

Section Three: Report of Operations

Where We Operate

Regional overview

Geography and logistics

The Torres Strait is located in Australia and is part of the north eastern state of Queensland. The area is approximately 150 kilometres wide at its narrowest point and is situated between the tip of Queensland's Cape York Peninsula and Papua New Guinea. The region consists of over 270 islands and reefs.

The Torres Strait links the Coral Sea in the east to the Arafura Sea in the west; the two main navigation passages are the Prince of Wales Channel, north of Hammond Island and the Endeavour Strait, between Cape York and Prince of Wales Island.

The Torres Strait islands have a variety of topographies, ecosystems and formations. Several islands, closest to the New Guinea coastline are low-lying and are regularly impacted by sea inundation. Many of the western islands are hilly and steep. The central islands are predominantly coral cays and those to the east are volcanic.

The TSRA delivers services across the entire Torres Strait region which includes seventeen inhabited Islands and two communities in the Northern Peninsula Area of mainland Australia. Due to the area's remote location, the TSRA's service delivery is reliant on many logistical factors including limited phone, facsimile and Internet communications between communities. Most travel within the region is restricted to small watercraft and light aircraft. The main gateway to the Torres Strait is the Ngurupai airport located on Horn Island, a 20 minute ferry ride from the Australian Government, Queensland Government and two local government administration hubs which are located on Thursday Island.

Culture

The picturesque Torres Strait region is predominantly inhabited by native Torres Strait Islanders and Kaurareg Aboriginal people. The 2011 Australian Bureau of Statistics Census estimated that the total population of the region is 8,752, of whom 6,899 are Torres Strait Islander or Aboriginal people.

The Torres Strait's unique Ailan Kastom (island custom) is a central part of life in the region. Ailan Kastom is kept alive through the arts, rituals, performances, preserving languages and passing traditional knowledge on from one generation to the next. Cultural values are strongly intertwined around traditional, ancestral ties and respect for waterways, land, sea and the resources these provide.

History

The Torres Strait is named after Spanish explorer, Luis Vaez de Torres, who sailed through the area in 1606. Queensland Government administration of the Torres Strait was established on Thursday Island in 1877, following the arrival of missionaries on Cape York Peninsula. Early settlers were involved in pearling, Bêche-de-mer collection and mining activities.

Native Title

Torres Strait Islander people first achieved recognition of their land rights in 1992 following the High Court's landmark Mabo decision which granted the Miriam people native title rights over Mer (Murray) Island. This was the first time that native title was recognised under the common law of Australia. It set a precedent for Indigenous people throughout Australia to assert their native title rights through the Native Title Act 1993 (Cth).

Native title has been granted for 13 inhabited islands in the Torres Strait region and most of the uninhabited islands. In addition, the Kaurareg Aboriginal people have achieved recognition of their native title rights over seven inner islands, Ngurupai (Horn Island), Muralag (Prince of Wales Island), Zuna (Entrance Island), Yeta (Port Lihou Island), Mipa (Turtle Island), Tarilag (Packer Island) and Damaralag. Native title claims are being pursued over the remaining three land claims. The Regional Sea Claim determination was made on 23 August 2010 and is subject to appeal.

The Australian Government and Queensland Government appealed the judgement of Justice Finn, and the full bench of the Federal Court of Australia heard the appeal matter in May 2011. A Special Leave Application was made on 8 June 2012 in the High Court of Australia to appeal from the decision of the Full Federal Court. If Special Leave is given then an appeal proper will be made to be heard by the High Court. It is anticipated that a decision by the High Court on the Special Leave Application will be made after October 2012.

Map of Torres Strait Region



Data Used to Benchmark Progress Towards Closing the Gap

The Indigenous Reform Agenda

Closing the Gap is a commitment by all the Commonwealth, State and Territory governments to improve the lives of Indigenous Australians, and in particular provide a better future for Indigenous children.

A national integrated Closing the Gap strategy has been agreed by the Council of Australian Governments (COAG), the peak intergovernmental forum in Australia. COAG brings together the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association.

Closing the Gap is linked to a wider reform of Commonwealth-State financial relations. COAG's national agreements and partnerships, in areas such as education, housing and health, are clearly focused on overcoming Indigenous disadvantage.

In 2008, COAG set specific and ambitious targets for Closing the Gap; these targets continue to remain a priority for the Australian Government:

To close the life-expectancy gap within a generation

To halve the gap in mortality rates for Indigenous children under five within a decade

To ensure access to early childhood education for all Indigenous four years olds in remote communities within five years

To halve the gap in reading, writing and numeracy achievements for children within a decade

To halve the gap for Indigenous students in Year 12 (or equivalent) attainment rates by 2020

To halve the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade

This year, the TSRA continued to work towards the six COAG targets through the organisation's planned outcome statement:

[Progress towards Closing the Gap for Torres Strait Islander and Aboriginal people living in the Torres Strait region through development planning, coordination, sustainable resource management, and preservation and promotion of Indigenous culture.](#)

Each of the TSRA programs is required to report against the COAG targets. Detailed reporting is contained in Section 2 of this Annual Report.

The TSRA's Program structure is based on the six COAG Building Blocks for Closing the Gap in disadvantage between Indigenous and non-Indigenous Australians. The Building Blocks are also used as the framework for the TSRA's Integrated Service Delivery project.

Progress Measured Using the COAG Building Blocks

In 2008 - 2009 The TSRA completed community consultations as part of the development of the Torres Strait and Northern Peninsula Are Regional Plan 2009 - 2029. The first phase of the Regional Plan has been delivered through the Torres Strait Development Plan 2009 - 2013. 1,619 gaps in service delivery were initially identified across 20 Communities. Progress as of 30 June 2012 measured using each of the Building Blocks is shown in Table 3-1 and Figure 3-1 below. Detail of the services by community is contained in the Torres Strait Regional Plan Community Booklets 2012 which have been prepared for each community and are published through the TSRA's Information Publishing Scheme which can be accessed from the TSRA Web Site at <http://www.tsra.gov.au>.

Community Service Issues	2008			2012		
	Dark blue	Medium blue	Light blue	Dark blue	Medium blue	Light blue
Early Childhood	59	0	0	34	20	5
Schooling	133	0	0	32	63	38
Health	313	0	0	117	126	70
Economic Participation	323	0	0	152	108	63
Healthy Homes	248	0	0	74	147	27
Safe Communities	441	0	0	185	167	89
Governance and Leadership	102	0	0	22	40	40
Community Total	1619	0	0	616	671	332

Key:

Dark blue	Not yet programmed / Not feasible / Not a government provided service
Medium blue	Funding has been secured / Planning is in Progress / Construction is Underway

Table 3-1
Summary of Community Service Issues by Building Block

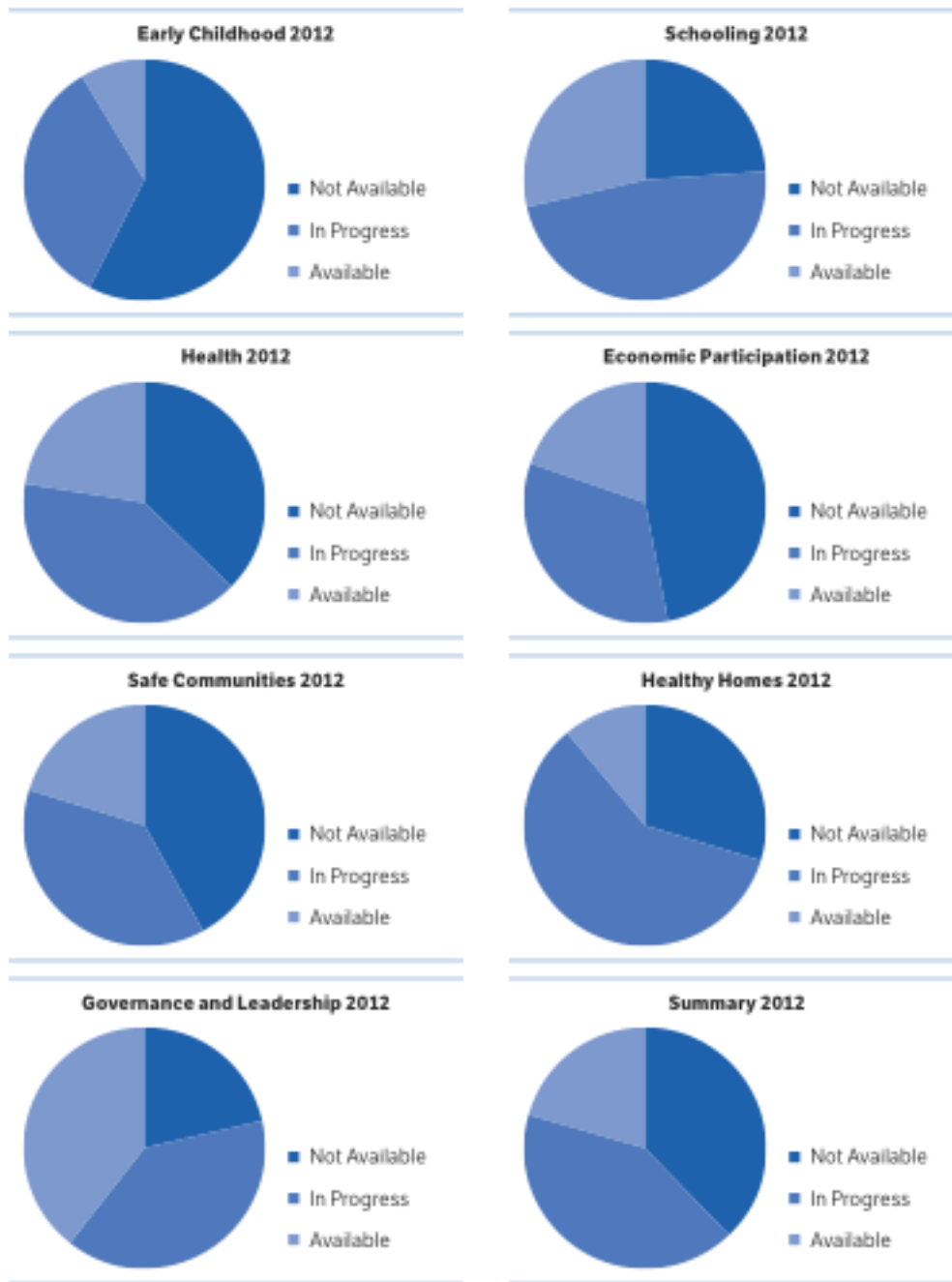


Figure 3-1
Progress towards Closing the Gap by Building Block

Regional Statistics

The latest data available at the time of writing this report was from the Australian Bureau of Statistics (ABS). This data, collected in 2011, has been used to benchmark the progress of the TSRA's Programs against Closing the Gap targets.

Population

The 2011 Census showed that the Torres Strait Islander and Aboriginal population in the region:

- Decreased from 7,105 in 2006 to 6,899 in 2011.

- Represents 78.8 per cent of the total population of the region (8,752)

- Represents 1.3 per cent of the Indigenous population of Australia (548,369)

- Represents 4.4 per cent of the Indigenous population of Queensland (155,825)

- 49.7 per cent of the Torres Strait population is male

- 50.3 per cent is female.

- The median age of Aboriginal and Torres Strait Islander people in the region is 22 years.

Employment

The 2011 Census figures were not available at time of printing.

- The 2006 census unemployment rate for Torres Strait Islander and Aboriginal people in the region was 5.03 per cent.

- The June 2012 unemployment rate for the Australian Labour Force was 5.1 per cent.

Education

The 2011 Census showed that 2,583 persons were undertaking some form of education. Of these:

- 151 persons were in pre-school

- 1,213 persons were in primary school

- 500 persons were in secondary school

- 139 persons were at technical colleges or TAFE

- 52 persons were at university

- 528 persons were undertaking other or non-stated courses

Income

In 2011, household incomes of Torres Strait Islander and Aboriginal people were significantly lower than the reported Australian average.

- The reported median weekly household income for the region is \$987 compared with the Queensland average of \$1,453 and the Australian average of \$1,481.

- The median weekly individual income for an individual living in the Torres Strait region is \$387 compared to the Queensland average of \$587 and the Australian average of \$577.

Housing

The 2011 Census reported that there were 1,737 private dwellings in the region with Indigenous residents. Of these:

- 5.5 per cent of these are fully owned

- 2.1 per cent are owned with a mortgage

- 86.2 per cent are rented

- 6.2 per cent have other or non-stated tenancy arrangements

Health

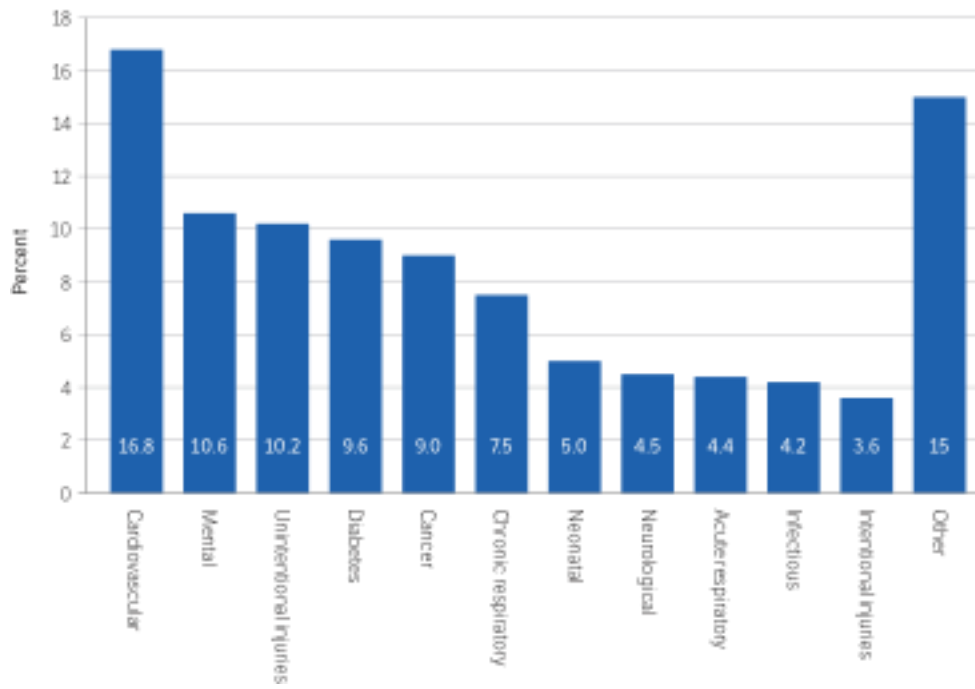


Figure3-2

Source: S. Begg, M. Bright, C. Harper: Burden of disease and health adjusted life expectancy in Health Services Districts of Queensland Health, 2006, Queensland Health, Brisbane, 2009.

A synthesis of ABS data from the 2011 Census and Queensland Health information shows that death rates continue to be higher in the Torres Strait and Northern Peninsula Area than in mainland Australia with cardiovascular disease, type 2 diabetes, mental illness and substance use, accident and injury, neoplasms (cancer) - particularly lung cancer and chronic respiratory disease being responsible for over 64 per cent of the burden of disease in the region.

How the TSRA Operates

Legislative Framework

Formation

The TSRA is a Commonwealth Statutory Authority which was established 1 July 1994 under the Aboriginal and Torres Strait Islander Commission Act 1989 (Cth), and now the Aboriginal and Torres Strait Islander Act 2005 (Cth). The TSRA is the leading Commonwealth representative body for Torres Strait Islander and Aboriginal people living in the Torres Strait, including two communities (Bamaga and Seisia) in the Northern Area Peninsula.

The TSRA is composed of twenty elected representatives and the administrative staff. The twenty elected representatives are Torres Strait Islander and Aboriginal people who live and work in the region. The TSRA Board elects a Chairperson, a Deputy Chairperson and an Alternate Deputy Chairperson. A Chief Executive Officer is responsible for the TSRA's administration and staffing.

The TSRA performs separate functions under the Native Title Act 1993 (Cth) as the Native Title Representative Body (NTRB) for the Torres Strait Region. The TSRA holds this NTRB responsibility until 30 June 2013.

Under Section 142D of the Aboriginal and Torres Strait Islander Act 2005 (Cth) the TSRA is required to formulate and implement a plan to guide the progress of the Torres Strait region. This document, known as the Torres Strait Development Plan, is updated every four years, a period consistent with the term of the TSRA Board.

The Torres Strait Development Plan 2009 - 2013 is the fourth development plan since the establishment of the TSRA. The plan outlines seven new or revised TSRA program components: Culture, Art and Heritage; Economic Development; Environmental Management; Governance and Leadership; Healthy Communities; Native Title and Safe Communities. In recognition of the importance of fisheries to economic development in the region the TSRA separated responsibility for fisheries management from the Environmental Management Program and established a stand-alone Fisheries Program. This change will be reflected in the next edition of the Torres Strait Development Plan. For consistency of reporting against the Portfolio Budget Statements and the current Torres Strait Development Plan, the outcomes from the Fisheries Program have been reported under the Environmental Management Program.

Enabling Legislation

The enabling legislation for the TSRA is contained in Section 142, Part 3A Division 1 of the Aboriginal and Torres Strait Islander Act 2005 (Cth), which states:

- (1) A Torres Strait Regional Authority is established.
- (2) The TSRA:
 - (a) is a body corporate, with perpetual succession; and
 - (b) is to have a common seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued in its corporate name.

Subsection 142 (3) of the Aboriginal and Torres Strait Islander Act also applies to the TSRA. The Act deals with matters relating to Commonwealth Authorities, including reporting and accountability, banking and investment and conduct of officers. The Act states:

- (1) The common seal of the TSRA is to be kept in such custody as the TSRA directs and must not be used except as authorised by the TSRA.
- (2) All courts, judges and persons acting judicially must:
 - (a) take judicial notice of the imprint of the common seal of the TSRA appearing on a document; and
 - (b) presume that the imprint was duly affixed.

Functions

The functions of the TSRA, as outlined in Section 142A of the Aboriginal and Torres Strait Islander Act 2005 (Cth), are:

- (1) to recognise and maintain the special and unique Ailan Kastom of Torres Strait Islanders living in the Torres Strait area;
- (2) to formulate and implement programs for Torres Strait Islanders, and Aboriginal persons, living in the Torres Strait area;
- (3) to monitor the effectiveness of programs for Torres Strait Islanders and Aboriginal persons, living in the Torres Strait area, including programs conducted by other bodies;
- (4) to develop policy proposals to meet national, State and regional needs and priorities of Torres Strait Islanders and Aboriginal persons, living in the Torres Strait area;
- (5) to assist, advise and co-operate with Torres Strait Islander and Aboriginal communities, organisations and individuals at national, State, Territory and regional levels;
- (6) to advise the Minister on:
 - (a) matters relating to Torres Strait Islander affairs and Aboriginal affairs in the Torres Strait area, including the administration of legislation;
 - (b) the co-ordination of the activities of other Commonwealth bodies that affect Torres Strait Islanders or Aboriginal persons, living in the Torres Strait area;

- (7) when requested by the Minister, to provide information or advice to the Minister on any matter specified by the Minister;
- (8) to take such reasonable action as it considers necessary to protect Torres Strait Islander and Aboriginal cultural material and information relating to the Torres Strait area if the material or information is considered sacred or otherwise significant by Torres Strait Islanders or Aboriginal persons;
- (9) at the request of, or with the agreement of, the Australian Bureau of Statistics but not otherwise, to collect and publish statistical information relating to Torres Strait Islanders, and Aboriginal persons, living in the Torres Strait area;
- (10) such other functions as are conferred on the TSRA by this Act or any other Act;
- (11) such other functions as are expressly conferred on the TSRA by a law of a State or of an internal Territory and in respect of which there is in force written approval by the Minister under Section 142B;
- (12) to undertake such research as is necessary to enable the TSRA to perform any of its other functions; and
- (13) to do anything else that is incidental or conducive to the performance of any of the preceding functions.

Powers

The powers of the TSRA, are outlined in Section 142C of the Aboriginal and Torres Strait Islander Act 2005 (Cth), which states:

- (1) The TSRA has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.
- (2) The powers of the TSRA include, but are not limited to, the following powers:
 - (a) to accept gifts, grants, bequests and devises made to it;
 - (b) to act as trustee of money and other property vested in it on trust;
 - (c) to negotiate and co-operate with other Commonwealth bodies and with State, Territory and local government bodies;
 - (d) to enter into an agreement for making a grant or loan under Section 142GA to the State of Queensland or an authority of that State (including a local government body); and
 - (e) to enter into an agreement (other than an agreement referred to in paragraph (d) with a State or a Territory.
- (3) Despite anything in this Act, any money or other property held by the TSRA on trust must be dealt with in accordance with the powers and duties of the TSRA as trustee.
- (4) The powers of the TSRA may be exercised in or out of Australia.

Minister for Families, Community Services and Indigenous Affairs Responsible Minister

The TSRA is an Agency within the Department of Families, Housing, Community Services and Indigenous Affairs portfolio. During the reporting year the responsible Minister for the TSRA was The Hon. Jenny Macklin MP.

Powers of Direction by the Minister

Under section 142E of the Aboriginal and Torres Strait Islander Act 2005 (Cth), the Minister has powers of direction in relation to the TSRA. Section 142E of the Act states:

- (1) The TSRA must perform its functions and exercise its powers in accordance with any general written directions given to it by the Minister.
- (2) The Minister must not give directions about the content of any advice, information or recommendation that may be given by the TSRA to a Minister, Department of State or authority of the Commonwealth.
- (3) The Minister must not give directions about the content of any advice, information or recommendation that may be given by the TSRA to:
 - (a) a Minister of a State or Territory; or
 - (b) a Department of State of a State or Territory; or
 - (c) an authority of a State or Territory;
 except for the purpose of protecting the confidentiality of information given to the TSRA by the Commonwealth or an authority of the Commonwealth.
- (4) Subject to subsection (5), the Minister must cause a copy of a direction to be laid before each House of the Parliament within 15 sitting days of that House after that direction was given.
- (5) The rule in subsection (4) does not apply if the laying of a copy of a direction before each House of the Parliament would result in the disclosure of a matter in a manner that would be inconsistent with the views or sensitivities of Torres Strait Islanders or Aboriginal persons.

The TSRA did not receive any formal Directions by the Minister during the reporting period.

TSRA Statement of Intent to the Minister

In 2011, the Minister for Families, Community Services and Indigenous Affairs, provided a Statement of Expectations to the TSRA concerning the operation and performance of the TSRA for the period to June 2012. In response, the TSRA provided a Statement of Intent to the Minister.

The Statement identifies the TSRA's focus, outcomes and priorities:

The TSRA's primary focus is to improve the lifestyle and wellbeing of Torres Strait Islander and Aboriginal people living in the region by implementing programs that address their socio-economic and health status.

As an Australian Government agency, the TSRA will respond to the Council of Australian Governments (COAG) reform agenda by making a contribution to achieving Closing the Gap targets, and in particular through the Indigenous Economic Development Strategy and the National

Partnership Agreements.

The TSRA will formulate and implement programs in regards to the principles detailed in the COAG National Partnership Agreement on Remote Service Delivery and will continue to: maximise employment, education and training benefits to Indigenous communities, assist and maintain close liaison with national, state, territory and regional agencies, brief the Minister for Families, Community Services and Indigenous Affairs on important issues and implement the Torres Strait Development Plan 2009 - 2013 and other planning instruments as necessary.

The TSRA will consider and act on opportunities that will increase the level of female representation on its Board.

Ministerial Appointments

In 2011 - 2012, four appointments were made for the position of Torres Strait Regional Authority Acting Chief Executive Officer.

The appointments were delegated by the Minister for Families, Community Services and Indigenous Affairs in accordance to Section 144L(1)(a) of the Aboriginal and Torres Strait Islander Act 2005 (Cth) and made by the Secretary, Department of Families, Housing, Community Services and Indigenous Affairs to:

Suzanne Stratton for the period 25 July 2011 to 5 August 2011

John Ramsay for the period 24 October 2011 to 28 October 2011

Damian Miley for the period 19 December 2011 to 20 January 2012

Damian Miley for the period 2 April to 13 April 2012

Briefings and information provided to Minister

Throughout the reporting period the TSRA provided ministerial minutes and briefings to the Minister for Families, Community Services and Indigenous Affairs.

Judicial Decisions and Reviews

One judicial decision relating to the Torres Strait Sea Claim was made in the Full Federal Court and one judicial decision was made regarding the Naghir Native Title Claim during the 2011 - 2012 reporting year. No decisions of administrative tribunals, Parliamentary Committees or the Commonwealth Ombudsman impacted the TSRA's operations.

The TSRA appeared before the Senate Community Affairs Legislation Committee on 22 March 2012. The TSRA was represented by the Chairperson, Mr John Kris, the Chief Executive Officer, Mr Wayne See Kee and the Chief Financial Officer Mr Chris de Mamiel.

There were three amendments to the Aboriginal and Torres Strait Islander Act 2005 (Cth) in 2011 - 2012:

The Indigenous Affairs Legislation Amendment Bill 2011, No 1, 2011 amended the sections of the Act relating to the TSRA elections. The Bill separated the TSRA election process from that of the local government elections by deleting reference to the Community Services (Torres Strait Act) 1984 (Qld). As a result, the first independent TSRA election will be held on 15 September 2012.

The Indigenous Affairs Legislation Amendment Bill 2011, No 2, 2011 amended the section of the Act relating to the General Manager, retitling this appointment to Chief Executive Officer.

The Torres Strait Regional Authority Election Amendment Rules 2012 (No 1), amended the Torres Strait Election Rules 1996 under Section 143 G of the Aboriginal and Torres Strait Islander Act 2005 (Cth), allowing for the creation of 20 TSRA electoral Wards.