island), Yeta (Port Lihou Island), and Zuna (Dentrance Island). The determination of a native title claim to Waibene (Thursday Island) found that native title was extinguished, as it was the only island to have been opened to settlement, and the land sold off.

The other Kaurareg native title claims were recognised in 2001, and at this time the Kaurareg declared their independence from Australia and commenced to refer to their lands as the United Isles of Kaiwalagal.



Approaching Thursday Island, the small island to the left, from Hammond Island (Kirriri) 2003.

Photo by Ludo Kuipers.

The impact of colonisation on the Kaurareg people was acknowledged at a forum conducted by the National Aboriginal and Torres Strait Islander Healing Foundation in 2012. The historical lack of inclusion of Kaurareg people in the administration of the Torres Strait area was considered a serious issue to be addressed by the forum.

In March 2017, the Torres Strait and *Kaurareg Aboriginal Peoples' Healing Strategy* was launched. The Strategy was the result of extensive consultation with Kaurareg Aboriginal people and Torres Strait Islanders, and was designed to address the trauma affecting Torres Strait communities as a result of colonisation.

World War II and aftermath

The geographical position of the Torres Strait has been of strategic importance to the defence of Australia in major conflicts.

As with Aboriginal peoples, Torres Strait Islander people were excluded from enlisting in the armed services (on the ground of race) by the Commonwealth *Defence Act 1903*. People who were not of European descent could not enlist. In any case, the restrictions on movement within and outside the Strait precluded enlistment. Many Europeans and 'mixed race' men living in the Torres Strait (who were permitted to serve) in the armed forces did enlist.

Japanese residents in the Torres Strait and their families were interned in government camps in New South Wales and Victoria as enemies of the State. Very few returned to the Strait, and those who did lost all their property and businesses.

In 1941, with the prospect of Japan entering the war and too few troops to defend against the Japanese advance, the Australian Government commenced recruiting Torres Strait Islander men. From a population of less than 4,000, around 850 men were recruited to form the Torres Strait Light Infantry Battalion. The men formed into companies according to their island of origin, and served in Dutch New Guinea.

During the second World War, the air strip at Ngurupai (Horn Island) was used by Allied forces to attack targets in New Guinea and the Pacific, which led to the island itself becoming a target for Japanese raids. Ngurupai was the second most bombed location in Australia, after Darwin. By the end of 1942, there were 5,000 troops and airmen stationed on Ngurupai, while Waibene (Thursday Island) was the headquarters for the Navy.

All non-Torres Strait Islanders — that is, Europeans and everyone other than traditional Torres Strait Islander people of mixed ancestral descent — were evacuated to the mainland for their safety. A few Torres Strait Islander families of 'mixed-race' were evacuated to Cherbourg Aboriginal Reserve in South-East Queensland and other Aboriginal reserves on the mainland, but no arrangements were made for the safety of Torres Strait Islanders.



Torres Strait Light Infantry Battalion, Thursday Island, 1945, John Oxley Library, State Library of Queensland, Neg. 17218.

After the war, some evacuees returned to the Strait while others remained living on the Queensland mainland. In 1947, the first Torres Strait Islanders were allowed legally onto the mainland to work in the cane fields of North Queensland.

Torres Strait Light Infantry wages compensation

Between October and December 1943, a detachment of the Torres Strait Light Infantry was sent into Dutch New Guinea. In an engagement with the Japanese in December, one member of the detachment was killed and six were injured. This event brought the issue of discriminatory pay scales to a head.

While the Torres Strait Light Infantry were accepted and respected as soldiers, they received only one-third of the pay given to other Australian soldiers. Having seen strikes used to good effect in the pearling industry with the Marine Strike of 1936, members of the Torres Strait Light Infantry decided to strike on 31 December 1943. The Army eventually agreed to increase their pay to two-thirds the rate received by non-Indigenous soldiers at that time.

In 1986, two Torres Strait Islander men living in Cairns who served in the Torres Strait Light Infantry —Thomas Lowah and Elia Ware (assisted by Major Robert Hall) — successfully negotiated the reimbursement of the one-third difference in pay denied to the Torres Strait Light Infantry servicemen during World War II.

Movement of communities from the Strait

Cape York migration

In 1947, the Director of Native Affairs, Cornelius O’Leary, inspected the North Peninsula Area to identify suitable locations for a new settlement. In his opening address to the Island Councillors’ Conference at Badu that year, O’Leary spoke of the government’s ‘wish for the expansion of the Torres Strait Race as a healthy industrial unit in North Queensland’.

Also in 1947, a series of king tides during the wet season caused serious, and in some cases, irreparable damage to properties and gardens on Saibai Island. A local leader, Bamaga Ginua, called a meeting about his concerns for the future of Saibai Island, and after much discussion, a number of Saibai families decided to leave the island and move to Cape York on the mainland. The first families left Saibai in June 1947, and established a temporary settlement in abandoned army facilities at Red Island Point on Cape York.

In July 1948, the Queensland Government gazetted 44,500 acres extending from Red Island Point to Kennedy Inlet and the former Cowal Creek Aboriginal mission as a reserve for the use of Torres Strait Islanders.

In 1952 the new settlement was named Bamaga after the Islander leader from Saibai, Bamaga Ginau. The smaller community at Red Island Point was renamed Seisia in 1977.

Mainland migration

By the 1960s, the pearl shell industry in the Torres Strait was in decline, and this triggered an exodus of Torres Strait Islanders to the Australian mainland. Islanders went in search of work and to access services not available in the Strait, as well as for the education and future of their children. Cairns was generally the first port of call for Torres Strait Islander men, who quickly found employment cane-cutting and in railway construction.

Voting and being counted

Federal elections

In 1962 Torres Strait Islanders obtained the right to vote in federal elections. The *Commonwealth Electoral Act* was amended so that Indigenous people could enrol to vote in federal elections, if they wished. Unlike other Australians, it was not compulsory for Aboriginal or Torres Strait Islander people to enrol, and it was an offence for anyone to use undue influence or pressure to induce them to enrol. But once enrolled, voting was compulsory.

Queensland elections

However, the vast majority of Aboriginal and Torres Strait Islander people still did not have the right to enrol and vote in state elections. Torres Strait Islanders were denied the right to vote in state elections, regardless of whether they lived on Island Reserves in the Torres Strait (and therefore subject to the 1939 *Torres Strait Islanders Act*) or on the Queensland mainland.

On 17 December 1965, the Queensland *Elections Act Amendment Act* was passed and came into force on 1 February 1966. This Act extended voting rights to all Aboriginal people and Torres Strait Islanders in Queensland.

1967 Referendum

In the 1967 Referendum, Australians voted overwhelmingly in favour of counting Indigenous people in census figures, and allowing the Commonwealth to make special laws for their benefit.

It was a very clear expression that the majority of Australians believed that Aboriginal people and Torres Strait Islanders should have equal treatment under all federal and state laws. As a result of the Referendum, they were no longer to be subjected to legal disabilities as 'protected' people.

Governance in the Strait

In the post-war period, governance of Torres Strait Island communities was maintained through various Queensland Acts. These Acts were the:

- *Aborigines' and Torres Strait Islanders' Affairs Act 1965*: This Act replaced the *Torres Strait Islander Act 1939* and removed many of the previous restrictive clauses. However, it created the concept of an 'assisted Aborigine or Islander'. Any Torres Strait Islander person living on a reserve was considered an 'assisted' person and subject to the Act. The Director of Aboriginal and Island Affairs had authority to move an 'assisted' person from one reserve to another, or declare a person not living on a reserve to be an 'assisted' Torres Strait Islander. The administration of property remained with the District Officers (as the local Protectors were now called) who could decide what was in the best interests of the person.
- *Torres Strait Islander Act 1971*: This Act created the Torres Strait Islander Advisory Council, comprised of Chairmen of the Island councils, who advised the Minister on matters relating to Islander affairs.

- *Community Services (Torres Strait) Act 1984*: This Act replaced the *Torres Strait Islander Act 1971*, the last of the Protectionist legislation. This new Act granted some limited, local government powers to Island councils. Communities were no longer under the control of a manager, and all the restrictions of 'living under the Act' ceased to exist with the new legislation. Under this Act, the Island Coordinating Council was formed, with the role of providing a link between the community councils and the government. The Island Coordinating Council comprised 18 persons representing the 17 Chairpersons of the Island Councils of the Torres Strait region, plus one representative from the Tamwoy community on Thursday Island.

DOGIT lands

In the 1980s, major law reform relating to land rights and self-management of Aboriginal and Torres Strait Island communities occurred in Queensland.

Queensland Aboriginal and Islander leaders fought a campaign to secure title over their community reserve lands, and in response to strong calls from community representatives and activists, the Queensland Bjelke-Petersen Government legislated, in February 1984, to create Deeds of Grants in Trust (DOGITs) — a secure form of freehold tenure for residents living on reserve lands. By the late 1980s, most of the Island reserves were granted as inalienable freehold title (without mining rights) to locally-elected Torres Strait Island councils as DOGIT lands.

A DOGIT was not granted to Mer (Murray Island) Council, as the *Mabo* case was before the courts at the time.

In the early 1990s, the Queensland Goss Government established a modest land claim process under the *Torres Strait Islander Land Act 1991* for Torres Strait Islander people interested in vacant Crown land (including some reserves) outside cities and towns.

Since 1993, native title has been found to exist in a number of DOGIT communities. The trustees of these communities must consider native title issues when taking care of and managing the land. In some cases, the consent of the native title party is required in the form of an Indigenous Land Use Agreement (ILUA).

In 2014, the Queensland Parliament passed the *Aboriginal and Torres Strait Islander Land (Providing Freehold) Act and Other Legislation Amendment Act 2014* that allowed the grant of ordinary freehold title on parts of the 34 Aboriginal and Torres Strait Islander DOGIT communities.

The objective of the legislation was to provide greater economic development opportunities, and remove barriers to home ownership. The freehold approach is voluntary, not mandatory, and the trustees hold the decision-making responsibility to decide whether their community should proceed down the freehold path.

Some people have expressed concerns about transferring the tenure of selected land from communal ownership to freehold title. Such a transfer would abolish native title over the chosen land, and if there was a default in a mortgage over the land, a financial institution could foreclose, and the traditional land could be transferred as freehold to non-Indigenous people.

Local government in the Torres Strait

Like Aboriginal councils, local Island councils discharged the functions of local government and were responsible for road maintenance, construction of public housing, water and sewage systems, airstrips, child care facilities, the upkeep of parks and outdoor facilities, the community police force, and delivering social programs for juvenile justice, families, and drug and alcohol abuse prevention.

While embracing the idea of self-determination and self-management, the Island councils were, however, untrained and unprepared for the extent of the task. Throughout the 1990s, a series of government reviews investigated the problems faced by Island councils.

In 2008, following the review by the Local Government Reform Commission, 3 separate councils were created in the Torres Strait region under the *Local Government Act* (Qld). They were the:

- Torres Strait Island Regional Council (TSIRC);
- Northern Peninsula Region Area Council (NPRAC); and the
- Torres Shire Council (TSC).

Torres Strait Island Regional Council (TSIRC)

The 15 Torres Strait Island councils that existed under the *Community Services (Torres Strait) Act 1984* (Qld) were abolished, and the Torres Strait Island Regional Council was established in their place. The TSIRC represents the outer islands of the Torres Strait.

The 15 'outer' island communities (with a total population of approximately 5,000 people) covered by the TSIRC are: Badu, Boigu, Dauan, Erub, Kirriri, Iama, Kubin Community at Mua, Mabuyag, Masig, Mer, Poruma, Saibai, St Pauls Community at Mua, Ugar, and Warraber.

Northern Peninsular Area Regional Council (NPARC)

The Northern Peninsula Area Council (NPARC) represents the Cape York communities of: Injinoo, Umagico, New Mapoon, Bamaga and Seisa.

NPARC developed from the three Aboriginal communities of: New Mapoon (which included the former residents of 'Old Mapoon', who were forcibly removed by police and the Department of Native Affairs officials in 1963); Injinoo (formerly known as Cowal Creek and Small River); and Umagico (traditionally known by its Aboriginal name of Alau); as well as the two Torres Strait Islander communities of Seisia (formerly known as Red Island Point) and Bamaga.

Torres Shire Council

The Torres Shire Council (TSC) represents Waibene (Thursday Island), Muralag (Prince of Wales Island), Ngurapal (Horn Island) and the immediate surrounding islands. After almost 40 years of administration by a State Government Administrator, the Torres Shire Council was restored to elected Council status in March 1991. It is now administered by a mainstream local authority Council comprising a Mayor (since 1994) and four councillors.

Torres Strait Regional Authority (TSRA)

The Torres Strait Regional Authority was established in July 1994 under the *Aboriginal and Torres Strait Islander Commission Act 1989*, and is a Commonwealth Government statutory authority, now operating under the *Aboriginal and Torres Strait Islander Act 2005 (Cth)*.

The TSRA was established as a Commonwealth representative body for Torres Strait Islander and Aboriginal people living in the Torres Strait. The TSRA Board consists of 20 elected Members, who are all Torres Strait Islander or Aboriginal people living in the region, and are elected every four years by their individual communities.

The functions of the TSRA include:

- recognising and maintaining the special and unique Ailan Kastom of Torres Strait Islanders living in the Torres Strait area; and
- formulating and implementing programs for Torres Strait Islander and Aboriginal persons living in the Torres Strait area.

The Authority also advises the Commonwealth Government on matters relating to Torres Strait Islander affairs, and Aboriginal affairs in the Torres Strait area.

The Torres Strait Regional Authority has a role in recognising and maintaining the special and unique Ailan Kastom of the Torres Strait, and in formulating and implementing programs for Torres Strait Islander and Aboriginal persons living in the Torres Strait area.

Torres Strait Treaty

On 18 December 1978 — three years after Papua New Guinea gained its independence from Australia — Australia and Papua New Guinea signed the Torres Strait Treaty which came into force on 15 February 1985.

The Treaty defines maritime boundaries between the two countries, and establishes the Torres Strait Protected Zone, so that Torres Strait Islanders and the coastal people of Papua New Guinea can carry on their traditional ways of life, as well as protecting the land and sea environment of the Torres Strait.

The Treaty allows free movement (without passports or visas) between Australia and Papua New Guinea for Torres Strait Islanders living in the Protected Zone, and for inhabitants from the PNG treaty villages for traditional activities. Traditional activities include: gardening, collection of food, hunting, traditional fishing, religious and secular ceremonies or gatherings for social purposes (such as marriage celebrations and settlement of disputes), and barter and market trade.

A part of the Treaty deals with commercial fisheries. In brief, it:

- ensures that commercial fishing in the Protected Zone is in harmony with traditional fishing;
- provides for commercial fishing by both Australia and Papua New Guinea;
- includes arrangements for sharing the commercial catch; and

- allows both countries to work together in licensing and policing, as well as in the preservation, protection, and management of fisheries.

Torres Strait Islander Parliamentary representation

Cynthia Lui

Cynthia Lui is a lamalaig woman of the Kulkalgal nation of the Torres Strait.

In the 2017 Queensland state election, she was elected as the member for Cook. Ms Lui is the first Torres Strait Islander to serve as a Member of Parliament in any Australian parliament, and her electorate takes in Cape York and the Torres Strait.

Both her father and grandfather served as Chairperson of the Yam Island Community Council.



State Member for Cook, Cynthia Lui.
Photo supplied by the Office of Cynthia Lui MP..

Activists

During the 1960s and 1970s, Torres Strait Islander people were involved with land rights and activist movements, and supported the 1967 Referendum campaign. Their near neighbour, Papua New Guinea, had become an independent state in 1975 after 70 years under Australian rule, and independence movements in the Strait gained a hold as activists fought for land and sea rights. The Torres Strait has produced many activists and notable individuals, including:

Jim Akee

Jim Akee was the secretary of the Torres United Party, which was formed in 1976 by expatriate Torres Strait Islanders living in Townsville, and proposed a 'Free Nation of Torres Strait'.

In 1988 (the bicentenary year) the independence movement gained momentum, and the Island Coordinating Council created an Independence Working Party Committee, led by Jim Akee, who had returned to live in the Strait.

In 1993 and 1995, Akee declared that a number of islands in the Strait had seceded from Australia, though his focus was on Mer. Akee's plans did not come to pass, though autonomy for the Strait continues to be a live issue.

McRose Elu

Aunty Togiab McRose Elu is a Torres Strait Islander Elder, and was born on Saibai. She is an academic, and has contributed to a task force investigating how Torres Strait Islander traditional adoption practices can fit into the Westminster legal system, and has made submissions on child protection to the Queensland Inquiry on Child Protection.

In recent years she has become active in agitating for action on climate change. She said, 'Global warming isn't just a theory in Torres Strait, it's lapping at people's doorsteps.'

Ellie Gaffney AM (nee Loban)

Ellie Gaffney was the first identified Torres Strait Islander woman to become a qualified nursing sister. She is known as a strong advocate for the interests and welfare of Torres Strait Islanders, and is particularly committed to advancing the rights of women.

As an administrator, she has played a significant part in the development of hostel accommodation and primary health care for all Torres Strait Islanders. Her work in establishing the Mura Kosker Sorority (which delivers a range of social service programs) is widely recognised as a platform for change. In 1985, she helped form the Torres Strait Island Media Association and the first radio broadcasting studio on Waibene (Thursday Island).

Ellie has written of her experiences in *Somebody Now*, and *Mura Solwata Kosker: We Saltwater Women*.

Ted Loban BEM

Ted Loban's mother was from Mabuyag (Jervis Island) and his father Indonesian. He worked in the pearling and trochus industries, before joining the Thursday Island Garrison Force and enlisting in the 2nd AIF in 1939.

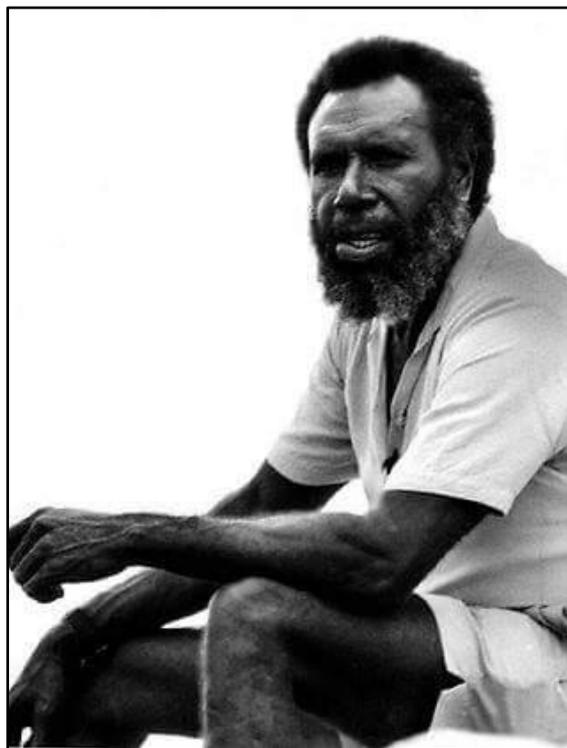
In 1945, he led a delegation of Thursday Islanders to the Trades Hall in Brisbane and negotiated better wages for pearling crews. He fought for the 'Yes' vote in the 1967 Referendum, and was an active member of the Thursday Islander Advancement League.

He was elected to representative bodies including the National Aboriginal Consultative Committee and the National Aboriginal Council, and became a councillor for the Torres Shire. Ted founded the Torres Strait Islander Co-operative Society and MAW Corporation that initiated many successful community enterprises including a housing company, barge cooperative and a crushing plant.

Getano Lui Jr AM

Getano Lui Jr is a descendant of the first London Missionary Society teacher, and has a long history of representing Torres Strait Islander people at state and national levels.

In 1988, the Islands secession movement gained national prominence for the first time when George Mye and Getano Lui Jr announced that the Islanders wished to form a new nation. Lui led an ICC delegation to Brisbane for consultations with the Queensland Premier, Mike Ahern and the federal Minister for Territories over the issue.



Eddie Mabo

Eddie Mabo (born Edward Koiki Sambo) was born on Mer (Murray Island), and is best known as one of the litigants in the successful legal claim in the High Court of Australia for recognition of ownership of their lands on Mer.

He was active in the trade union movement, the Aboriginal and Torres Strait Islander Advancement League, the 1967 Referendum campaign, and helped found the Townsville Aboriginal and Islander Health Service and the Townsville Black Community School with Aboriginal friend, Harry Penrith, in 1973.

See the Land and sea rights section for [details of the Mabo case](#).

Steve Mam

Steve Mam was from St Paul's Village on Mua (Banks Island) and moved to Cairns, then Brisbane in the 1960s with his wife Pamela, a registered nurse. Steve was committed to fighting for Kupai Omasker, the act of Traditional Adoption, to be recognised legally in Australia.

Mam played a significant role in many community organisations, and was a political activist. He was a member of many organisations in Brisbane, including: the Aboriginal and Islanders' Community Health Service (AICHS), the Aboriginal and Torres Strait Islander Legal Services, the Black Community Housing Service, and established the Wagga Dance Company. He was elected Regional Councillor of the Aboriginal and Torres Strait Islander Commission (ATSIC) from its inception in 1989 until its finish in 2004.

Eddie Mabo photo by Leigh Blackall, available under a Creative Commons license.

In 1991, he organised the first National Torres Strait Islander Conference to bring together Torres Strait Islander people who had moved to the mainland, to canvass the issues of autonomy, self-determination, self-government, and independence, and how Torres Strait Islanders on the mainland could be involved.

George Mye MBE OAM

George Mye was from Erub (Darnley Island) and in his time was considered the elder statesman of the Torres Strait, and made a successful native title claim that was recognised by the Federal Court: *Mye on behalf of the Erubam Le v State of Queensland* [2004] FCA 1573.

Mye held many positions in Island politics, including as a long time Island councillor, chairman, representative of the Eastern Group on the Island Advisory Committee, and ATSIC Commissioner for the Torres Strait.

In the dispute over whether the Torres Strait should stay Australian or become part of an independent Papua New Guinea, Mye supported the 'Border Not Change' campaign. In 1973, as president of the Border Action Committee, he led a delegation to Canberra to present Islanders' views on the issue of the Australia–Papua New Guinea border.

Mye was at the forefront of the independence movement which demanded that Islanders be granted control over their own land and sea resources, and in 1988 drew national attention to the Islanders' claims for autonomy by announcing that they intended to seek independence.



Seaman Dan and George Mye teaching a young boy the 'Taba Naba' sit-down dance, 1979. Photo by Ludo Kuipers.

In 1987 and 1995, George Mye addressed the United Nations Working Group on Indigenous Populations in New York and Geneva.

Ivy Trevallion (nee Arugu)

Ivy Trevallion is from Dauan (Mt Cornwallis Island), Top Western Torres Strait group, and is the first Torres Strait Islander social worker, having graduated from Queensland University in 1986. She has helped draw attention to the issue of traditional Torres Strait Islander adoption (Kupai Omasker), and was a member of the Working party on the Recognition of Aboriginal Torres Strait Islander child-rearing practices. The Family Court of Australia now recognises this practice and Torres Strait Islanders are requesting that other state legislative bodies recognise their traditional child-rearing practices when making decisions regarding children. Ivy is currently the Torres Strait Islander board representative of the National Aboriginal and Torres Strait Islander Women's Association (NATSIWA).

Carlemo Wacando

Carmelo Wacando is from Erub (Darnley Island) and was chairman of the Torres United Party which made demands for independence of the Torres Strait. The TUP's demands for independence were based on land issues and control over land and resources, as Islanders had no secure land title to their islands. In November 1981, the High Court handed down its decision in *Wacando v Commonwealth* in which Wacando had challenged the 1879 annexation of Erub (Darnley Island). The Court found that the Torres Strait Islands were validly annexed, but the case laid the ground for the *Mabo* case.

Wacando had hoped to use the finding to attract the interest of the United Nations Special Committee on Decolonisation.



Bernard Namok Jr with the Torres Strait Islander flag. Photo courtesy of Bernard Namok Jr.

The Torres Strait flag

The Torres Strait flag was designed by Bernard Namok Snr from Waibene (Thursday Island) and was the winning entry in a competition organised by the Island Coordinating Council. The flag was officially presented to the people of the Torres Strait at the sixth Torres Strait Cultural Festival on 29 May 1992, and was recognised by the Aboriginal and Torres Strait Islander Commission (ATSIC) in that year. In 1995, the Australian Government recognised the Torres Strait flag as an official 'Flag of Australia' under section 5 of the *Flags Act 1953*.

The flag symbolises the unity and identity of all Torres Strait Islanders, and the central motifs are a white Dhari, which is a distinctive traditional dance and ceremonial headdress, and a five-pointed star. Each part gives meaning to

Torres Strait Island culture.

- Dhari: is a symbol of the Torres Strait Islander people.
- Five-pointed star: represents the five major island groups and the navigational importance of stars to the seafaring people of the Torres Strait.
- Green panels: represent the land.
- Blue panel: represents the sea.
- Black lines dividing the panels: represent Torres Strait Islander people.
- White: represents peace.

Bernard Namok Snr passed away in 1993, aged 31.

Human Rights

The *Universal Declaration of Human Rights*, adopted by the United Nations in 1948, sets out the basic rights and freedoms that apply to all people, and the Australian Government has

agreed to respect, protect, and ensure the human rights recognised in the *Declaration* and subsequent human rights treaties that it has ratified.

These human rights include: life, liberty, and security of persons; equality before the law; freedom of thought, conscience, and religion; freedom of opinion and expression; the right to work and to free choice of employment; the right to a standard of living adequate for health and well-being; the right to education; and the right to participate in the cultural life of a person's community.

Human rights laws and concepts have been central to land and sea claims, and calls for self-government by Torres Strait Islanders in the latter part of the twentieth century.

International instruments

The concepts contained in the *Declaration* have been further developed by a number of core international human rights treaties to which Australia is a party. Two of these are of particular importance to Torres Strait Islander people: the *Convention on the Elimination of all forms of Racial Discrimination*, and the *Declaration on the Rights of Indigenous Peoples*.

Convention on the Elimination of all forms of Racial Discrimination

In 1966, Australia became a signatory to the *Convention on the Elimination of all forms of Racial Discrimination* (CERD), which entered into force generally in Australia in 1975 with the enactment of the federal *Racial Discrimination Act*.

Declaration on the Rights of Indigenous Peoples

In 2009, the Australian Government pledged its support for the United Nations *Declaration on the Rights of Indigenous Peoples* (UNDRIP).

A number of United Nations bodies have since been established to promote awareness, recognition, and implementation of the human rights of Indigenous peoples, including: the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the Special Rapporteur on the situation of the human rights and fundamental freedoms of Indigenous people, and the World Conference on Indigenous Peoples. Australia is either represented at, or has input with each of these bodies.

The *Declaration on the Rights of Indigenous Peoples* covers all areas of human rights as they relate to Indigenous peoples, and was the culmination of more than twenty years of negotiation between Indigenous peoples (including Aboriginal and Torres Strait Islander peoples) and governments of the world.

The four fundamental rights of Indigenous peoples, as outlined in the *Declaration*, are the right to:

- self-determination;
- participation in decision-making;
- respect for and protection of culture; and
- equality and non-discrimination.

These principles are consistent with the aspirations expressed by the Commonwealth Government through the National Apology, the Statement of Intent to Close the Gap, and in supporting the establishment of the National Congress of Australia's First Peoples.

Federal Racial Discrimination Act 1975

The federal *Racial Discrimination Act 1975* reflects Australia's commitment to the *Convention on the Elimination of all forms of Racial Discrimination*. It provides a general right to equality before the law for people of all races, and has been used by Aboriginal and Torres Strait Islander people to assert their rights.

The important and successful *Koowarta*, *Mabo*, and *Bligh* cases — all of which involved Queensland litigants — relied on the *Federal Racial Discrimination Act*:

- *Koowarta*: in relation to a pastoral lease;
- *Mabo*: in relation to land and sea rights; and
- *Bligh*: in relation to under-award wages.

The *Racial Discrimination Act* has also been used by Queensland Torres Strait Islander people to affirm their right to equal treatment when obtaining goods and services.

One such case was *Tabua v Stemron Pty & Masterton* [1990] HREOCA 16 (13 December 1990). In that case, Mr Tabua, a Torres Strait Islander living in Mareeba, was successful in proving that refusal to serve him at the Royal Hotel was because of his race. Mr Tabua stood at the public bar where he could be seen by the barmaid, with money visible in his hand, for half an hour waiting to be served, and during this time other people, who were white, were served. As he left without being served, one of the patrons called out, 'You fellows are not allowed to come into the pub here.' The Hearing Commissioner found the hotel had a barring policy in place that was racist, and directed against 'Aborigines and blacks in general including Torres Strait Islanders'.

Under-award payment of wages

For most of the twentieth century, Torres Strait Islanders have provided the labour for all the jobs necessary in communities, as well as building and maintaining infrastructure, dams, airstrips, and roads in the Strait. But despite their contribution to the maritime industry, to the physical building and management of their communities, and to the provision of essential services, few Islanders received much financial benefit.

Torres Strait Islanders who were employed by the Queensland Government received a rate of pay considerably lower than their non-Indigenous colleagues. This 'community rate' also applied to Aboriginal people, and it was not until the 1980s that Islanders were paid award wages.

In 1996, a number of Palm Islanders took up the fight for economic justice, and brought a complaint of race discrimination to the Human Rights and Equal Opportunity Commission — *Bligh and Ors v State of Queensland* (the 'Palm Island wages case'). In his decision, Commissioner Carter concluded that the complainants were 'demonstrably the victims of racial discrimination' by reason of the entrenched policy of the Queensland Government.

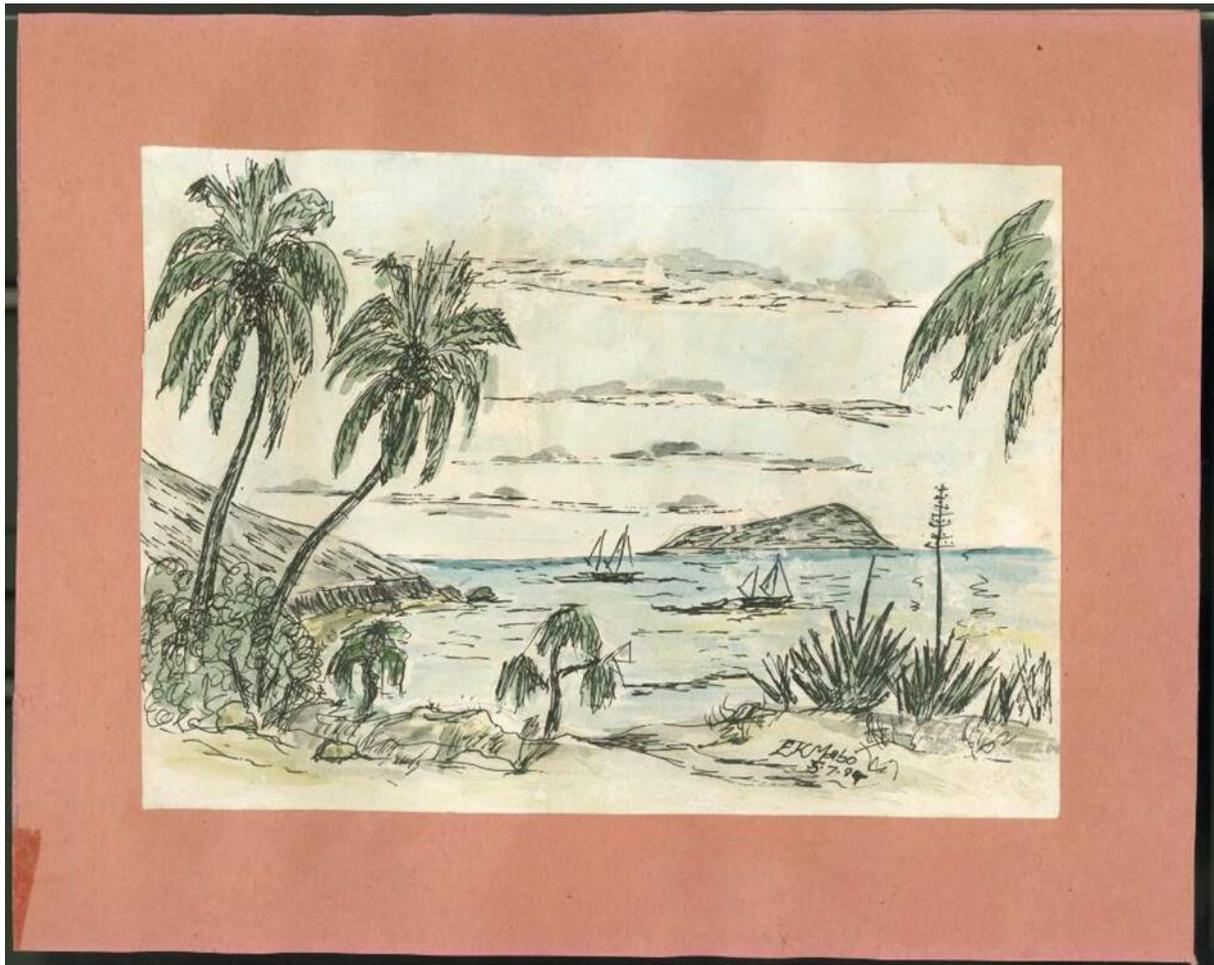
In response to the Palm Island wages decision, the Queensland Government introduced the Underpayment of Award Wages Process ('UAW process') on 31 May 1999. This process made a single payment of \$7,000 available to Aboriginal and Torres Strait Islander people employed by the government on reserves between 31 October 1975 (the commencement date of the *Racial Discrimination Act*) and 29 October 1986 (from which point Award wages were paid to all workers).

This decision is of particular significance because, not only did the government provide monetary compensation for illegal underpayment, but for the first time, it admitted responsibility for discrimination under the Protection Acts.

Queensland legislation

The Queensland *Anti-Discrimination Act 1991* came into force on 30 June 1992 to provide comprehensive, state-based, anti-discrimination legislation. The Act prohibits discrimination because of a person's 'attributes' (or characteristics), including race, and also prohibits sexual harassment and vilification. Aboriginal and Torres Strait Islander people have made complaints because of discrimination in all areas of their public lives, including work, education, dealing with state government, and when being provided with goods and services.

Land and sea rights



Bay scene, pen and ink drawing by Eddie Koiki Mabo, 1984.
© Edward Koiki Mabo/Licensed by Viscopy, 2017.

With European settlement, the colonisers claimed all land as Crown land, with the result that almost all land in Queensland was taken from its traditional owners and became either freehold land, or pastoral lease land. Some areas were set aside as reserves, missions, and settlements, including the islands of the Torres Strait. In the Torres Strait, most traditional owners remained on their lands, although there was no recognition by government of their ownership of those lands. The government controlled this land as Crown land.

Over many years, Torres Strait Islander peoples have devoted themselves to retrieving their traditional lands, and have fought hard for recognition of their land and sea rights.

The Mabo case

In 1982, Eddie Mabo and other traditional owners from Mer (Murray Island) commenced litigation to claim traditional title to Mer and associated islands and reefs. In an attempt to thwart this claim, the Queensland Bjelke-Petersen Government passed the *Queensland Coast Islands Declaratory Act 1985* to retrospectively extinguish any property rights owned by Eddie Mabo and other traditional owners that may have existed prior to annexation of the outer Torres Strait islands in 1897. In the 1988 decision of *Mabo v Queensland (1989) 166 CLR 186*, the High Court struck down the Queensland Act as inconsistent with the Commonwealth *Racial Discrimination Act*.

Mabo (No. 2) case

In 1992, after a ten-year court battle by Eddie Mabo and other traditional land owners of Murray Island (Mer), the High Court delivered one of the most significant legal decisions in Australia's history: *Mabo v Queensland (1992) 175 CLR 1*, known as *Mabo (No. 2)*. In it, the court recognised that:

- At the time of colonial settlement of Australia, Aboriginal and Torres Strait Islander peoples had native title to their traditional lands, and that title survived Crown annexation.
- Since 1788, much of that title had been extinguished without compensation to the original owners of that title.
- Australian law recognises the ongoing existence of native title where Indigenous people have a connection to their land and waters through their traditional customs and laws.

Eddie Mabo

Eddie Mabo (born Edward Koiki Sambo) was born in 1936 on Mer (Murray Island). When his mother died, he was adopted according to traditional custom by his mother's brother, Benny Mabo. The issue of customary traditional adoption would become of crucial importance to Eddie's personal claim of traditional ownership of Mer in the *Mabo* case.

When he was 16, Eddie was exiled from Mer by the Murray Island Council, and he worked as a deckhand on a pearling boat and then as a canecutter and railway fletcher on the mainland. He settled with his wife, Bonita, in Townsville where they raised seven children of their own, and three from their extended family.



Mer or Murray Island and the smaller islands of Dauar and Waier,
Photo by Ludo Kuipers, 2003.

In Townsville, Eddie became a spokesperson for the Torres Strait Islander community and an activist. He was active in the trade union movement, the Aboriginal and Torres Strait Islanders' Advancement League, the 1967 Referendum campaign, and helped found the Townsville Aboriginal and Islander Health Service. In 1973, and he also established the Black Community School with Aboriginal friend Harry Penrith (later known as Burnam Burnam).

From 1967 to 1975, Eddie worked as a groundsman at James Cook University, where he took the opportunity to research his cultural history, and became friends with lecturers Professor Noel Loos and Henry Reynolds.

The 1981, he attended the conference 'Land Rights and the Future of Australian Race Relations' at James Cook University, , and gave a speech about land ownership and inheritance on Mer. A lawyer at the conference suggested there should be a test case to claim land rights through the court system.

The legal challenge

In 1982, five Meriam people: Eddie Mabo, Sam Passi, Father Dave Passi, James Rice, and Celuia Mapo Salee began their legal claim in the High Court of Australia for ownership of their lands. The whole process took ten years, culminating in the successful High Court decision of *Mabo (No. 2)*.

In 1985, the Queensland Government enacted the *Coast Islands Declaratory Act*, which attempted to retrospectively abolish the native title rights claimed by the Meriam people.

In February 1986, Sir Harry Gibbs (Chief Justice of the High Court) referred the case to the Queensland Supreme Court to hear and determine the facts of the claim. However, the hearing was adjourned when Eddie Mabo and the other plaintiffs brought a second case to the High Court challenging the constitutional validity of the *Queensland Coast Islands Declaratory Act 1985*.

High Court decisions

The High Court, in *Mabo v Queensland* [1988] HCA 69, 8 December 1988 (*Mabo No. 1*) found that the *Queensland Coast Islands Declaratory Act 1985* was not valid according to section 10 of the federal *Racial Discrimination Act 1975* (the RDA). *Mabo (No. 1)* meant that the plaintiffs' claim could continue. John Koowarta's earlier race discrimination complaint in relation to the purchase of a pastoral lease validated the *Racial Discrimination Act*, and paved the way for the *Mabo* case.

Hearings resumed in the Queensland Supreme Court, and sittings took place on Mer as well as the mainland, and in November 1990, Justice Moynihan of the Supreme Court handed down his determination of the facts. In it, Justice Moynihan did not accept that Eddie had

been adopted by Benny Mabo, or that he inherited any of the lands belonging to him, or had any rights to the areas which were the subject of his claim.

Eddie Mabo was shattered by Justice Moynihan's finding, but was determined to proceed with the case into the final hearing of the full High Court.

Six of the seven High Court judges upheld the claim and ruled that the lands of this continent were not *terra nullius* or 'land belonging to no-one' when European settlement occurred, and that 'the Meriam people are entitled ... to possession, occupation, use and enjoyment of the lands of the Murray Islands'. The decision in *Mabo v Queensland (No. 2)* of 3 June 1992 inserted the legal doctrine of native title into Australian law. The High Court recognised the fact that Indigenous peoples had lived in Australia for thousands of years and enjoyed rights to their land, according to their own laws and customs.

Eddie Mabo did not live to see the result of his claim, and died on 21 January 1992.

At his funeral Eddie Mabo's legal counsel, Bryan Keon-Cohen QC, said:

'The most significant point to make is that without Eddie, the case would probably never have begun... [He] was truly inspirational. [and] triggered a very long legal saga that changed the lives of many people. Above all I remember his deep commitment to correcting historical wrongs, some very personal, and to achieving recognition of traditional land rights of his family and his people. He was in the best sense a fighter for equal rights, a rebel, a free-thinker, a restless spirit, a reformer who saw far into the future and into the past.'

The third of June each year, the anniversary of the decision in *Mabo (No. 2)*, is celebrated as Mabo Day.

Native title following the Mabo decision

Following the *Mabo No 2* decision, the Commonwealth passed the *Native Title Act* in 1993, which established a framework for the protection and recognition of native title.

Native title can include the right to access an area of land, or the right to participate in decisions concerning how the land or waters are used by other people. Native title may also vary according to the rights of other people, and may exist alongside other rights (called 'co-existence').

Native title cannot be bought or sold. It can be transferred by traditional law or custom, or surrendered to government, which can then pay compensation to the native title holders in the same way as it does when acquiring rights to other property.

In Queensland, many native title claims have been heard and determined. [Appendix 3 lists successful native title claims in the Torres Strait.](#)

Sea Rights

Torres Strait Islander people view land and sea as a continuum, and are, traditionally, seafaring people, skilled navigators, fishers, and hunters.

Reefs, lagoons, and the sea are fundamental to their identity, livelihood, and economic prosperity. They maintain cultural exchange practices, ceremonial feasting and rites of passage, while small boat fisheries are a source of revenue for Islanders.

The sustainable commercial exploitation of marine resources is crucial for employment and economic development of the region. Sharing regional responsibility for the management of fisheries is therefore a primary cultural, as well as an economic goal of Torres Strait Islander people.

The Island Coordinating Council has advocated for increased Islander participation and control over the marine resources of the region, while the Torres Strait Regional Authority has advocated for an Islander jurisdiction for marine resources, and for environmental management as fundamental to regional autonomy.

Two High Court decisions — *Yarmirr* and *Akiba* — have examined sea rights. In *Commonwealth v Yarmirr* (2001) 208 CLR 1 (*'Yarmirr'*), the High Court held that native title interests could be recognised and enforced within the territorial sea, provided the claimed rights and interests were not inconsistent with fundamental common law and international principles.

In *Akiba on behalf of the Torres Strait Regional Seas Claim Group v Commonwealth of Australia* (2013) 250 CLR 209 (*'Akiba'*), the High Court found that native title rights and interests could comprise a right to access and take resources for any purpose in the native title claim area, and that the right could be exercised for commercial or non-commercial purposes. State and federal legislation that prohibits commercial fishing without a license does not extinguish the native title right of Torres Strait Islanders to fish, for commercial or other purposes, in defined areas of water. Native title holders, nevertheless, need to comply with common law and all international, federal, and state laws governing license requirements for commercial fishing in the Torres Strait.

Campaigns for self-governance and independence

Border dispute

The concept of autonomy for the islands of the Torres Strait emerged during the border dispute (1973 to 1978) and Torres Strait Treaty negotiations. The proposed independence of Papua New Guinea from Australian control led to the question of what would happen to the Torres Strait. Without consulting the Islanders, the Australian Government proposed that the Strait be split in half, and up to 9 inhabited Torres Strait islands be transferred to Papua New Guinea. However, the Queensland Government's consent was required to change the state's border, and the Queensland Premier opposed it. This was known as the border dispute. The Australian Government was dismissed in 1975 (the year in which Papua New Guinea achieved independence) and the new Australian Government abandoned the idea of splitting the Strait, and focused on the maritime border with Papua New Guinea. In 1978, the Torres Strait Treaty was signed allowing free movement between Australia and Papua New Guinea for traditional activities, with effect from 1985.

Wacando and the Torres United Party

Out of dissatisfaction with Queensland Government control in the Torres Strait, Carlemo Wacando and James Akee formed the Torres United Party (TUP) in 1976. The TUP made a submission to the United Nations Special Committee on Decolonisation regarding sovereignty and separate nationhood for the Torres Strait Islands.

Wacando challenged the 1879 annexation of Erub (Darnley Island) in the courts, and eventually the High Court had to decide whether Erub forms part of the State of Queensland (*Wacando v Commonwealth* (1981) 148 CLR 1). While this claim was unsuccessful, it was a precursor to the successful *Mabo* case, which began the following year (though it was not decided until 1992). It was also instrumental in helping Islanders express their views on the issue of their sovereignty.

In 1988, a meeting of Torres Strait Island people at Waibene (Thursday Island) called for sovereign independence, or secession. While the movement was not supported by all Torres Strait Islanders, there continues to be ongoing discussion about the issue of Torres Strait Islander sovereignty.

In 2013, local campaigns for independence and self-governance called for the establishment of a self-governing territory, similar to the Northern Territory or the Australian Capital Territory. In that year, the Torres Shire mayor, Pedro Stephen, also advocated for the Torres Strait region to become an autonomous region, similar to the situation that existed in Norfolk Island at that time.

The debate about independence and self-governance continues today.

Torres Strait Islander Mainlanders

Torres Strait Islanders who live in the Torres Strait are referred to as 'Islanders', but Islanders living outside the Torres Strait are referred to as 'Mainlanders' or 'Mainland Torres Strait Islanders'.

After the Second World War, the Queensland Government lifted restrictions on the movement of Torres Strait Islanders, and many Islanders migrated to the mainland in search of work, access to services, and a better way of life; today, apart from fishing, employment opportunities in the Strait are limited. The movement that has resulted in 85% of Torres Strait Islanders living on the mainland has been called the Torres Strait diaspora.

During the 1990s, the identity and representation of Torres Strait Islander people living on the mainland became a major issue, and a National Mainland Torres Strait Islander conference was held in Queensland to give a voice to Mainland Islanders.

Torres Strait Islander Advisory Board

The *Aboriginal and Torres Strait Islander Commission Act 1989* recognised the need to involve Mainland Islanders, and created a Torres Strait Islander Advisory Board, whose function was to provide advice on 'furthering the social, economic, and cultural advancement of Torres Strait Islanders'. The Board was made up of a Chairperson who was the Commissioner representing the Torres Strait zone, and six other members who were Torres Strait Islanders appointed by the Minister to represent Torres Strait Islanders living in: New South Wales and the Australian Capital Territory, Victoria and Tasmania, Queensland, Western Australia, South Australia, and the Northern Territory.

The Act also established the Office of Torres Strait Islander Affairs within the Commission to report on and monitor programs that affect Torres Strait Islander people.

In 1994, the Torres Strait Regional Authority was established (also under the *Aboriginal and Torres Strait Islander Commission Act 1989*) to provide services for the region, formulate

and implement policy, protect cultural material, and provide assistance for Islander economic initiatives.

Greater autonomy for Islanders report

The Australian House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs conducted an inquiry into the need for greater autonomy for Torres Strait Islanders, and delivered the report – *Torres Strait Islanders: A New Deal* — in 1997. During the inquiry, the Committee identified a number of vital issues:

- Australia's federal system did not serve the people of the Torres Strait well. There was inefficiency, duplication, lack of services, and a dilution of real autonomy.
- Solutions would have to be acceptable to the Commonwealth and Queensland governments, as well as to the local people.
- Traditional Torres Strait Islanders comprise only 75% of the total population of the region, as there has been a growth of diversity in the population.
- Any solution regarding greater autonomy for Torres Strait Islanders in the region might disadvantage Mainland Islanders, many of whom own land on the islands and regard themselves as having their roots in the straits, even though they may be second generation Mainlanders. Solutions had to be sought that would protect the unique identity of these Mainlanders.

Torres Strait Islander identity

Many Mainland Torres Strait Islanders feel the Inquiry failed to come to grips with the strength and depth of Islanders' feelings of distinctiveness and separateness from Aboriginal Australians, and their dissatisfaction with being placed in a combined Aboriginal and Torres Strait Islander representative structure Australia-wide through administration of Commonwealth Government programs, and the subsequent artificial categorisation of these groups as Indigenous Australians.

Pan-Islander identity

While Torres Strait Islanders acknowledge that they have become one people, they also recognise the traditional divisions between Islanders as a consequence of distinct ecological, cultural, and historical circumstances, and the different needs and aspirations of both Islander and Mainland Torres Strait Islander people. Both wrestle with issues of pan-Islander identity as a consequence of the diaspora.

This is particularly so for Islanders born and raised in mainland towns and cities who still call their family's island of origin 'home'. Mainland Torres Strait Islanders strive to retain their culture, and Islander culture remains vibrant and strong on the mainland, even in families of mixed Islander and Aboriginal, or European and Asian origins.

Torres Strait Islander people today

Torres Strait Islander people, wherever they live, have a strong sense of themselves as Islander people, and confidence in their own culture and connection with the islands and waters of the Strait.

The majority of Torres Strait Islanders now live on mainland Australia with most Islander people living in Queensland in the large centres of Brisbane, Townsville, Cairns, and Mackay.

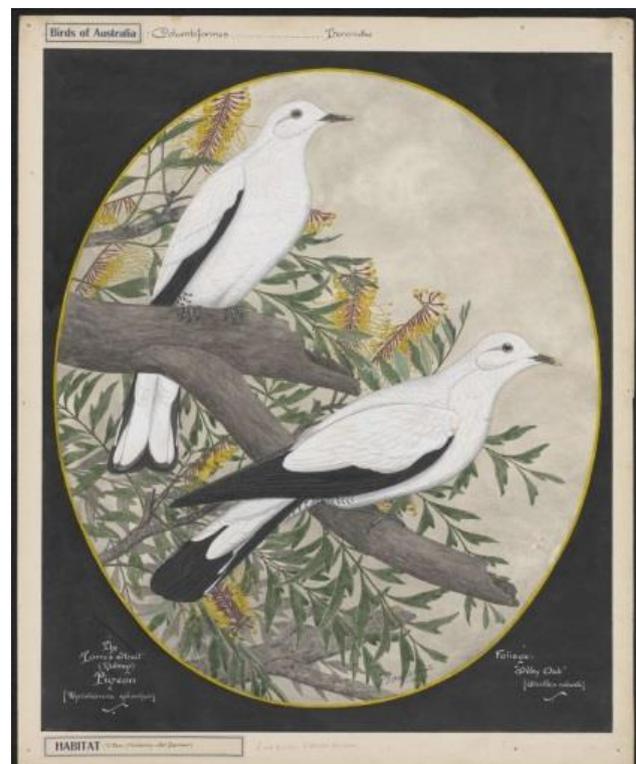
The 2011 Census showed the number of people who identify as 'Torres Strait Islander only', and who live in the Torres Strait, or on the Cape at Bamaga and Seisa, as 8,738. The same census showed the number of people who identify as 'Torres Strait Islander only' and who live on the mainland as 38,134. The same census showed the number of people who identify as 'both Aboriginal and Torres Strait Islander' and who live on the mainland as 25,583.

Today the majority of Torres Strait Islanders (82.2%) live on mainland Australia, in comparison with 13.8% who live in the Torres Strait. Of the mainland population, 63.4% live in Queensland and 16.3% live in other states and territories

The Future

With its international border with Papua New Guinea, and its ongoing strategic importance for Australia, the location of the Torres Strait will continue to be a significant factor in the future of the area and the people who reside there.

The control of valuable sea resources, and the environmental impacts of global warming, with anticipated rising of sea levels, are also issues that are likely to have continuing human rights implications in the Strait.



Torres Strait (nutmeg) pigeon, watercolour by E Gostelow 1934. National Library of Australia,obj-134869009.

Appendix 1

Timeline of the Queensland Torres Strait

Before European contact, Torres Strait Islanders occupied their homeland islands, defended their territories, hunted, fished, traded, and maintained their maritime culture.

This timeline provides a list of events that have had an impact on Torres Strait Islanders in Queensland since first European contact.

- Pre-1606: Islands of the Torres Strait were occupied and traditionally owned by Torres Strait Island peoples.
- 1606: Luis Vaez de Torres sailed through the waters between Papua New Guinea and mainland Australia.
- 1770: Lieutenant James Cook claimed the east coast of Australia for Britain and erected a flag on Possession Island.
- 1791: British naval officer, Captain Edwards, of the *HMS Pandora* named Mer, Waier and Dauar the 'Murray Islands'.
- 1792: British naval captain, William Bligh, mapped the main reefs and channels of the Torres Strait.
- 1793: Crew members of the *Chesterfield* and *Homuzzer* were killed by Islanders at what became known as Treacherous Bay on Erub (Darnley Island).
- 1802: British navigator Matthew Flinders mapped the Torres Strait while circumnavigating Australia.
- 1863: Beche-de-mer station was established on Erub (Darnley Island) and managed by Pacific Islander crews.
- 1867: The Society for the Propagation of the Gospel mission was established at Somerset on Cape York.
- 1871 (1st July): The London Missionary Society accompanied by Samoan lay preachers arrived at Erub (Darnley Island). This event is now celebrated by Torres Strait Islanders as the Coming of the Light, or the coming of Christianity and civilisation.
- 1871: The London Missionary Society mission was established at Mer (Murray Island) to 1914.
- 1871: Waibene (Thursday Island) reserve established under control of London Missionary Society to 1915.
- 1872: Around 500 foreign Islanders from the Loyalty Islands, South New Hebrides, and Solomon Islanders were working in the Torres Strait.

Timeline of the Torres Strait (continued)

- 1872: Letters Patent were issued by the British Government to create a new boundary for the colony which encompassed all islands within 60 nautical miles of the Queensland coast.
- 1872: A small pearling station was established on Mua (Banks Island).
- 1877: The government station at Somerset on Cape York was moved to Waibene (Thursday Island).
- 1879: The Queensland colony's boundary was further extended to include most of the remaining islands in Torres Strait (including Boigu, Erub, Mar and Saibi which lay beyond the previous 60 nautical mile limit) by Letters Patent from London, and by an Act in the Legislative Assembly in Brisbane. Torres Strait had become part of Queensland.
- 1883: Queensland tried to annex the southern half of eastern New Guinea, but the British government did not approve.
- 1884: A British protectorate was proclaimed over British New Guinea.
- 1885: All South Sea Islanders on Mer (Murray Island) were expelled and resettled at Erub (Darnley Island).
- 1901: The deportation and repatriation of South Sea Islanders was enforced; however, exemptions were allowed for those who had lived in Australia for more than 20 years.
- 1902: British New Guinea was placed under the authority of the Commonwealth of Australia.
- 1904: Torres Strait Islanders became subject to the *Aboriginal Protection and Restriction of the Sale of Opium Act 1897*.
- 1904: St Pauls Anglican Mission was established on Mua (Banks Island) for exempted South Sea Islanders. Many more of the Islanders on Erub (Darnley Island), Mer (Murray Island), Masig (Yorke Island), and Marbuiaq (Jervis Island) were South Sea Islanders or their descendants.
- 1906: British New Guinea was formally transferred to Australian jurisdiction.
- 1912: Queensland Government gazetted 1,200 acres of land on Mer (Murray Island) as an Aboriginal reserve. (Many other Torres Strait islands were gazetted as Aboriginal reserves at the same time.)
- 1914: WWI broke out, and Australia seized German New Guinea.
- 1918: A Protector of Aboriginals was appointed to Waibene (Thursday Island).
- 1921: The League of Nations gave Australia trusteeship of New Guinea.

Timeline of the Torres Strait (continued)

- 1939: The *Torres Strait Islander Act 1939* repealed the *Aboriginal Protection and Restriction of the Sale of Opium Act 1897*. The 1939 laws explicitly excluded Aboriginal and Torres Strait Islander peoples from voting in state elections, made it unlawful for any Aboriginal or Torres Strait Islander person in Queensland to knowingly receive or possess alcohol, restricted movement, denied any right to the lands of their birth or reserve lands, and curtailed access to the normal processes of justice available to the rest of the community. It also gave the relevant authorities the power to resettle by force, remove children without proof of neglect, forbid marriage without approval, censored mail, compelled reserve residents to work for low ages, or no wages, and to seize property without consent. The Chief Protector became the Director of the Department of Native Affairs. The system of Protectors in each district and superintendents on reserves remained the same.
- 1942: WW2 invasion of New Guinea and the Torres Strait Light Infantry was established.
- 1946 onwards: Large numbers of Torres Strait Islanders moved to mainland Queensland, mainly for work and other opportunities.
- 1946: The United Nations granted trusteeship of the Territory of New Guinea to Australia.
- 1947: Bamaga (then Cowal Creek Aboriginal reserve) was established by the Church of England. Torres Strait Islanders were moved to Bamaga after flooding of Saibai Island.
- 1948 (10 December): The *Universal Declaration of Human Rights* was adopted in the United Nation by 48 countries, including Australia. The *Declaration* arose directly from the experiences of the Second World War, and represents the first global expression of rights to which all human beings are inherently entitled.
- 1948: Patrick Killoran, a Qld bureaucrat who became notorious for his controlling and ruthless administration, was appointed as Protector of Islanders, and served as Protector on Waibene (Thursday Island) until 1964.
- 1951: The Territory of Papua and New Guinea was established under the international trusteeship system under the administration of Australia.
- 1951: More people from Saibai were moved to Red Island Point on Cape York Peninsula.
- 1957: The International Labour Organisation Convention 107: *Convention Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries* was adopted by the ILO, but not signed, by Australia.
- 1960s: The pearling industry in the Torres Strait collapsed with the invention and widespread use of plastic in place of pearl shell.

Timeline of the Torres Strait (continued)

- 1964: Patrick Killoran was appointed Queensland Director of the Sub-Department of Native Affairs, a position he held until his retirement in 1985.
- 1965: The *Torres Strait Islanders Affairs Act 1965* was passed to provide for the management of reserves and welfare of Torres Strait Islander peoples, and to repeal the 1939 legislation.
- 1965: The United Nations adopted the *International Convention on the Elimination of all Forms of Racial Discrimination*.
- 1966: Australia became a signatory to the *International Convention on the Elimination of all Forms of Racial Discrimination*.
- 1966: Islander Councils were created on reserve communities giving communities limited local government powers.
- 1968: Commonwealth Abstudy benefits were introduced by the Gorton Government to help improve Aboriginal and Torres Strait Islander students' employment prospects by providing financial assistance for their post-secondary education. Austudy benefits already existed for the broader community.
- 1969: The *International Convention on the Elimination of All Forms of Racial Discrimination* entered into force.
- 1972: Forced control over wages and savings of persons living on reserves in Queensland ceased.
- 1973: Formation of the Border Action Committee to protest against a Commonwealth proposal to cede 8 Torres Strait Islands north of the 10th parallel as a gesture of 'goodwill' to the newly independent PNG.
- 1970s: A number of Torres Strait activists agitated for an independent Torres Strait. Carlemo Wacando, a Torres Strait Islander living on the mainland took a case to the High Court of Australia challenging the annexation of the Torres Strait islands by Queensland (*Wacando v Commonwealth* (1981) 148 CLR 1). His case is not successful.
- 1978 (18 December): Torres Strait Treaty was signed, after negotiations between Australia and Papua New Guinea. The treaty describes the boundaries between the two countries and how the sea areas may be used. In defining the two main boundaries – the Seabed Jurisdiction Line and the Fisheries Jurisdiction Line – as well as a 'protected zone', the Treaty takes account of traditional activities (including sea and land use, trade, ceremonies and social gatherings) of the indigenous residents of the Torres Strait area.
- 1978: Introduction of a Standard Award Wage by Industrial Relations Regulations.
- 1982: Brisbane Commonwealth Games protest by Aboriginal and Torres Strait Islander peoples.

Timeline of the Torres Strait (continued)

- 1982: Eddie Mabo, David Passi, and James Rice on behalf of the Murray Island people lodged a statement of claim in the High Court, claiming 'native title' over Mer (Murray Island) in the Torres Strait.
- 1982: Qld passed the *Land Act (Aboriginal and Islander Land Grants) Amendment Act* which provided for grants of certain reserve lands to Aboriginal and Torres Strait Islander Councils as Deeds of Grant in Trust (DOGIT).
- 1984: *Community Services (Torres Strait) Act 1984* repealed the 1971 Act, and provided for Torres Strait Island Councils to be vested with local authority status.
- 1985: The Queensland Government enacted the *Queensland Coast Islands Declaratory Act 1985* in an attempt to thwart Eddie Mabo and other Murray Islanders seeking recognition of their traditional ownership of Mer (Murray Island).
- 1985: Retirement of the notorious administrator, Patrick Killoran, from his role as Director of Aboriginal and Islander Advancement.
- 1985: The Torres Strait Treaty came into effect: The treaty allowed traditional people from both PNG and the Australian area of the Torres Strait to move freely, without passports or visas, within the zone for the purpose of traditional activities such as fishing, hunting, and trade.
- 1988 (26 January): During the bicentenary of Australia, there were mass protests of Aboriginal and Torres Strait Islander peoples in Sydney.
- 1988: In *Mabo v Queensland*, the first Mabo decision, the High Court found that the *Queensland Coast Islands Declaration Act 1985* was inconsistent with the *Racial Discrimination Act 1975*, and therefore invalid. As a result, the original proceedings concerning the native title claim by Mabo and others were permitted to continue.
- 1989: Commencement of Aboriginal and Torres Strait Islander Commission (ATSIC).
- 1991: The *Torres Strait Islander Land Act 1991* (Qld) was passed, providing for a lands claim process over areas of land in the Torres Strait.
- 1991: The *Anti-Discrimination Act 1991* (Qld) was passed through its final reading in the Queensland Parliament on 3 December 1991 and received assent on 9 December, giving Queensland specific, state-based, anti-discrimination legislation.
- 1992 (21 January): Eddie Mabo died in Brisbane.
- 1992 (3 June): In *Mabo v Queensland (No 2)*, the High Court recognised native title as a common law property right, and rejected the doctrine of *terra nullius*.
- 1992: The Queensland Parliament enacted the *Legislative Standards Act 1992*, which contained fundamental legislative principles requiring that legislation must have 'sufficient regard to Aboriginal tradition and Island custom'.

Timeline of the Torres Strait (continued)

- 1993: The Commonwealth *Native Title Act 1993* was passed by the Federal Parliament. The legislation followed lengthy debate and negotiations between Indigenous stakeholders, governments, pastoralists and the mining industry.
- 1993: The United Nations declared 1993 the International Year of the World's Indigenous People.
- 1994: The Commonwealth *Native Title Act* came into effect. The National Native Title Tribunal was established, and a number of Indigenous organisations were established as Native Title Representative Bodies.
- 1994: The Torres Strait Regional Authority (TSRA) was created.
- 1999: The United Nations Committee on the Elimination of Racial Discrimination (CERD) urged the Australian Government to suspend native title amendments, on the basis that they are discriminatory, and re-open negotiations with Indigenous peoples.
- 1999: *Yanner v Eaton*, the High Court held that native title to fish or hunt for traditional purposes is not extinguished by Queensland legislation for fauna conservation.
- 1999: The Queensland Government introduced the Underpayment of Award Wages Process for under-award wages paid to Aboriginal and Torres Strait Islander people employed by the Queensland Government on Aboriginal reserves between 31 October 1975 and 29 October 1986.
- 1999: Delivery of the *Women's Task Force on Violence Report*. The report made 123 recommendations on ways to reduce violence in Aboriginal and Torres Strait Islander communities, and ways to address underlying social, spiritual, and economic disadvantage.
- 2000: *The First Step: Queensland Government Responds to the Aboriginal and Torres Strait Islander Women's Taskforce on Violence* was released.
- 1998: The *Native Title Indigenous Land Use Agreements Regulation* was passed by the Commonwealth Parliament, and commenced on 30 September 1998. An Indigenous Land Use Agreement (ILUA) is a voluntary agreement between a native title group and others about the use of land and waters. These agreements allow all people to negotiate flexible, pragmatic, agreements to suit their particular circumstances.
- 1998: Extensive amendments are made to the *Native Title Act*, known as the Ten Point Plan, in the form of the *Native Title Amendment Act 1998* (Cth).
- 2005: The representative body, ATSIC, was abolished by the Howard Liberal Government.
- 2007: The Torres Strait Island Regional Council was created out of the amalgamation of 15 Island Councils.

Timeline of the Torres Strait (continued)

- 2007: The Northern Peninsula Area Regional Council was created out of the amalgamation of the Injinoo, Mapoon, and Umagico Aboriginal Councils, and the Seisa and Bamaga Island Councils.
- 2009: The Australian Government announced its support for the United Nations *Declaration on the Rights of Indigenous Peoples*.
- 2009: A steering committee of Indigenous people recommended the formation of a new independent representative body, the National Congress of Australia's First Peoples.
- 2009: Queensland Parliament passed a bill to add a preamble to the Queensland Constitution recognising Aboriginal and Torres Strait Islander peoples.
- 2010: National Congress of Australia's First Peoples commenced operation, with responsibility for providing advice to government on, and advocating for, Aboriginal and Torres Strait Islander peoples.
- 2010: The Indigenous Wages and Savings Reparations Scheme was finalised, with 5,779 eligible claimants paid approximately \$35.5 million during 2 rounds of the process under the scheme.
- 2012: The Commonwealth Parliament agreed that a Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples be appointed to inquire into, and report on, steps that can be taken to progress towards a successful referendum on Indigenous constitutional recognition.
- 2013: Island campaigns for independence and self-governance have moved from secession to the establishment of a self-governing territory, similar to the Northern Territory or the ACT. Having failed to gain political traction, the Torres Shire mayor, Pedro Stephen, advocated for the Torres Strait region to become an autonomous region like Norfolk Island with a single regional body.
- 2015: The final report of the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples recommended that a referendum be held on the matter of recognising Aboriginal and Torres Strait Islander peoples in the Constitution.

Appendix 2

Reserves: Queensland Torres Strait Islands

In November 1912, the Queensland Government gazetted land as Aboriginal reserves on many Torres Strait islands.

During the 1920s and 1930s, Protectionist legislation was strictly applied to Torres Strait Islanders, enabling the government to remove Islanders to reserves and missions across Queensland.

In 1985, Deeds of Grant in Trust (DOGITS) were granted to most Island Councils (except Mer). In 2008, the Island Councils were replaced by the Torres Strait Island Regional Council (TSIRC), with the DOGITS being held by the TSIRC for the benefit of those who live on or use the land. The Council can issue a lease of the DOGIT area to any person or organisation, but needs to get permission from the Traditional Owners if there is native title.



School teachers house at Badu Island, Torres Strait Islands, House at Greenwell Badu occupied by teacher (Morris), Fryer Library, The University of Queensland Library no. 377, 1898.

Badu (Mulgrave Island)

In November 1912, the Queensland Government gazetted 22,000 acres at Badu as an 'Aboriginal reserve'.

Seventeen documented removals of Islanders from Badu occurred between 1939 and 1950.

In 1985, the Badu community elected three councillors to form the autonomous Badu Island Council. The council area, previously an Aboriginal reserve held by the Queensland Government, was transferred to the trusteeship of the council under

a Deed of Grant in Trust (DOGIT) on 21 October 1985.

In 2004, Badu was the subject of a successful native title claim by the Badulgal people.

Bamaga community

On 30 March 1985, the Bamaga community elected three councillors to form an autonomous Bamaga Island Council. On 27 October 1986, the council area (previously an Aboriginal reserve held by the Queensland government), was transferred to the trusteeship of the council under a Deed of Grant in Trust (DOGIT).

Boigu (Talbot Island)

In November 1912, approximately 20,500 acres of land on Boigu was officially gazetted as an Aboriginal reserve by the Queensland Government.

In 1985, the Boigu community elected three councillors to constitute an autonomous Boigu Island Council, and the island, previously an Aboriginal reserve held by the Queensland

Government, was transferred to the trusteeship of the council under a Deed of Grant in Trust (DOGIT).

In 2004, Boigu was the subject of a successful native title claim by the Boigu people.

Dauan (Mt Cornwallis Island)

In November 1912, the Queensland Government officially gazetted 800 acres of land on Dauan as an Aboriginal reserve.

In 1985, the Dauan community elected three councillors to form an autonomous Dauan Island Council, and the council area, previously an Aboriginal reserve held by the

Queensland Government, was transferred on 21 October 1985 to the trusteeship of the council under a Deed of Grant in Trust.

In 2000, Dauan was the subject of a successful native title claim by the Dauan people.

Erub (Darnley Island)

In November 1912, the Queensland Government gazetted 930 acres at Erub as an Aboriginal reserve.

Documents indicate that 11 people were removed from Erub to Palm Island between 1919 and 1933.

On 30 March 1985, the Erub community elected 3 councillors to form an autonomous Darnley Island Council. The council area, previously an Aboriginal reserve held by the Queensland Government, was transferred to the trusteeship of the council under a Deed of Grant in Trust on 21 October 1985. In 2001, Erub was the subject of a successful native title claim by the Erubam Le people.

Iama (Yam or Turtle Back Island)

In November 1912, 640 acres on Iama were officially gazetted as an Aboriginal reserve by the Queensland Government.

On 30 March 1985, the Iama community elected 3 councillors to form an autonomous Yam Island Council. The council area, previously an Aboriginal reserve held by the Queensland Government, was transferred on 21 October 1985 to the trusteeship of the council under a Deed of Grant in Trust.



Yam Island, surrounded by its fringing reef. Photo by Ludo Kuipers, 2002.

In 2004, Iama was the subject of a successful native title claim by the Iama people.

Kirriri / Keriri (Hammond Island)

An Aboriginal reserve was gazetted on Kirriri by the Queensland Government in 1881. JFG Foxtan, WE Parry-Okeden and Dr W Roth were appointed trustees of the reserve in

February 1900, and the majority of the Kaurareg people were moved to Kirriri in the first decade of the 20th century. The *Annual Report of the Chief Protector of Aboriginals for 1913* stated that around 80 Kaurareg people were living on Hammond Island, comprising 'representatives from all Islands adjacent to Thursday Island'.

Strenuous efforts were made by the government in 1913 to encourage the Hammond Islanders to move to a new settlement on Mua, but without success. By the 1920s, the Queensland Government was determined to move the Kaurareg people from Kirriri, and preparations for the removal began in 1921, with the construction of new quarters at Adam village on Mua. In March 1922 the Kaurareg community was forcibly removed by government authorities from Kirriri and transported to Mua.

In 1929, the Catholic Church established a mission settlement (St Joseph's) at Kirriri for families of Filipino ancestry. The mission was administered by Catholic priests and nuns of the Sacred Heart Order, and Catholic families from other Torres Strait Islands were encouraged to move to St Joseph's mission, where a Catholic school was opened in 1935.

On 30 March 1985, the Kirriri community elected 3 councillors to form an autonomous council, and on 21 October 1985, the council area, previously an Aboriginal reserve, was transferred to the trusteeship of the council under a Deed of Grant in Trust by the Queensland Government.

Mabuyag / Gumu (Jervis Island)

In November 1912, 1,600 acres on Mabuyag were gazetted as an Aboriginal reserve by the Queensland Government.

A small number of documented removals from Mabuyag occurred between 1920 and 1949. Four people were removed from Mabuyag and sent to Palm Island, 1 person to Yarrabah and 1 person to Mapoon.

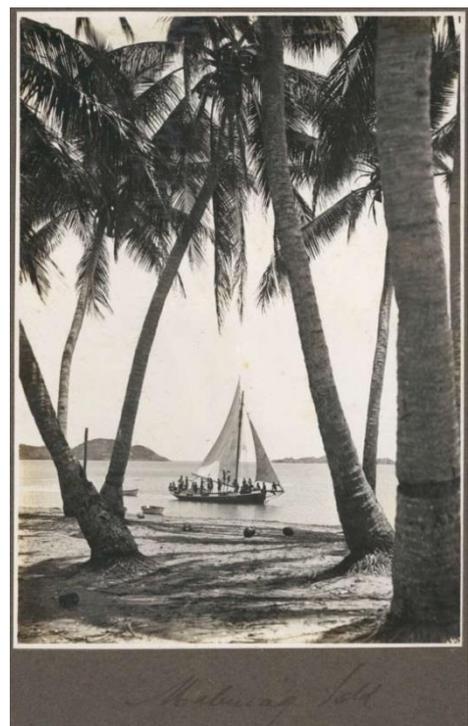
On 30 March 1985, the Mabuyag community elected 3 councillors to form an autonomous Mabuyag Island Council. The council area, previously an Aboriginal reserve held by the Queensland Government, was transferred on 21 October 1985 to the trusteeship of the council under a Deed of Grant in Trust.

In 2000, Mabuyag was the subject of a successful native title claim by the Mabuyag people.

Masig (Yorke Island)

In November 1912, the Queensland Government officially gazetted 320 acres of land on Masig as an Aboriginal reserve.

On 30 March 1985, the Masig community elected 3 councillors to form an autonomous Masig Island Council. The council area, previously an Aboriginal reserve held by the Queensland Government, was transferred on 21 October 1985 to the trusteeship of the council under a Deed of Grant in Trust.



Mabuyag Island 1921. Photo by Frank Hurley.
National Library of Australia ID 3313846

In 2000, Masig was the subject of a successful native title claim by the Masig people.

Mer (Murray Island)

In November 1912, the Queensland Government gazetted 1,200 acres of land on Mer as an Aboriginal reserve.

Between 1921 and 1936 there were 18 documented removals of Islanders from Mer to Palm Island.

On 30 March 1985, the Mer community elected 3 councillors to form an autonomous Island Council. Unlike other Torres Strait communities, the Mer community refused a Deed of Grant in Trust over the islands of Mer, Waier, and Dauar, on the basis that the land was not the government's to give — preferring to wait for the outcome of the Mabo native title claim that was underway. In 1992, the High Court of Australia recognised the Meriam people's traditional ownership of Mer.

This meant that the land tenure on Mer remained an Aboriginal reserve. However, on 14 December 2012 the Queensland Government cancelled the reserve and handed over the title deeds of Freehold in Trust of Mer, Dauar and Waier to the Mer Gedkem Le (Torres Strait Islanders) Corporation. This historic transfer took place during the 20th anniversary of the decision of the High Court in the Mabo case and the 100th anniversary of the declaration of the Mer reserve.

Mua (Banks Island)

Following the federal government's introduction of a restrictive immigration policy in 1904 resulting in the forced repatriation of Pacific Islander labourers, the Queensland government set aside a reserve of 500 acres on Mua's eastern shore in 20 May 1908 for those Pacific Islanders who managed to remain in Queensland, many of whom had married Torres Strait Islanders and Aboriginal people.

In 1908, the Anglican Church founded a mission specifically for South Sea Islander families on the reserve land named St Pauls after the famous cathedral in London. In 1984, the Anglican Bishop of Carpentaria and the Director of Torres Strait Islander Affairs relinquished their trusteeship of St Pauls Mission reserve and passed responsibility for the management of St Pauls to an elected council.

On 30 March 1985, the St Pauls community elected 3 councillors to form an autonomous St Pauls Island Council. The council area, previously an Aboriginal reserve, was transferred on 21 October 1985 to the trusteeship of the council under a Deed of Grant in Trust

In November 1912, 36,000 acres of land on Mua were officially gazetted as an Aboriginal reserve by the Queensland Government, exclusive of the land already gazetted for the South Sea Islanders (St Pauls).

In the early 1920s, the Queensland Government made the decision to remove the Kaurareg people from Kirriri (Hammond Island) and new quarters were constructed at Poid (formerly Adam) on Mua. In March 1922, the Kaurareg community were forcibly removed by government authorities from Kirriri and transported to Mua. Three members of the Kirriri community who protested against the removal were arrested without charge by police armed with revolvers.

During the 1920s and 1930s, the settlement at Poid experienced regular epidemics of malaria and dengue fever, as well as shortages of fresh water. In 1943, the community at Poid made the decision to move to a new location named Kubin, situated on the south-west coast of Mua, that had fresh water springs and was believed to be a far healthier environment than Poid. By 1945, a church and school had been constructed at Kubin and the entire population of Poid had moved to the new settlement.

On 30 March 1985, the Kubin community elected 3 councillors to form an autonomous Kubin Island Council. On 21 October 1985, the council area, previously an Aboriginal reserve held by the Queensland Government, was transferred to the trusteeship of the council under a Deed of Grant in Trust.

In 1999, Mua was the subject of a successful native title claim by the Mualgal people.

Muralag (Prince of Wales Island)

Prince of Wales Island, known to the Kaurareg as Muralag, is the largest Torres Strait Island. The centre of a group of smaller islands and not far from Cape York, it was an important link in the traditional trade route between the mainland and islands further north.

In 1871, the Somerset police magistrate, Frank Jardine, moved the Kaurareg from Muralag to Kiririri (Hammond Island) using Pacific Islander boat crews and mainland Aboriginal police as his troops. Then, in 1922, the Kaurareg were moved by the government from Kiririri (Hammond Island) to Mua (Banks Island).

The majority of Muralag is vacant Crown land, with a number of small leased and freehold areas.

In 2001, Muralag was the subject of a successful native title claim by the Kaurareg people.

Ngurapai (Horn Island)

Ngurapai is located in the southern or Prince of Wales island group, and is mainly vacant Crown land.

In 1894, gold was discovered on Ngurapai and a mini gold rush followed this discovery. At the peak of the gold rush in 1896, 27 mines operated on Ngurapai, but by 1907, the majority of mines had ceased operation.

In 1947, Elikiam Tom moved to Ngurapai and was joined by other Kaurareg Elders from Mua. They built houses and a church for their families in an area that came to be known as Wasaga village. The Department of Native Affairs did not approve the establishment of the new settlement, and proposed resettling the Kaurareg at Red Island Point on the mainland, but the Kaurareg resisted and remained on Ngurapai.

In February 1969, the first Ngurupai Village Council was elected, with Samuel Wasaga serving as Chairman.

In 2001, Ngurapai was the subject of a successful native title claim by the Kaurareg people.

Poruma (Coconut Island)

In November 1912, 800 acres of land on Poruma were officially gazetted as an Aboriginal reserve by the Queensland Government.

A government report from 1912 mentioned that Poruma was used as a rendezvous point and anchorage for fishing and pearl boats and suggested that the Islander population be removed to Masig (Yorke Island), to allow the children of the island to attend the new school there¹. Reports from 1913 indicate that while some Islander families left Poruma and moved to Waraber (Sue Island) and Masig, many refused to leave the island.

On 30 March 1985, the Poruma community elected 3 councillors to form an autonomous Poruma Council. The council area, previously an Aboriginal reserve held by the Queensland Government, was transferred on 21 October 1985 to the trusteeship of the council under a Deed of Grant in Trust.

In 2000, Poruma was the subject of a successful native title claim by the Poruma people.



Traditional paddle dance from Saibai
Photo by Ludo Kuipers, 1992

Saibai

In November 1912, an area of 35,000 acres of land on Saibai was officially gazetted as an Aboriginal reserve by the Queensland Government.

A small number of documented removals of Islanders from Saibai occurred between 1909 and 1941: 2 people were removed to Palm Island and 1 person was taken to Yarrabah.

In 1947, king tides caused serious damage to properties and gardens across Saibai, and a number of families decided to leave Saibai and move to Cape York on the mainland. The first families who left Saibai arrived at Muttee Heads on Cape York in June 1947, and in July 1948, the Queensland Government gazetted 44,500 acres extending from Red Island Point to Kennedy Inlet and the Cowal Creek mission, as a reserve for the use of the Torres Strait Islanders.

In 1948, other Island families left Saibai with their families and moved to Red Island Point. The Islanders at Muttee Heads relocated to a new settlement inland from Red Island Point in 1952. The new settlement was named Bamaga in honour of the leader of the migration, Bamaga Ginau. The smaller community at Red Island Point changed its name to Seisia in 1977.

On 30 March 1985, the Saibai community elected three councillors to form an autonomous Saibai Council. The council area, previously an Aboriginal reserve held by the Queensland Government, was transferred on 21 October 1985 to the trusteeship of the council under a Deed of Grant in Trust.

In 1999, Saibai was the subject of a successful native title claim by the Saibai people.

Seisia community

On 30 March 1985, the Seisia community elected 3 councillors to form an autonomous Seisia Island Council. On 29 October 1987, the council area, previously an Aboriginal reserve held by the Queensland Government, was transferred to the trusteeship of the council under a Deed of Grant in Trust (DOGIT).

Ugar (Stephen Island)

In November 1912, 800 acres of land on Stephen Island were officially gazetted as an Aboriginal reserve by the Queensland Government.

On 30 March 1985, the Stephens Island community elected 3 councillors to form an autonomous Stephen Island. The Aboriginal reserve on the island, held by the Queensland Government, was transferred on 21 October 1985 to the trusteeship of the council under a Deed of Grant in Trust.

In 2004, Ugar was the subject of a successful native title claim by the Ugar people.

Waibene (Thursday Island)

In 1884, three Catholic priests arrived on Waibene (Thursday Island) to establish the Sacred Heart Mission. They ran the Mission until 1886, when the first Sisters from Our Lady of the Sacred Heart (all of who had French origins) arrived on the island.

By 1918, a full time Protector of Aboriginals had been appointed to Waibene (Thursday Island). During the 1920s and 1930s, Protectionist legislation was strictly applied to Torres Strait Islanders, enabling the government to remove them to reserves and missions across Queensland. A total of 86 documented removals from Waibene occurred between 1901 and 1965.

After the position of Government Resident Magistrate was abolished in 1917, Waibene was administered at a local level by a town council under the direction of a government-appointed administrator. In 1974, this system was replaced with an elected council and, since 1994, Torres Shire Council has provided local government services to shire residents under provisions of the *Local Government Act 1994*.

In 2002, the determination of a native title claim to Waibene by the Kaurareg people found that native title was extinguished, as it was the only island to have been opened to settlement.

Appendix 3

Native title claims: Torres Strait, Queensland

Following the success of the *Mabo No 2* case in the High Court, the Federal Government passed the *Native Title Act 1993* 'to provide a national system for the recognition and protection of native title and for its co-existence with the national land management system'. The Act established the national Native Title Tribunal which makes decisions, conduct inquiries, reviews and mediations, and assist various parties with native title applications, and Indigenous land use agreements ('ILUAs'). The Tribunal maintains a National Native Title Register, which contains determinations of native title made by the High Court of Australia, the Federal Court of Australia, or a recognised body. The details of the following Queensland determinations have been extracted from the Register.

Date of determination	Outcome	Case name
3 June 1992	Native title exists in parts of the determination area: Murray Islands (Torres Strait)	Mabo v Queensland (No 2) [1992] HCA 23
12 February 1999	Native title exists in the entire determination area: land and inland waters of Mua Island on the landward side of the high water mark (Torres Strait)	Mualgal People v Queensland [1999] FCA 157
12 February 1999	Native title exists in the entire determination area: the land and inland waters of Saibai Island, Mawalmay Thoera Island, Thawpay Kawamag Island and Kuykuthal Kawamag Island on the landward side of the high water mark (Torres Strait)	Saibai People v Queensland [1999] FCA 158
6 July 2000	Native title exists in the entire determination area: the land and inland waters of Dauan Island (Torres Strait)	Dauan People v Queensland [2000] FCA 1064
6 July 2000	Native title exists in the entire determination area: the land and inland waters of Mabuyag Island on the landward side of the high water mark (Torres Strait)	Mabuyag People v Queensland [2000] FCA 1065
7 July 2000	Native title exists in the entire determination area: the land and inland waters of Poruma (Coconut) Island on the landward side of the high water mark (Torres Strait)	Poruma People v Queensland [2000] FCA 1066
7 July 2000	Native title exists in the entire determination area: the land and inland waters of Warraber (Sue) Island on the landward side of the high water (Torres Strait)	Warraber People v Queensland [2000] FCA 1066
7 July 2000	Native title exists in the entire determination area: the land and inland waters of Masig (Yorke) Island on the landward side of the high water mark	Masig People v Queensland [2000] FCA 1067

Date of determination	Outcome	Case name
23 May 2001	Native title exists in parts of the determination area: in the inner Torres Strait islands of Ngurapai (Horn Island); Muralag (Prince of Wales Island); Zuna (Entrance Island); Tarilag (Packe Island); Yeta (Port Lihou Island); Damaralag (Dumuralug Islet); and Mipa (Turtle Island)	Kaurareg People v Queensland [2001] FCA 657 (Mipa, Tarilag, Yeta, Damaralag)
23 May 2001	Native title exists in parts of the determination area: in the inner Torres Strait islands of Ngurapai (Horn Island); Muralag (Prince of Wales Island); Zuna (Entrance Island); Tarilag (Packe Island); Yeta (Port Lihou Island); Damaralag (Dumuralug Islet); and Mipa (Turtle Island)	Kaurareg People v Queensland [2001] FCA 657 (Murulag #2)
23 May 2001	Native title exists in parts of the determination area: in the inner Torres Strait islands of Ngurapai (Horn Island); Muralag (Prince of Wales Island); Zuna (Entrance Island); Tarilag (Packe Island); Yeta (Port Lihou Island); Damaralag (Dumuralug Islet); and Mipa (Turtle Island)	Kaurareg People v Queensland [2001] FCA 657 (Zuna)
23 May 2001	Native title exists in parts of the determination area: in the inner Torres Strait islands of Ngurapai (Horn Island); Muralag (Prince of Wales Island); Zuna (Entrance Island); Tarilag (Packe Island); Yeta (Port Lihou Island); Damaralag (Dumuralug Islet); and Mipa (Turtle Island)	Kaurareg People v Queensland [2001] FCA 657 (Murulag #1)
23 May 2001	Native title exists in the entire determination area: in the inner Torres Strait islands of Ngurapai (Horn Island); Muralag (Prince of Wales Island); Zuna (Entrance Island); Tarilag (Packe Island); Yeta (Port Lihou Island); Damaralag (Dumuralug Islet); and Mipa (Turtle Island)	Kaurareg People v Queensland [2001] FCA 657 (Ngurupai)
14 June 2001	Native title exists in the entire determination area: the whole of the land and inland waters of Waier Island and Dauar Island on the landward side of the high water mark	Andrew Passi on behalf of the Meriam People v Queensland [2001] FCA 697
7 December 2004	Native title exists in the entire determination area: the land and waters on the landward side of the high water mark of Aureed Island, Torres Strait	Warria on behalf of the Kulkalgal v Queensland [2004] FCA 1572

Date of determination	Outcome	Case name
8 December 2004	Native title exists in the entire determination area: Darnley Island, Torres Strait	Mye on behalf of the Erubam Le v Queensland [2004] FCA 1573
9 December 2004	Native title exists in the entire determination area: Stephen Island (Ugar) Campbell Island and Pearce Cay in the Torres Strait	Stephen on behalf of the Ugar People v Queensland [2004] FCA 1574
10 December 2004	Native title exists in the entire determination area: Boigu, Moimi, Aubussi and surrounding islands in the Torres Strait	Gibuma on behalf of the Boigu People v Queensland [2004] FCA 1575
10 December 2004	Native title exists in the entire determination area: Yam Island, Zagai Island (or Jeaka Island); Tud Island and Cap Islet (or Mukar Islet or Muquar Islet) in the Torres Strait.	David on behalf of the lama People and Tudulaig v Queensland [2004] FCA 1576
13 December 2004	Native title exists in the entire determination area: the land and waters on the landward side of the High Water Mark referred to as Gebara Island, Gabba Island or Two Brothers Island	Newie on behalf of the Gebaralgal v Queensland [2004] FCA 1577
14 December 2004	Native title exists in the entire determination area: Badu Island and surrounding islands in the Torres Strait.	Nona on behalf of the Badulgal v Queensland [2004] FCA 1578
15 August 2005	Native title exists in the entire determination area: Sassie Island (or Long Island), Torres Strait	Thaiday on behalf of the Warraber, Poruma and lama Peoples and Queensland [2005] FCA 1116
15 August 2005	Native title exists in the entire determination area: the land and waters ... known as Uttu (also referred to as Dove Island) and Yarpar (also referred to as Roberts Island	Jack Billy on behalf of the Poruma People and Queensland and Ors [2005] FCA 1115
15 August 2005	Native title exists in the entire determination area: Islands of Buru (or Turnagain Island), Warul Kawa (or Deliverance Island), Kerr Islet and Turu Cay in the vicinity of Badu, Boigu and Saibai Islands in the Torres Strait.	Victor Nona on behalf of the Saibai, Dauan, Mabuyag, Badu and Boigu Peoples v Queensland [2005] FCA 1118

Date of determination	Outcome	Case name
15 August 2005	Native title exists in the entire determination area: Garboi Island (or Arden Island), Torres Strait	Lota Warria on behalf of the Poruma and Masig Peoples and Queensland and Ors [2005] FCA 1117
13 April 2006	Native title exists in the entire determination area: portions of Murrabar Islet (also referred to as Channel Island, and Murbayl Islet); Sarbi Islet (also referred to as Bond Island); lem Islet (also referred to as North Possession Island); Zagarsup Islet (also referred to as Zagarsum and also known as Tobin Island); Kulbi Islet (also referred to as Portlock Island); Muknab Rock; and Kapril Rock.	Manas v Queensland [2006] FCA 413 (on behalf of the Mualgal people)
13 April 2006	Native title exists in the entire determination area: portions of Matu Island (also referred to as Whale Island); Zurat Island (also referred to as Phipps Island); Kulbai Kulbai Island (also referred to as Spencer Island); Ngurtai Island (also referred to as Quoin Island); Maitak Island (also referred to as Wilson Island); Kanig Island (also referred to as Duncan Island); Ilapnab Island (also referred to as Green Island); Tukupai Island (also referred to as Clarke Island); Ngul Island (also referred to as Browne Island); Tuin Island (also referred to as Barney Island); Wia Island (also referred to as High Island); Logan Rocks; Gainulai Island; Tuft Rock; Meth Islet; and Dadalai Island (also referred to as Canoe Island)	Nona and Manas v Queensland [2006] FCA 412 (on behalf of the Badualgal Mualgal people)
2 July 2010 (decision) 23 August 2010 (final orders)	Native title exists in parts of the determination area: The claim area extends over the waters of the Torres Strait (approximately 37,800 square kilometres of sea extending between the Cape York Peninsula and Papua New Guinea. It primarily consists of sea area existing south of Papua New Guinea's Seabed Jurisdiction Line but also the sea area west of Boigu and east of Saibai, where by operation of a treaty with Papua New Guinea, Australia retains fisheries jurisdiction.)	Akiba on behalf of the Torres Strait Islanders of the Regional Seas Claim Group v State of Queensland (No 2) [2010] FCA 643

Date of determination	Outcome	Case name
19 June 2014	Native title exists in the entire determination area: Zuizin Island (also referred to as Halfway Island) located in the Central Torres Strait group of islands, 70 nautical miles northeast of Thursday Island and 15 nautical miles eastsoutheast of Poruma, 30 nautical miles eastnortheast of Warraber and 22 nautical miles south of Masig.	Mosby on behalf of the Kulkalgal People v State of Queensland [2014] FCA 628
28 April 2015	Native title exists in the entire determination area: approximately 1,640 square kilometres of land and waters formerly the subject of pastoral holdings, known as Bromley and Boynton in the north eastern part of Cape York Peninsula.	Wuthathi, Kuuku Ya'u and Northern Kaanju People v State of Queensland [2015] FCA 381
29 April 2015	Native title exists in the entire determination area: approximately 1,181 square kilometres of land around Shelburne Bay on the northern tip of Cape York Peninsula.	Wuthathi People #2 v State of Queensland [2015] FCA 380

Appendix 4

Reading list

Books, articles, reports and online resources

- Australia. Parliament. House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs. *Greater autonomy for Torres Strait Islanders*, Canberra, Wednesday, 28 May 1997, Official Hansard Report.
<http://www.aph.gov.au/binaries/hansard/reps/commtee/r8045514.pdf>
- Australia. Parliament. House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs. *Torres Strait Islanders: A New Deal: A Report on Greater Autonomy for Torres Strait Islanders*, Canberra, August 1997.
http://www.aphref.aph.gov.au/house_committee/atsia_tsi_tsi.pdf
- Ban, Paul. "Would a Formal Treaty Help Torres Strait Islanders Achieve Legal Recognition of their Customary Adoption Practice?" *Indigenous Law Bulletin* 6, issue 19 (2006): 17–21.
- Beckett, Jeremy. *Torres Strait Islanders: Custom and Colonialism*. Cambridge, England: Cambridge Press, 1987.
- Brockett, William Edward. "Narrative of a voyage from Sydney to Torres' Straits, in search of the survivors of the Charles Eaton; in His Majesty's colonial schooner Isabella, CM Lewis Commander." 1836
http://digital.slv.vic.gov.au/view/action/singleViewer.do?dvs=1486955918602~406&locale=en_AU&metadata_object_ratio=10&show_metadata=true&VIEWER_URL=/view/action/singleViewer.do?&preferred_usage_type=VIEW_MAIN&DELIVERY_RULE_ID=10&frameId=1&usePid1=true&usePid2=true
- Cordell, John and Judith Fitzpatrick. "Torres Strait: Cultural Identity and the Sea." *Cultural Survival Quarterly* 11, no.2 (1987): 15–17.
- Davis, Richard, ed. *Woven histories dancing lives: Torres Strait Islander Identity, Culture and History*. Canberra: Aboriginal Studies Press, 2004.
- Farnfield, Dr. D. J. "The Moving Frontier: Queensland and the Torres Strait." *Lectures on North Queensland History*. Townsville: James Cook University, 1974.
https://espace.library.uq.edu.au/view/UQ:241790/Lectures_on_NQ_History_S1_CH5.pdf
- Ganter, Regina. *The Pearl-shellfish of Torres Strait: resource use, development and decline, 1860s–1960s*. Melbourne: Melbourne University Press, 1994.
- Haddon, A.C., and Jeremy Hodes. *Reports of the Cambridge Anthropological Expedition to the Torres Straits*. 6 vols. Cambridge, England: University Press, 1901–1935.
- Healing Foundation. *Iling Sidaun Report*. Torres Strait Islands Healing Gathering. Thursday Island, Torres Strait: Healing Foundation, November 2014.
http://healingfoundation.org.au/wordpress/wp-content/files_mf/1435283273TSGreportSCREENALTS3sml.pdf
- Healing Foundation. *Kaurareg Report*. Kaurareg Healing Forum Report. Horn Island, Torres Strait: Healing Foundation, November 2012. http://healingfoundation.org.au/wordpress/wp-content/files_mf/1408419004HFKauraregfullreportsingles.pdf

- Henry, Rosita. "The road from Mabo: Towards autonomy." *Alternative Law Journal* 18, no. 1 (1993) 12–16.
- Horsfall, Dr Nicky and Dr Michael Morrison. *Cape York Peninsula Cultural Story: Non-Indigenous and Shared History*. 2010. (Prepared for Queensland Department of Environment and Resource Management Cape York Peninsula Scientific and Cultural Advisory Committee Cape York Peninsula Regional Advisory Committee Australian Government.)
https://www.researchgate.net/publication/266074027_Cape_York_Peninsula_Cultural_Story_Non-Indigenous_and_Shared_History
- Horton, David, ed. *The Encyclopaedia of Aboriginal Australia: Aboriginal and Torres Strait Islander History, Society and Culture*. 2 vols. Canberra: Aboriginal Studies Press for the Australian Institute of Aboriginal and Torres Strait Islander Studies, 1994.
- Keon-Cohen, Bryan. *Mabo in the Courts: Islander Tradition to Native Title: a Memoir*. 2 vols. North Melbourne, Vic.: Chancery Bold, 2011.
- Lawrence, David and Helen Reeves Lawrence. "Torres Strait: the Region and Its People." In *Woven Histories, Dancing Lives: Torres Strait Islander Identity, Culture and History*, edited by Richard Davis. Canberra, ACT: Aboriginal Studies Press, 2004.
- Lawrie, Margaret, trans. *Myths and Legends of Torres Strait*. St Lucia, Qld: University of Queensland Press, 1970.
- Lawrie, Margaret, trans. *Tales from Torres Strait*. St Lucia, Qld: University of Queensland Press, 1972.
- Loos, Noel. *Eddie Koiki Mabo: His Life and Struggle for Land Rights*. 2nd ed. St Lucia, Qld: University of Queensland Press, 2013.
- Manas, Louise, Bruno David, and Michael C Quinnell, "Introduction to Gelam's homeland." *Memoirs of the Queensland Museum Culture: Cultural Heritage Series* (2008) 4: 1–7.
- Maynard, John and Haskins, Victoria K. *Living with the locals: Early European Experience of Indigenous Life*. Canberra, NLA Publishing, 2016.
- Moore, Clive and Mullins, Steve eds. "Andrew Goldie's Memoir: 1875–1879." *Memoirs of the Queensland Museum Culture: Cultural Heritage Series* (2012) 6: 39–127.
- Mulrennan, Monica and Scott, Colin. "Indigenous Rights and Control of the Sea in the Torres Strait." *Indigenous Law Bulletin* 5, issue 5 (2001) 11–15.
- Murphy, Damien. "Torres Strait: A New World Beginning." *The Sydney Morning Herald*, 11 March 2016. <http://www.smh.com.au/nsw/torres-strait-20160310-gnfile7.html>
- Nakata, Martin. "Commonsense, Colonialism and Government." In *Woven Histories Dancing Lives: Torres Strait Islander Identity, Culture and History*, edited by Richard Davis, Canberra: Aboriginal Studies Press, 2004.
- National Museum of Australia. "Lag|Meta|Aus: Home in the Torres Strait." Accessed 3 February 2016. http://www.nma.gov.au/exhibitions/lag_meta_au

Queensland. Department of Aboriginal and Torres Strait Islander and Multicultural Affairs. *Aboriginal and Torres Strait Islander Community Profiles: a Resource for the Courts: Horn Island (Ngarupai)*. [Brisbane], The Department, September 2014. <https://www.datsip.qld.gov.au/resources/datsima/publications/justice-resources/horn-island.pdf>

Queensland. Department of Aboriginal and Torres Strait Islander and Multicultural Affairs. *Aboriginal and Torres Strait Islander Community Profiles: a Resource for the Courts: Hammond Island (Keriri)*. [Brisbane], The Department, September 2014. <https://www.datsip.qld.gov.au/resources/datsima/publications/justice-resources/hammond-island.pdf>

Queensland. Department of Aboriginal and Torres Strait Islander and Multicultural Affairs. *Aboriginal and Torres Strait Islander Community Profiles: a Resource for the Courts: Kubin (Mua or Moa Island)*. [Brisbane], The Department, September 2014. <https://www.datsip.qld.gov.au/resources/datsima/publications/justice-resources/kubin.pdf>

Queensland. Department of Aboriginal and Torres Strait Islander and Multicultural Affairs. *Aboriginal and Torres Strait Islander Community Profiles: a Resource for the Courts: Thursday Island*. [Brisbane], The Department, September 2014. <https://www.datsip.qld.gov.au/resources/datsima/publications/justice-resources/thursday-island.pdf>

Queensland Government. "Aboriginal and Torres Strait Islander Community Histories." Last updated 28 January 2016. <https://www.qld.gov.au/atsi/cultural-awareness-heritage-arts/community-histories/index.html>

Queensland Museum. "Awakening: Stories from the Torres Strait." Accessed 3 February 2016. <http://www.awakening.qm.qld.gov.au/>

Sharp, Nonie. *Footprints along the Cape York sandbeaches*. Canberra : Aboriginal Studies Press, 1992.

Sharp, Nonie. *Stars of Tagai: the Torres Strait Islanders*. Canberra : Aboriginal Studies Press, 1993.

Shnukal, Anna. "Torres Strait Islanders." In *Multicultural Queensland 2001: 100 Years, 100 Communities, A Century of Contributions*, edited by Maximilian Brandle. Brisbane: Multicultural Affairs Queensland, Department of the Premier and the Cabinet, 2001.

Shnukal, Anna. *Bibliography of Torres Strait*. Brisbane: Aboriginal and Torres Strait Islander Studies Unit, The University of Queensland, 2003. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.202.8301&rep=rep1&type=pdf>

Singe, John. *The Torres Strait: People and History*. St Lucia, Qld: University of Queensland Press, 1979.

Southon, Michael and the Kaurareg Tribal Elders. "The Sea of Waubin: the Kaurareg and their Marine Environment." In *Customary Marine Tenure in Australia*, edited by Nicolas

Peterson and Bruce Rigby, Chapter 13. Sydney: Sydney University Press, 2014.
<http://ses.library.usyd.edu.au/handle/2123/11415>

The State Library of Queensland. "Torres Strait Island Communities." Accessed 3 February 2016. <http://www.slq.qld.gov.au/resources/atsi/community-history/missions/tsi-communities>

The State Library of Queensland. "Fact sheet: voting rights of Aboriginal and Torres Strait Islander peoples in Queensland." Accessed 13 February 2017.
http://www.slq.qld.gov.au/_data/assets/pdf_file/0019/41851/Indigenous_voting_05.pdf

Torres Strait Regional Authority. "General History." Accessed 3 February 2016.
<http://www.tsra.gov.au/the-torres-strait/general-history>

Watkin, Felecia. "My island home: a study of identity across different generations of Torres Strait Islanders living outside the Torres Strait." PhD thesis, James Cook University, 2009.
<http://researchonline.jcu.edu.au/11642/>

Legislation

Polynesian Laborers Act 1868 (Qld). The Polynesian Laborers Bill (No. 47 of 1868) is available through the Qld State Archives website:
<http://www.archivessearch.qld.gov.au/Image/DigitalImageDetails.aspx?ImageId=16676>

Pacific Islanders Protection Act 1872 (Imp) A British Act for the Prevention and Punishment of Criminal Outrages upon Natives of the Islands in the Pacific Ocean — the Kidnapping Act. <http://nationalunitygovernment.org/content/pacific-islanders-protection-act-1875>

Queensland Coast Islands Act 1879 (Qld)
http://www.austlii.edu.au/au/legis/qld/consol_act/qcia1879247/

Pacific Island Labourers Act 1880 (Qld): This act repealed the *Polynesian Labourers Act 1868* (Qld)

Pearl Shell and Beche-de-Mer Fishery Act 1881 (Qld)

Native Labourers' Protection Act 1884 (Qld) Commentary on this Act is available from the Find and Connect website
<http://www.findandconnect.gov.au/ref/qld/biogs/QE00981b.htm#related>

Pacific Island Labourers Act Amendment Act 1884 (Qld) The Act is available through the Museum of Australian Democracy website: <http://foundingdocs.gov.au/item-did-66-aid-5-pid-57.html>

Aboriginals Protection and Restriction of the Sale of Opium Act 1897 (Qld)
<http://www.austlii.edu.au/au/other/IndigLRes/1897/2.html>

Commonwealth of Australia Constitution Act 1901 (Imp) The Constitution is available through the Museum of Australian Democracy website:
<http://www.foundingdocs.gov.au/scan-sid-98.html>

Pacific Island Labourers Act 1901 (Cth) The Act is available from the AustLII website: Act:
http://www.austlii.edu.au/au/legis/cth/num_act/pila190116o1901262/

Restriction of Immigration Act 1901 (Cth) The Act is available through the Museum of Australian Democracy website:
http://www.foundingdocs.gov.au/resources/transcripts/cth4ii_doc_1901a.pdf

Torres Strait Islander Act 1939
http://www5.austlii.edu.au/au/legis/qld/hist_act/tsiao19393gvn7382/

Torres Strait Islanders Act 1971
<http://www.findandconnect.gov.au/ref/qld/biogs/QE00026b.htm>

Queensland Coast Islands Declaratory Act 1985

Cases

Akiba on behalf of the Torres Strait Regional Seas Claim Group v Commonwealth of Australia (2013) 250 CLR 209 (7 August 2013)
<http://www.austlii.edu.au/au/cases/cth/HCA/2013/33.html>

Bligh and Ors v State of Queensland [1996] HREOCA 28 (24 September 1996) (the 'Palm Island wages case') <http://www.austlii.edu.au/au/cases/cth/HREOCA/1996/28.html>

Koowarta v Bjelke-Petersen [1982] HCA 27 (11 May 1982).
<http://www.austlii.edu.au/au/cases/cth/HCA/1982/27.html>

Mabo v Queensland Queensland (1989) 166 CLR 186 (8 December 1988).
<http://www.austlii.edu.au/au/cases/cth/HCA/1988/69.html>

Mabo v Queensland (No 2) (1992) 175 CLR 1 (3 June 1992).
<http://www.austlii.edu.au/au/cases/cth/HCA/1992/23.html>

Mye on behalf of the Erubam Le v State of Queensland [2004] FCA 1573 (8 December 2004)
<http://www.austlii.edu.au/au/cases/cth/FCA/2004/1573.html>

Tabua v Stemron Pty & Masterton [1990] HREOCA 16 (13 December 1990)
<http://www.austlii.edu.au/au/cases/cth/HREOCA/1990/16.html>

Wacando v Commonwealth (1981) 148 CLR 1
<http://www.austlii.edu.au/au/cases/cth/HCA/1981/60.html>

Wik Peoples v Queensland [1996] HCA 40 (23 December 1996).
<http://www.austlii.edu.au/au/cases/cth/HCA/1996/40.html>

Yanner v Eaton [1999] HCA 53 (7 October 1999).
<http://www.austlii.edu.au/au/cases/cth/HCA/1999/53.html>