



PREMIER OF TASMANIA

21 NOV 2016

Senator Jenny McAllister
Chair
Senate Finance and Public Administration References Committee
Email: fpa.sen@aph.gov.au

Dear Senator McAllister

I am writing in response to a number of Questions on Notice posed to the Tasmanian Government in relation to our submission into the Inquiry into Commonwealth funding of Indigenous Tasmanians. I provide the following additional information in relation to these questions.

1. Why did the Tasmanian Government pass legislation which gave TAC such power and influence over which Tasmanians were officially considered Indigenous?

The former Tasmanian Government¹ introduced an approach to determining eligibility for Tasmanian Government Indigenous specific programs and services in 1996 which was not determined through legislation.

We have changed to a new approach, where statements of communal recognition can be signed by any Aboriginal organisation incorporated under the *Commonwealth Corporations (Aboriginal and Torres Strait Islander) Act 2006* (listed at <http://www.oric.gov.au/>) as well as from the Tasmanian Aboriginal Centre (TAC), Flinders Island Aboriginal Association or Cape Barren Island Aboriginal Association.

2. Didn't TAC's association with terrorist leader Libyan President Colonel Gaddafi raise some concerns?

This is a question for the former government.

3. Does the Tasmanian state government stand by the figures that Premier Hodgman stated in his Australia Day speech – regarding funding from the Commonwealth? (\$500M)

The 2014 Indigenous Expenditure Report¹ provides a summary of expenditure on Indigenous people in Tasmania, including by both the Tasmanian and Australian Governments. That Report indicates that in 2012-13, the Australian Government provided \$499 million towards delivery of programs and services to Indigenous people. Mainstream services accounted for the vast majority of expenditure on Indigenous people. Further detail on the expenditure can be sourced from the Indigenous Expenditure Report.

¹ Steering Committee for the Review of Government Service Provision 2014, Indigenous Expenditure Report - Tasmania Factsheet, Productivity Commission, Canberra, <http://www.pc.gov.au/research/ongoing/indigenous-expenditure-report/indigenous-expenditure-report-2014/ier-2014-factsheet7-tas.pdf>.

4. Why would the federal Indigenous affairs minister say he had “no idea” how the Premier arrived at those figures?

That is a question for the Minister.

5. What are the exact figures?

As outlined, the 2014 Indigenous Expenditure Report² provides a summary of expenditure on Indigenous people in Tasmania, including by both the Tasmanian and Australian Governments. That Report indicates that in 2012-13, the Australian Government provided \$499 million towards delivery of programs and services to Indigenous people. Mainstream services accounted for the vast majority of expenditure on Indigenous people. Further detail on the expenditure can be sourced from the Indigenous Expenditure Report.

6. Can the state government give a guarantee that all the tax payers dollars given to TAC for the management of Indigenous affairs – has been properly spent and accounted for?

The TAC is incorporated under Tasmanian legislation administered by the Department of Justice’s Office of Consumer Affairs and Fair Trading. The Office does not provide legal advice or intervene in the internal affairs of incorporated associations. It can, however, intervene if complaints relate to a breach of the *Associations Incorporation Act 1964*. Information specific to incorporated associations can be found on its website at www.consumer.tas.gov.au.

The Tasmanian Government is satisfied that the TAC is meeting its financial reporting obligations regarding the funding it provides for specific projects and programs over our term of government.

7. Do you agree that the state electoral laws for many years discriminated against people like Mr Lesley Dick who a federal tribunal said was Indigenous – but the state said was not Indigenous – and so consequently denied him the right to vote and stand for elected office in Indigenous bodies within Tasmania?

The inconsistency in the application of the eligibility criteria was raised as a significant concern throughout consultation and contributed to the decision to move to a new approach for eligibility for for Tasmanian Government Indigenous specific programs and services.

8. Are you going to at least apologise to Mr Dick for denying him the right to vote?

The *Aboriginal Lands Act 1995* allows a grant of land to be held in trust for the Aboriginal community in perpetuity by the Aboriginal Land Council of Tasmania (ALCT). The Act provides for the establishment of the ALCT, election of members to the Council and the return of land to the Tasmanian Aboriginal community.

Under the Act, to vote or to stand for election to the ALCT, a person must have their name entered on Electors Roll. To be eligible to be listed on the Roll, a person must be Aboriginal, as defined under the Act as being a person who satisfies all of the following requirements:

- 1) Aboriginal ancestry;
- 2) self-identification as an Aboriginal person;
- 3) communal recognition by members of the Aboriginal community.

As outlined in our submission to the Inquiry, the Tasmanian Government is currently investigating the Aboriginal land return model. This investigation will consider the process for determining eligibility to be included on the Electors Roll for the ALCT.

² Steering Committee for the Review of Government Service Provision 2014, Indigenous Expenditure Report - Tasmania Factsheet, Productivity Commission, Canberra, <http://www.pc.gov.au/research/ongoing/indigenous-expenditure-report/indigenous-expenditure-report-2014/ier-2014-factsheet7-tas.pdf>.

9. What is the gap between Indigenous and non-Indigenous people – after how much was spent on Indigenous affairs over the last 10 years.

The Tasmanian Government notes the release on 17 November 2016 of the *Overcoming Indigenous Disadvantage* Report. The Report provides national, state and territory data for key indicators of Indigenous disadvantage.

Of note, the Report only provides limited Tasmania-specific data. Caution should be exercised in interpreting trend data for Tasmania, given the relatively small size of the Indigenous population in the State.

10. How many letters does the state Government acknowledge they have received from me regarding the management of Indigenous affairs in Tasmania?

Given the timeframe provided, it is not possible to undertake a full scan of all correspondence received from Senator Lambie across the Tasmanian Government.

11. In your submission on Pages 6 and 7 there are three dot points starting under 'Under the new approach'. Is there any further information available on these points?
- Programs and services which previously only required a person to self-identify as an Indigenous continue to only require self-identification;
 - Other Tasmanian Government Indigenous specific programs, services and permits now use a confirmation of eligibility form. The form includes a statutory declaration that the applicant meets the three part test and a statement of communal recognition from an incorporated Aboriginal organisation. No other archival or historical records are required;
 - Eligibility to participate in the use and management of Aboriginal land under the Aboriginal Lands Act 1995 will be considered at a later stage through the broader review of the land return model.
12. [The change to the Tasmanian Government's approach] was a move away from where they had previously adopted a stance where they applied a more rigid alignment of the Commonwealth three-part test prior to 1 July 2016. What do you mean by 'a more rigid alignment'? Do you mean the stat dec and those sorts of things?

In response to 11 & 12: As outlined in our submission, the Tasmanian Government has recently implemented a new approach to determining eligibility for Tasmanian Government Indigenous specific programs and services. Under the new approach:

- 1) Programs and services which previously only required a person to self-identify as an Indigenous continue to only require self-identification;
- 2) Other Tasmanian Government Indigenous specific programs, services and permits now use a confirmation of eligibility form. The form includes a statutory declaration that the applicant meets the three part test and a statement of communal recognition from an incorporated Aboriginal organisation. No other archival or historical records are required;
- 3) Eligibility to participate in the use and management of Aboriginal land under the *Aboriginal Lands Act 1995* will be considered at a later stage through the broader review of the land return model.

Further information on each of these follows:

- 1) Self-identification is required for the majority of Indigenous specific Tasmanian Government programs and services. This includes programs provided in schools, the health system, the prison

system, sport and recreation programs etc. These programs have historically and continue to only require self-identification as an Aboriginal or Torres Strait Islander person.

- 2) Some Indigenous specific Tasmanian Government programs and services have in the past required additional documentation to be provided to enable access. This includes programs such as Aboriginal housing and employment to an Indigenous specific position in the Tasmanian Government (such as an Aboriginal Trainee Ranger).

Prior to 1 July 2016, in some cases, individuals were asked to provide archival or historical evidence to substantiate their Aboriginal ancestry or descent and therefore their eligibility to access these particular Tasmanian Government Indigenous specific programs and services. This may have included presenting family trees, birth certificates, personal statements, family photographs or other documentation that demonstrated descent or ancestry, prior to accessing housing or being employed. That documentation was sometimes difficult for people to obtain, meaning that they may have been found to be ineligible to access that program or service.

From 1 July 2016, the Tasmanian Government changed its approach to require only a statutory declaration and a statement of communal recognition to access to these Tasmanian Government programs and services, with no further requirement to provide archival or historical records.

- 3) As outlined above, the Tasmanian Government is currently investigating the Aboriginal land return model. This investigation will consider the process for determining eligibility to be included on the Electors Roll for the ALCT.

I trust that this response is informative and useful to your deliberations.

Thank you for the opportunity to provide further input into this Inquiry.

Yours sincerely

Will Hodgman MP
Premier