

Select Committee on the Aboriginal Flag

ANSWERS TO QUESTIONS ON NOTICE

Aboriginal Flag Design

Prime Minister and Cabinet Portfolio

Department/Agency: National Indigenous Australians Agency

Topic: Licence Agreement by ATSIC for non-commercial use of the Aboriginal Flag

Senator: McCarthy

Question reference number: 0001

Type of question: Hansard, page 49, 14 September 2020

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

Number of pages: 1

Question:

Mr Griggs:

...

Can I just clarify something that was mentioned in earlier evidence, about the notion that ATSIC at some point acquired the rights to the flag. At no stage did ATSIC acquire the rights to the flag. It did enter into a licence agreement in 2001 for non-commercial use by ATSIC of the flag.

CHAIR: Are you able to table that document?

Mr Griggs: We can. We did table it last year at estimates, but we will table it again.

CHAIR: If you could, thank you, Mr Griggs.

Answer:

Refer to National Indigenous Australians Agency's submission to the Senate Select Committee on the Aboriginal Flag.

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ANSWERS TO QUESTIONS ON NOTICE

Aboriginal Flag Design

Prime Minister and Cabinet Portfolio

Department/Agency: National Indigenous Australians Agency

Topic: Details of Meetings with Licence Holders

Senator: Lines

Question reference number: 0002

Type of question: Hansard, page 51, 14 September 2020

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

Number of pages: 2

Question:

Senator LINES: In answer to some questions from other senators, you indicated to us that you'd met with the licence holders who have appeared before the Senate committee today. Can you send us, on notice, everyone that you've met with in relation to this matter?

Mr Griggs: I'll take that on notice and see what I can do, in relation to the PII claim.

Senator LINES: You've indicated that you've met with the licence holders. Have you met with other groups or individuals?

Mr Griggs: No. As I said to, I think, Senator McCarthy earlier, our focus has been on conducting these negotiations in accordance with Harold's wishes. At the moment, that hasn't involved any broader consultation.

Senator LINES: When I asked you to send us a list of who you'd met with, what are you claiming you need to check, on the PII claim, given that you've told us who you've met with today?

Mr Griggs: I don't anticipate an issue but I just want to check, that's all.

Answer:

Mr Ray Griggs, the Chief Executive Officer of the National Indigenous Australians Agency (NIAA) and or NIAA staff have met with the following key parties involved in this issue:

1. Mr Harold Thomas
2. Ms Semele Moore and Mr Ben Wooster from WAM Clothing
3. Mr Ben Wooster from Gift Mate Pty Ltd
4. Mr Wayne Gregory and Mr Peter Vines from Flagworld

There have also been meetings with the legal representatives and advisers of those listed above either separately or with the principals mentioned.

The Select Committee on the Aboriginal Flag has accepted the Minister for Indigenous Australians, the Hon Ken Wyatt AM MP's, claim for public interest immunity in respect of negotiations with Mr Thomas, as the copyright holder of the Aboriginal Flag and licensees of the Aboriginal Flag.

The claim covers all communications with all parties involved in the negotiations. This includes all communications involving the NIAA, departments and Ministers. The claim also includes all communications with the Copyright Holder and all licensees, as well as all parties' legal representatives and advisers involved in the negotiations.

Any further information would go to the substance of the public interest immunity claim.

Select Committee on the Aboriginal Flag

ANSWERS TO QUESTIONS ON NOTICE

Aboriginal Flag Design

Prime Minister and Cabinet Portfolio

Department/Agency: National Indigenous Australians Agency

Topic: Chronological History of the Torres Strait Islander Flag

Senator: Stoker

Question reference number: 0003

Type of question: Hansard, page 53, 14 September 2020

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

Number of pages: 2

Question:

Senator STOKER: I have a couple of questions. There have been some comparisons made in the course of today between the difficulties surrounding community ownership of the Aboriginal flag as compared to the arrangements in place for the Torres Strait Islander flag. Can you say something to us about the history of the Torres Strait Islander flag that can help us understand why its position is different today?

Mr Griggs: I'm not deep expert on the Torres Strait Islander flag. My understanding is that it came about as a result of a competition. It was not just created, as Mr Thomas created the flag. It was a competition for a purpose. On notice, I'll get you the chronology. It went to one of the bodies in the Torres Strait and then it went to the Torres Strait Island Regional Council, who currently administer the Torres Strait Islander flag. Of course, the Torres Strait Island Regional Council is the creation of a Queensland government act, under the local government system in Queensland. But it is an Indigenous council.

Senator STOKER: But, a bit like the Australian national flag, it was the product of a competition for it to be designed by the people who were to have ownership of it, and there was an opportunity to set the terms and conditions about how it could be used and who would hold the rights around it at the time of its creation. Broadly speaking, is that true to say?

Mr Griggs: I think that's accurate. I will make sure that is accurate and get back to you on notice.

Answer:

The Torres Strait Islander Flag was designed by the late Mr Bernard Namok of Thursday Island in January 1992. It was the winning entry in a design competition, held as part of a Cultural Revival Workshop, organised by the Island Coordinating Council (ICC), a Queensland statutory body representing the community councils in the Torres Strait at that time.

One of the conditions of the flag competition was that the successful applicant would assign copyright to the ICC.

The Torres Strait Islander Flag was adopted at an ICC Council meeting on 24 March 1992.

The ICC was replaced by the Torres Strait Island Regional Council (TSIRC) in 2008.

The TSIRC and their 15 communities own the copyright of the Torres Strait Islander Flag.

The TSIRC grants permission to reproduce the flag, subject only to the following conditions:

- a. Where appropriate, recognition is given to the original designer, the late Mr Bernard Namok.
- b. The original PMS colours are used
- c. Permission is received in writing from the TSIRC prior to reproducing the flag.

The TSIRC do not seek reimbursement for overseeing the flag's use and reproduction, and has never charged a royalty for use of the flag.

The Australian Flag can be used for commercial purposes, without formal permission, except when registering designs, importing products and applying for trademarks.