

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 20 November 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(25) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig (L&C 25) asked:

- a) Do people who receive CDEP funding qualify for superannuation?
- b) In which areas or regions are they employed, what type of work do they do and how long have they been employed in these areas?

Answer:

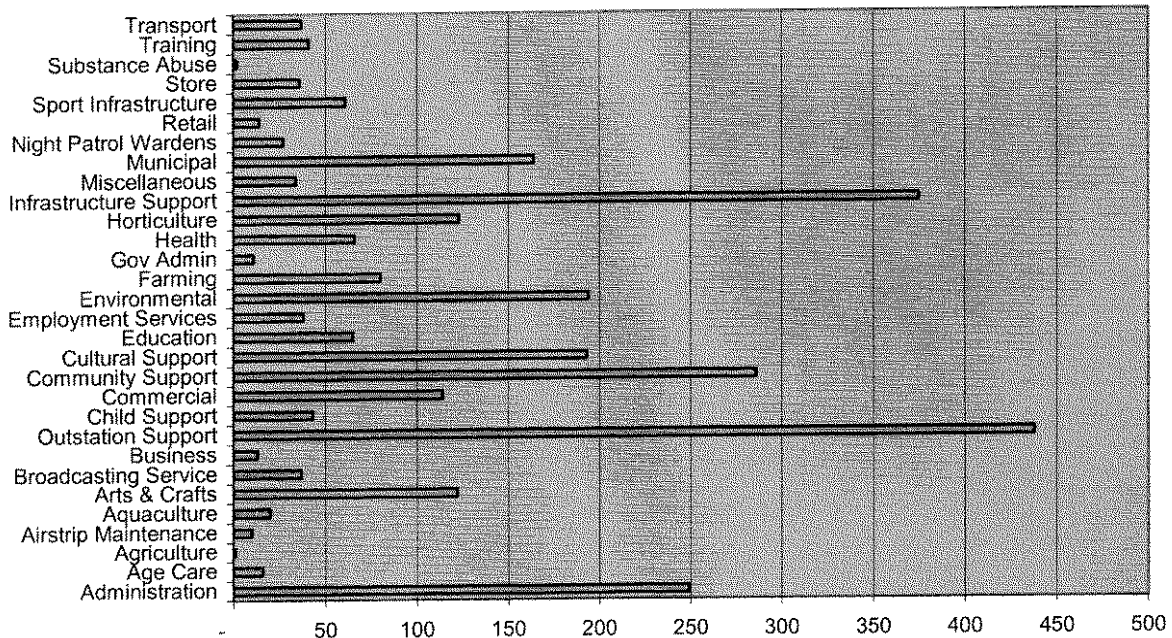
a) Community Development Employment Projects (CDEP) organisations are exempt from contributing superannuation to CDEP participants under the Superannuation Guarantee Administration Act (SGAA) 1992, with the exception of the following:

- CDEP employees who are not participants are subject to the normal superannuation contribution requirements.
- If top-up wages come from sources external to CDEP grant funds (i.e. project generated income) and the top-up wages exceed \$450 per month, the organisation is subject to the normal superannuation contribution requirements.
- If participants work under a specific award or any other agreement, the organisation must abide by that award or agreement. Failure to do so will be dealt with under the enforcement provisions of that award. The Australian Taxation Office advise that the exemption on CDEP wages overrides the award that the participants are on if they are receiving the CDEP rate. The CDEP organisation must identify which particular award or agreement covers their participants and non-participants.

b) CDEP operates in all regions of Australia. There are currently over 270 CDEP organisations employing approximately 35,000 participants. The CDEP scheme provides work opportunities and training for Indigenous Australians across a broad range of activities. These activities promote a broad range of outcomes including, employment, enterprises, cultural maintenance, skills acquisition, diversionary activities and community development. The graph

below depicts the diversity of activities carried out on the CDEP scheme. CDEP's have traditionally reported only against ATSI's Economic Development output. From 2002-03, CDEP outcomes will be attributed across three output groups: Improvement to Social and Physical Well-Being, Promotion of Cultural Authority and Economic Development.

Number of Activities by Classification



The length of time participants work on the CDEP scheme varies greatly, particularly due to geographical diversity and access to labour markets. There is no restriction on the length of time a person is allowed to be on the CDEP. At 30 June 2002 there were 34,246 participants on CDEP, with a total of 56,655 people participating throughout the financial year. This indicates a significant turnover of CDEP participants in one year. However, participation in remote locations tends to be longer term whilst turnover in regional and urban locations with access to viable labour markets and greater economic opportunities is greater. CDEPs with Indigenous Employment Centres have targets for participants leaving CDEP for full time employment and education which early evaluations indicate are highly successful.

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(26) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig (L&C 26) asked:

Have you undertaken any examination of the Australian Heritage Bill, which is in the Parliament, as to how it might affect the Tent Embassy?

Answer:

Whilst ATSIC has examined the Heritage Bills in relation to how places on the Register of the National Estate might be affected, we have not yet undertaken any specific examination of how the Tent Embassy might be affected.

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(27) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig (L&C 27) asked:

- (a) Provide a copy of the letter that the Minister wrote to the Mirimbiak Nations Aboriginal Corporation regarding its status as NTRB.
- (b) Provide a copy of the independent reviews of the Mirimbiak Nations Aboriginal Corporation.

Answer:

- (a) Letters such this are always treated as strictly confidential, in the interests of both parties.
- (b) These reviews are the property of the Aboriginal and Torres Strait Islander Commission (ATSIC) and have only been provided to Mirimbiak Nations Aboriginal Corporation on a confidential basis. It is ATSIC's policy that such reviews remain strictly confidential.

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(28) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig asked:

In relation to the Aboriginal Tent Embassy and Heritage Listing:

What is the process for removal under the new regime?

Answer:

ATSIC sought advice from Environment Australia on this matter as they have carriage of the Bill and they provided the following answer:

"The Government currently has three Bills before the Commonwealth Parliament which establish a new Commonwealth heritage regime. One of these Bills, the Environment and Heritage Legislation Amendment Bill (No.1) 2002 (the Heritage Amendments) sets out amendments to the *Environment and Protection and Biodiversity Conservation Act 1999* to create a new matter of national environmental significance, the National Heritage List and to create a Commonwealth Heritage List. The Australian Heritage Council Bill 2002 (the Bill) sets out the Government's proposed functions for the Australian Heritage Council (the Council) which includes keeping the Register of the National Estate (RNE) (s.5(e)).

The Aboriginal tent embassy is currently listed in the RNE. Should the Bill be enacted in its current form sections 23 and 24 set out the process for removing a place such as the Aboriginal tent embassy from the RNE. A place may only be removed from the RNE if the Council is satisfied that the place no longer meets the registration criterion under s.24(d)(i). This would occur in instances where the significance of a place had been lost or destroyed. Before removing a place from the RNE, the Council must take all practicable steps to identify and advise all owners and occupiers of the place of their intention to remove the place, has given them a reasonable opportunity to comment in writing whether the place should be removed. Where a place has Indigenous heritage values, the Council must take all practicable steps to identify each Indigenous person with rights and interests in the place and give them a reasonable opportunity to comment in writing whether the place should be removed from the RNE.

Under s.24 of the Bill a person may request the Minister in writing to conduct a review of a decision to remove a place from the RNE. The Minister may confirm the removal only if the Minister considers that it is justified having regard to whether the place meets the registration criterion (s.24(3)).

It should be noted that under the Heritage Amendments, Part 16 of the *Environment and Protection and Biodiversity Conservation Act 1999* would be amended so that the Minister administering that Act must have regard to information in the RNE in making any decision under that Act to which the information is relevant.

Should the Tent Embassy be included in the National Heritage List or the Commonwealth Heritage List, the proposed process for removal is set out in ss.324L and 324M, and 341L and 341M, respectively."

ATSIC does not have anything further to add to the response provided by Environment Australia other than to highlight that the instrument of removal of a place or part of a place in the situation referred to in the last paragraph would be a disallowable instrument unless the removal was "*necessary in the interests of Australia's defence or security to do so*".

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(29) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig asked:

Commonwealth funding for Native Title Representative Bodies (NTRBs) has remained constant since 1997-98, excepting the additional money for capacity building? Is this true?

Answer:

Yes

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(30) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig asked:

- a) Is it true that ATSIC has topped up NTRBs from their global budget?
- b) If so, how much per year and per NTRB?
- c) Why has this been necessary?

Answer:

- (a) Since 1997-98, ATSIC has allocated additional funding for Native Title Representative Bodies (NTRBs), over and above that provided by the Commonwealth, and from its limited discretionary funds. Around 40% of that funding is used to assist NTRBs in carrying out their functions as required under s203B of the Native Title Act 1993. The balance has been used for the full range of program support activities including reviews of NTRBs, research on native title issues relevant to the functions of NTRBs, and national workshops on policy and strategic issues.
- (b) The additional amount that ATSIC has provided each financial year is shown in the table below. This amount is combined with the amount provided by the Commonwealth and does not have a separate budget. Accordingly, it is not possible to say what additional amount has been received by each NTRB.
- (c) The ATSIC Board considered it important to provide this additional funding because of the high priority it afforded to achieving native title outcomes for indigenous Australians and in order to enhance the performance and accountability of the Native Title Representative Body system.

Source of Funding	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03
ATSIC Board	\$ 951,000	\$ 5,000,000	\$ 5,000,000	\$ 7,300,000	\$ 4,555,262	\$ 4,279,361

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(31) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig asked:

Will you be asking for an increase in the funds for NTRBs in the next Federal budget round?

Answer:

Successive governments have considered the process of preparing the budget as Cabinet-in-Confidence. Accordingly, ATSIC does not believe it is appropriate to say whether or not it will be seeking an increase in funds for Native Title Representative Bodies.

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(32) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig asked:

How much of an increase in funding do you require overall and per NTRB?

Answer:

In order to answer this question with the detail it seeks, ATSIC would need to undertake a comprehensive and independent analysis of the current funding needs of each Native Title Representative Body (NTRB). Because of the considerable number of variables and uncertainties associated with the native title process, such an analysis is not likely to produce any concrete estimates.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(33) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig asked:

The Attorney-General in a press statement of 27/9/02 stated that *'the government also recognises the importance of prescribed bodies corporate (PBCs) in the native title system.'* Does the government fund any PBCs and if so which ones, where are they and for how much?

If not, why not?

Answer:

The Commonwealth has never made a specific allocation for Prescribed Bodies Corporate (PBCs) and is not currently providing any direct funding to any specific PBCs. Since 1995, successive Governments have taken the view that Commonwealth funding for Native Title Representative Bodies can be used to assist with the costs of PBCs.

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(34) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig asked:

Do you consider PBCs, as a body under the Federal Native Title Act, to be the responsibility of the Federal Government?

Answer:

ATSIC considers that the legislative framework for the establishment, operation and accountability of Prescribed Bodies Corporate is ultimately a matter for the Commonwealth, including the Parliament, as these bodies are created under the Native Title Act 1993.

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(35) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig asked:

In the same statement the Attorney-General stated that there is *"nothing that would prevent the Western Australian Government from providing funding for prescribed bodies corporate"*. Do you think it is the role of State Governments to fund PBCs, under the Federal Native Title Act?

If so, how do you plan on coordinating, administrating or controlling this?

Answer:

At this stage, and noting that the new Board of Commissioners have not had the opportunity to consider ATSIC's native title policies, ATSIC would not see any reason in principle why State and Territory Governments should not contribute to the costs of Registered Native Title Bodies Corporate (RNTBCs). This would be so particularly where RNTBCs are being asked to respond to future acts being proposed by State or Territory Governments.

For the information of the Senator, the Northern Territory Government is providing funds to the RNTBC for Alice Springs to assist it in responding to future acts.

Every RNTBC must be incorporated under the Aboriginal Councils and Associations Act 1976, which is administered in close co-operation with ATSIC. This will provide the basis for enabling the Minister and ATSIC to properly co-ordinate funding received from State and Territory Governments, and to ensure there is the necessary accountability.

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(36) Output: Aboriginal and Torres Strait Islander Commission

Senator Ludwig asked:

The Attorney-General stated on 4/9/02 that it was *"clear that all elements of the system must continue to be adequately resourced. This is central to the ability of stakeholders to participate in negotiation and agreement"*. Do you consider all elements to be adequately resourced?

Answer:

The new Board of Commissioners, having just been elected, have not had the opportunity to consider the funding arrangements for the Commonwealth's native title system. However, previous Boards of ATSIC have taken the position since the Native Title Act came into operation on 1 January 1994, that the Native Title Representative Body system has not been adequately resourced by the Commonwealth.