PIA Queensland Position Statement –
Aboriginal and Torres Strait Islander Planning Policy

**Background**

In May 2016, the Queensland Parliament passed new planning legislation, the *Planning Act 2016* (Qld), to replace the *Sustainable Planning Act 2009* (Qld).

For the first time in the history of planning law in Australia, the *Planning Act 2016* (Qld) includes a provision which requires the consideration of Aboriginal and Torres Strait Islander peoples’ knowledge, culture and tradition as an integral part of advancing the purpose of the Act. Specifically, the Act requires any entity performing a function under the Act to perform the function in a way that advances the purposes of the Act. One of which includes ‘valuing, protecting and promoting Aboriginal and Torres Strait Islander knowledge, culture and tradition’ (s.5(2)(d)).

The Queensland Division of the Planning Institute of Australia (PIA) endorsed a Background Report and Policy Statement to provide clear direction to the profession about the Division’s position in respect to planning and Queensland’s Aboriginal and Torres Strait Islander peoples.

**PIA Position**

Planning has a responsibility to ensure that its practices include opportunities for Aboriginal and Torres Strait Islander peoples to be involved in decision making that affects them and the application of their knowledge, culture and tradition, regardless of whether the locality is regarded as being remote or non-remote and regardless of whether it may be subject to a native title application or a determination. It is critical for the planning profession to acknowledge that Aboriginal and Torres Strait Islander peoples have been planning their country since time immemorial. Aboriginal and Torres Strait Islander peoples have their own approaches to planning and these should be acknowledged and incorporated into mainstream planning systems and processes.

Planning as a practice and process is crucial to supporting just and sustainable Aboriginal and Torres Strait Islander peoples and communities. However, this requires fundamental changes to the way in which planning systems and processes embrace the requirement for ‘valuing, protecting and promoting Aboriginal and Torres Strait Islander knowledge, culture and tradition’.

There are several challenges to embracing this new requirement in the *Planning Act 2016* (Qld). These include:

- Regional planning activities must consider the difference between planning for land use outcomes and planning for people. For instance more than one third of the total Queensland Aboriginal and Torres Strait Islander population resides in the SEQ Region. But the total area within the Indigenous Estate is smaller than in other regions such as Cape York (99% within Indigenous Estate) where the proportion of the total Queensland
Aboriginal and Torres Strait Islander population is quite small (5.7%). This in turn means the application of planning methods will need to respond to regional characteristics.

- The lack of available and accessible data about the Aboriginal and Torres Strait Islander estate in Queensland does not permit easy analysis of tenure and ownership by Aboriginal and Torres Strait Islander organisations and entities. Moreover data has been mapped at very large scales (for example state planning policy overlays) that inhibit the creation of small scale economic developments.

- The planning profession must understand the implications of the *Native Title Act 1993* (Cth) and its relationship with tenure and development. This is particularly relevant to the provision of social housing on lands subject to a Native Title determination. Planning partnerships between government agencies, service providers and the relevant Aboriginal and Torres Strait Islander peoples and their entities are becoming increasingly necessary in order to create sustainable urban settlements.

- The design of any planning process must be carefully negotiated with the relevant Aboriginal and or Torres Strait Islander community and/or representative bodies from the outset, and not as an after-thought. A rights-based approach to planning pursuant to the United Nations Declaration on the Rights of Indigenous People (UNDRIP) should be used to guide the profession in the design of appropriate processes and practices.

**PIA Policy**

The Policy Statements for the Queensland Division of PIA regarding planning and Queensland’s Aboriginal and Torres Strait Islander peoples are:

1. Queensland Division of PIA acknowledges and respects the Aboriginal and Torres Strait Islander peoples’ ongoing tradition of ownership and management of their ancestral lands and waters according to their laws traditions and cultural governance systems.

2. Queensland Division of PIA supports the inclusion of the ‘*valuing, protecting and promoting Aboriginal and Torres Strait Islander knowledge, culture and tradition*’ as a part of advancing the purpose of the new *Planning Act 2016* (Qld).

3. Queensland Division of PIA understands that Aboriginal and Torres Strait Islander peoples’ knowledge, culture and tradition is held by them and that undertaking functions under the *Planning Act 2016* (Qld) will require developing a working relationship with Aboriginal and Torres Strait Islander peoples based on mutual trust and respect.

4. Queensland Division of PIA will work with Aboriginal and Torres Strait Islander peoples and the Queensland government to develop an appropriate set of protocols for engagement around the incorporation of Aboriginal and Torres Strait Islander knowledge, culture and tradition in contemporary land use and environmental planning under the *Planning Act 2016* (Qld). The protocol will as a minimum include a code of ethics that describes members obligations to Aboriginal and Torres Strait Islander communities in planning, guidance on how to identify who the appropriate Aboriginal and/or Torres Strait Islander peoples may be for a particular area, how to access and assess the necessary information for the planning task at hand, how to assess whether the relevant information has been appropriately incorporated and how Aboriginal and Torres Strait Islander peoples can continue being involved in planning activities that may affect their interests and wellbeing.
5. Queensland Division of PIA will work with Aboriginal and Torres Strait Islander peoples and organisations to develop their capacity and understanding of how contemporary planning systems work and how Aboriginal and Torres Strait Islander approaches to planning can be better understood, reflected and respectfully integrated into contemporary planning systems.

6. Queensland Division of PIA will actively encourage the Queensland government to address the organisation and accessibility of spatial data governing the Aboriginal and Torres Strait Islander estate to support the creation of land use and occupancy mapping as determined and identified by Aboriginal and Torres Strait Islander peoples and communities.

7. Queensland Division of PIA supports the application of the principle of ‘free, prior and informed consent’ when engaging with Aboriginal and Torres Strait Islander peoples on all planning matters that may affect their rights and interests.

8. Queensland Division of PIA acknowledges the important role of planning education and professional development activities to achieve transformative change within the profession regarding s.5(2)(d). In particular, the Queensland Division of PIA supports education programs that promote culturally safe planning practices; acknowledges the legacy of dispossession and assimilation since colonisation; applies Indigenous pedagogies in the delivery of education programs; promotes knowledge of Indigenous property rights and relationships to land; and lays the foundational skills for building just relationships with Aboriginal and Torres Strait Islander peoples on mutually acceptable terms.

The key message in the Background Report and Policy Statement is to recognise that the only way Aboriginal and Torres Strait Islander ‘knowledge, culture and tradition’ can be successfully integrated into any planning action under the Planning Act 2016 (Qld) in accordance with the requirement in s.5(2)(d) is by negotiation and partnership with the Aboriginal and Torres Strait Islander people that hold and own that ‘knowledge, culture and tradition’, and on the basis of mutual respect and understanding.

**THIS POSITION STATEMENT DERIVES FROM**

Background Report: Aboriginal and Torres Strait Islander Planning policy For the Queensland Division of the Planning Institute of Australia, prepared by Dr Sharon Harwood and Assoc Professor Edward Wensing, James Cook University, 2017.