

12 April 2023

Torres Strait Island Regional Council (TSIRC)
PO Box 7336,
Cairns QLD 4870

Dear Council,

An important notice to the communities of the Torres Strait ordered by the Federal Court

We represent Uncle Pabai Pabai and Uncle Paul Kabai, from Boigu and Saibai Islands in the Torres Strait, in their legal case against the Australian Government.

The case is about the harm that climate change is causing Torres Strait Islanders. Uncle Pabai and Uncle Paul have brought the case on behalf of all Torres Strait Islanders, to protect their communities from the impacts of climate change. For more information visit www.climatecase.com.au.

Request for council assistance in displaying an important notice

This parcel contains two important community notices, ordered by the Federal Court. The notices explain how Torres Strait Islanders can 'opt out' if they do not wish to be a part of the case.

The Court has ordered that we distribute the notices to local councils, and request that each council display the notices publicly for the community to see.

We kindly request your assistance to publicly display the notices. The package contains:

1. One copy of a one page poster, which we ask that you post on a community noticeboard.
2. Three copies of a three page notice, which we ask that you put on the front desk or somewhere public where community members can pick up a copy if they would like more information.

We would be grateful if you could display the notices until 26 May 2023. After that date, the 'opt out' period is over and you can take the notices down.

Thank you for your assistance. Please do not hesitate to contact Grahame Best if you have any questions on (03) 9134 7100.

Kind regards,



Brett Spiegel
Principal Lawyer
PHI FINNEY MCDONALD



CLASS ACTION ABOUT CLIMATE CHANGE IN THE TORRES STRAIT ISLANDS

This is an important notice ordered by the Federal Court of Australia

What is this notice about?

Two Torres Strait Islander leaders have brought a legal case against the Australian Government on behalf of all Torres Strait Islanders. The case is about climate change and its effects on Torres Strait Islanders.

If you are a Torres Strait Islander, and believe you have suffered loss or damage as a result of the Australian Government not doing things to protect Torres Strait Islanders from the effects of climate change you are automatically part of the case. You can:

1. Stay in the case by doing nothing; or
2. Leave the case by sending a form called an opt-out form, or by emailing Phi Finney McDonald and telling them you want to opt out, by 4:00pm AEST on 26 May 2023.

You do not need to pay money to stay in the case.

Information about the case

Uncle Pabai Pabai and Uncle Paul Kabai from Boigu and Saibai Islands in the Torres Strait have brought a legal case in the Federal Court against the Australian Government. The case is about climate change and its effects on Torres Strait Islanders. The Australian Government is defending the case.

Uncle Pabai and Uncle Paul's lawyers are a firm called Phi Finney McDonald. They are helping Uncle Pabai and Uncle Paul to bring the case.

What do you need to do to be part of the case?

The case is called a "class action" because Uncle Pabai and Uncle Paul have brought the case on behalf of everyone who is Torres Strait Islander (by descent or by customary adoption) (Torres Strait Islander) and who believes they have suffered loss or damage as a result of the Australian Government not doing things to protect Torres Strait Islanders from the effects of climate change. In legal terms, everyone who meets this description is a "Group Member".

If you meet the description, you are automatically a Group Member and you don't need to do anything to be a part of the case.

What do you need to do if you don't want to be part of the case?

If you don't want to be part of the case, you need to tell the Federal Court. This is called 'opting out' of the case. There are two ways you can opt out:

1. Download the opt out form from www.climatecase.com.au, fill it out and post or email it to the Victorian Registry of the Federal Court at 305 William Street, Melbourne VIC 3000 or vicreg@fedcourt.gov.au.
2. Email Phi Finney McDonald on climateclassaction@phifinney-mcdonald.com and say you want to opt out.

If you want to opt-out, you must send the form or email by 4:00pm on 26 May 2023.

Where can you get more information or ask questions?

If you have questions about the case or this notice, please do not ask the Court. You can contact Phi Finney McDonald on the details below. If you do not want to talk to Phi Finney McDonald, you should talk to your own lawyer.

1. Email: climateclassaction@phifinney-mcdonald.com
2. Visit: www.climatecase.com.au
3. Call: +61 (0)3 9134 7100

A copy of this notice is available for inspection at Phi Finney McDonald's offices, Level 3, 325 Flinders Lane Melbourne 3000, and at the Cairns Registry of the Federal Circuit and Family Court at Level 3, 94-104 Grafton St, Cairns City QLD 4870.

NOTICE CLASS ACTION ABOUT CLIMATE CHANGE IN THE TORRES STRAIT ISLANDS

This is an important notice ordered by the Federal Court of Australia

What is this notice about?

Two Torres Strait Islander leaders have brought a legal case against the Australian Government on behalf of all Torres Strait Islanders. The case is about climate change and its effects on Torres Strait Islanders.

If you are a Torres Strait Islander and believe you have suffered loss or damage as a result of the Australian Government not doing things to protect Torres Strait Islanders from the effects of climate change you are automatically part of the case. You can:

1. **Stay in the case by doing nothing;** or
2. **Leave the case** by sending a form called an **opt-out form**, or by emailing Phi Finney McDonald and telling them you want to opt out, by 4:00pm AEST on 26 May 2023.

You do not need to pay money to stay in the case.

This notice explains what this means.

Information about the case

Uncle Pabai Pabai and Uncle Paul Kabai from Boigu and Saibai Islands in the Torres Strait have brought a legal case in the Federal Court against the Australian Government. The case is about climate change and its effects on Torres Strait Islanders. The Australian Government is defending the case.

The case is called a 'class action' because Uncle Pabai and Uncle Paul have brought the case on behalf of everyone who is a Torres Strait Islander (as explained below). The outcome of the case might affect all Torres Strait Islanders. This case is the first time that anyone in Australia has argued that the whole Australian Government has a duty to protect people from climate harm.



Uncle Pabai Pabai from Boigu and Uncle Paul Kabai from Saibai who are bringing the case. Photo credit: Connor Kerlin

Federal Court of Australia

The Federal Court of Australia has ordered that this notice be published for the information of persons who might be members of the class on whose behalf the action is brought and may be affected by the action.

What do Uncle Pabai and Uncle Paul want?

Uncle Pabai and Uncle Paul are arguing that the Australian Government should have done, and must do, more to protect Torres Strait Islanders from climate change. Uncle Pabai and Uncle Paul are asking the Federal Court to conclude that:

1. Torres Strait Islanders are at risk of having to leave the Torres Strait Islands because climate change is causing the seas to rise and flood the islands. Climate change is already harming the Torres Strait and its culture.
2. The Australian Government owes a special responsibility – called a duty of care – to protect all Torres Strait Islanders from harm caused by climate change.
3. The Australian Government has not done enough to protect Torres Strait Islanders from climate change and has breached its duty of care.
4. The Australian Government should have, and must, reduce Australia's greenhouse gas emissions (pollution) to protect Torres Strait Islanders.
5. The Australian Government must do more to help Torres Strait Islanders deal with the effects of climate change.
6. The Australian Government has to pay compensation to Torres Strait Islanders who have been harmed by climate change.

When is the trial?

The trial of the case will start on 6 June 2023. The Court will hear evidence on-country in the Torres Strait Islands, as well as in the Federal Court in Cairns. Another hearing about expert evidence will start on 30 October 2023 at the Federal Court in Melbourne.

Uncle Pabai and Uncle Paul's lawyers are a law firm called Phi Finney McDonald. They are helping Uncle Pabai and Uncle Paul bring the case.

What do you need to do to be part of the case?

The case is brought on behalf of everyone who is Torres Strait Islander (by descent or by customary adoption) (**Torres Strait Islander**) and who believes they have suffered loss or damage as a result of the Australian Government not doing things to protect Torres Strait Islanders from the effects of climate change. In legal terms, everyone who meets this description is a "Group Member".

If you meet the description, you are automatically a Group Member and you don't need to do anything to be a part of the case.

What will happen if you stay in the case?

If you do not opt out, then you might get a share of any payment of money the Court says should be paid to Torres Strait Islanders in a judgment of the Court. The Court might also order the Australian Government to take action that benefits Torres Strait Islanders overall.

The case might also "settle" if Uncle Pabai and Uncle Paul and the Australian Government all agree about what should happen. If the case settles, you might get a share of anything that is agreed.

A judgment or settlement might include a payment of money to Torres Strait Islanders, but it might not. You may also have to take further steps to get money from any judgment or settlement, such as providing evidence of any damage you believe you have suffered as a result of climate change.

If the case is unsuccessful or you do not get what you want from the case, you will not be able to bring the same case against the Australian Government yourself. You also might not be able to bring a similar case against the Australian Government yourself.

Will you have to pay any money if you stay in the case?

You won't have to pay any money simply to stay in the case. However:

- You may have to pay something if you get money from the case at the end. If the Australian Government pays money to Torres Strait Islanders, then Phi Finney McDonald might get some of that money to cover their legal fees. That means that you might have to pay Phi Finney McDonald some of the money that you get from the case. This will be up to the Court.
- If you want your own advice about this case or your rights in relation to climate change, you can ask Phi Finney McDonald or other lawyers to help you. That may cost money.

You won't have to pay any money if the case fails.

What do you need to do if you don't want to be part of the case?

If you don't want to be part of the case, you need to tell the Federal Court. This is called 'opting out' of the case. There are two ways you can opt out:

1. Download the opt out form from www.climatecase.com.au fill it out and post or email it to the Victorian Registry of the Federal Court at 305 William Street, Melbourne VIC 3000 or vicreg@fedcourt.gov.au.
2. Email Phi Finney McDonald on climateclassaction@phifinney-mcdonald.com and say you want to opt out.

If you want to opt out, you must send the form or email by 4:00pm on 26 May 2023.

What will happen if you opt out?

If you opt out, you will not be given a share of anything from either a judgment or settlement. But you will be free to start the same case or a similar case against the Australian Government yourself if you want to.

Where can you get more information or ask questions?

The Federal Court has published the important documents in this case online. You can access the documents at <https://fedcourt.gov.au/services/access-to-files-and-transcripts/online-files/pabai-v-australia>

If you have questions about the case or this notice, please do not ask the Court. You can contact Phi Finney McDonald on the details below. If you do not want to talk to Phi Finney McDonald, you should talk to your own lawyer.

1. Email: climateclassaction@phifinney-mcdonald.com
2. Visit: www.climatecase.com.au
3. Call: +61 (0)3 9134 7100

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