

## Senate Select Committee on the Aboriginal Flag

### ANSWERS TO QUESTIONS ON NOTICE

#### Prime Minister and Cabinet Portfolio

**Department/Agency:** National Indigenous Australians Agency

**Topic:** Consultation with the Aboriginal Community regarding the management of the Australian Aboriginal Flag

**Senator:** Thorpe

**Question reference number:** 001

**Type of question:** Hansard, pages 4-5, 16 September 2020

**Date set by the committee for the return of answer:** 18 September 2020

**Number of pages:** 1

#### **Question:**

**Senator THORPE:** Has the government already consulted, or will the government consult in future, with the Aboriginal community as part of their negotiations?

**Mr Reid:** The National Indigenous Australians Agency—Mr Griggs—and Minister Wyatt are responsible for running those negotiations. I understand Mr Griggs gave evidence to the committee on Monday. I don't think anyone here at the table is involved in those negotiations; certainly Prime Minister and Cabinet isn't. Minister Wyatt is leading on those things.

**Senator THORPE:** Are you able to confirm how far and widely the Aboriginal community have been consulted?

**Mr Reid:** I'm happy to refer that question to the National Indigenous Australians Agency.

**Senator THORPE:** Yes, please.

#### **Answer:**

As stated by the National Indigenous Australians Agency (NIAA) Chief Executive Officer, Mr Ray Griggs, in his appearance before the Senate Select Committee on the Aboriginal Flag on 14 September 2020, the NIAA's primary focus to date has been to understand Mr Harold Thomas' position and to conduct negotiations in accordance with his wishes. There has not been broader consultation at this point (Hansard, page 50, 14 September 2020).

## Senate Select Committee on the Aboriginal Flag

### ANSWERS TO QUESTIONS ON NOTICE

#### Prime Minister and Cabinet Portfolio

**Department/Agency:** National Indigenous Australians Agency

**Topic:** Government consultations to determine the origin of the Australian Aboriginal Flag

**Senator:** Davey

**Question reference number:** 002

**Type of question:** Hansard, page 15, 16 September 2020

**Date set by the committee for the return of answer:** 18 September 2020

**Number of pages:** 2

#### Question:

**Senator DAVEY:** ... On the back of that, my question now is to Prime Minister and Cabinet. Prior to declaring the flag a national flag in 1995, what steps were taken by the government of the day and the people they were consulting with to determine the origin of the flag prior to making that determination?

**Mr Reid:** I'm not aware of the process that was followed after the Council for Aboriginal Reconciliation made that recommendation to the government. I will take that on notice.

**Senator DAVEY:** It would be interesting, if there were any available minutes from the Council for Aboriginal Reconciliation, to determine what steps they took to identify the original authorship of the flag. That would explain a lot, as to how we got here today, given that Mr Thomas felt it necessary to take the matter to court post the declaration. If you could take that on notice, that would be appreciated.

**Mr Reid:** Yes.

**Senator DAVEY:** Thank you.

#### Answer:

Paragraph 22 of the National Indigenous Australians Agency's (NIAA) submission to the Senate Select Committee on the Aboriginal Flag (Submission 42), summarises what the NIAA is aware of from the historical record, about matters that led the proclamation of the flag.

Paragraph 22(a) refers to a letter from the Aboriginal and Torres Strait Islander Commission (ATSIC) to Linton Traders of 22 January 1991. In that letter, ATSIC states:

'The Aboriginal and Torres Strait Islander Commission does not own the copyright (or any other rights) over the flag and therefore is not in a position to grant you permission to use the design.'

I have been advised that it is generally acknowledged that Mr Harold Thomas designed the Aboriginal flag. Mr Thomas also claims to be the owner of the copyright in the flag. You may wish to seek permission from Mr Thomas to use the design.'

As stated in paragraph 23 of the NIAA's submission, Mr Griggs, notes that it appears that the proclamation proceeded despite Mr Thomas' known objection to it. Justice Sheppard in his judgment in Mr Thomas' Federal Court case states that the answer to why Mr Thomas saw it as necessary to apply to court was that he 'objected very strongly to the proclamation of the flag ...' and 'The fact is, however, that Mr Thomas, along with other members of the Aboriginal community, bitterly resented the flag being proclaimed in this way. ... Mr Thomas became angry about had happened and it was that anger that triggered this application.'

## **Senate Select Committee on the Aboriginal Flag**

### **ANSWERS TO QUESTIONS ON NOTICE**

#### **Prime Minister and Cabinet Portfolio**

**Department/Agency:** National Indigenous Australians Agency

**Topic:** Management for the Australian Aboriginal Flag by community controlled Aboriginal organisations

**Senator:** Thorpe

**Question reference number:** 003

**Type of question:** Hansard, page 5, 16 September 2020

**Date set by the committee for the return of answer:** 18 September 2020

**Number of pages:** 1

#### **Question:**

**Senator THORPE:** Would the government consider having community controlled Aboriginal organisations participate in the management of the flag?

**Mr Reid:** Again, I think that's probably a matter for the National Indigenous Australians Agency. I'd be happy to refer that to them.

**Senator THORPE:** Okay.

#### **Answer:**

On 14 September 2020, in response to being asked whether the Government would consider having community controlled Aboriginal organisations participate in the management of the Australian Aboriginal Flag, the National Indigenous Australians Agency Chief Executive Officer, Mr Ray Griggs, stated that the government's response will depend on Mr Harold Thomas's position as he has to have some influence on the future management of the Australian Aboriginal Flag (Hansard, page 50, 14 September 2020).