

SENATE SELECT COMMITTEE ON REGIONAL AND REMOTE INDIGENOUS COMMUNITIES

SA GOVERNMENT RESPONSE TO QUESTIONS ON NOTICE

Q3 – Status of the Cross Border Justice Bill (2009)

- The South Australian Cross Border Justice Bill has recently passed the House of Assembly, and is waiting to be introduced into the Legislative Council.
- The South Australian Bill is being introduced on similar timeframes to the Northern Territory Bill, which was passed in their Parliament in February 2009. However, in the Northern Territory, unlike in South Australia they only have one house in their Parliament for a Bill to pass through.
- I am advised that the SA Cross Border Justice Bill (2009) may be in operation from 1 July 2009. In the mean time, the South Australian Government is negotiating service level agreements and developing protocols between the identified jurisdictions as it relates to the courts, the police, and correctional services.
- Once enabling legislation is in place in all three (3) jurisdictions, mirroring Regulations will be introduced (reasonably) simultaneously throughout these jurisdictions to give effect to agreed protocols.

Q4 – Special Constables

- The South Australian, the Western Australian and the Northern Territory Governments resolved to introduce cross border jurisdiction legislation in order to make the carriage of prosecutions and sentencing of alleged offenders easier, cheaper and faster by removing the need to extradite alleged offenders, and removing any doubt about which jurisdictional sentencing principles ought to apply.
- In South Australia and the other identified jurisdictions, the Cross Border Justice Bill (2009) provides that:
 - Police and magistrates may commence and determine a prosecution at the nearest, most convenient court facility so that if an offender in South Australia seeks to escape across the border, he or she can be chased across the border, apprehended, and either brought back to South Australia (if that is the most convenient thing to do) or brought before an appropriate court in the other state or territory but will be dealt with in that court as if the court were in the state of South Australia. The magistrate would apply South Australian law, albeit that if it is in Western Australia or the Northern Territory.

- Accordingly, it will be necessary that magistrates and police officers will need to be trained in the law that applies in other jurisdictions so that they can then be special constables or magistrates for that state or territory if an offender is apprehended within South Australia for an offence committed elsewhere.
- Therefore, the application of this jurisdictional power necessitates the court and police in the other state or territory having magistrates and police who have been specially trained in the laws of the respective states and territories, and, similarly police being authorised as special constables trained in the laws of the other states and territories in order to be able to competently apply them.

Q.5 - Drug offences

- Petrol related offences come within the APY Lands By-Laws and include the inhalation, consumption, possession, sale or supply of regulated substances.
- Since 2000 there have been 1,893 offences recorded which peaked in 2003 (687) and 2004 (544 offences). These offences could be either the inhalation, consumption, possession, sale or supply of petrol and further analysis would be required to disaggregate the number of inhalation offences from this total.
- In about 2005, the recording of some petrol related offences was changed from Apprehension Report, which required a court appearance, to a Public Intoxication Act (PIA) form which did not require a court appearance. Therefore the 1,893 offences previously referred to do not include those reported on PIA forms after about this time. Further analysis would be required to determine the number of petrol related incidents recorded on PIA forms.
- In relation to drug offences, there were 26 drug offences recorded on the Apprehension Report between 2005 and 2008 inclusive. These offences include Sell/Trade and Produce Manufacture Drugs. Furthermore, between 2006 and 2008 inclusive, 24 Cannabis Expiation Notices were issued. There have been eight drug diversions recorded for the APY Lands since 2001.

Q.6 – Youth workers

- Retention of youth support workers and experienced youth workers has proved difficult, with the exception of three employees who have consistently participated in the training program and have managed the delivery of a basic youth program.
- Ideally, DFC would like to employ both a male and female youth support worker and supports this standard but given the challenges with retention, this has not always been possible.
- DFC has contracted Relationships Australia South Australia, to provide training to the youth workers.
- Diversionary programs, which have been co-ordinated by the Marla based Manager Youth Programs, have included engaging people in motor bike related activities, from creating bike tracks through to participating as a team in the Finke Desert Race.

- Youth sheds have been established and fitted out in six of the major communities, and where youth support workers are employed, provide young people in communities with sessions of supervised recreational activities.
- School holidays were identified by agencies and community members as critical periods for the provision of activities for young people. In the absence of community-based staff with the necessary skills and experience to design and deliver suitable programs, DFC sub-contracted NPY Women's Council to provide holiday programs in major communities. Where community-based employees have been in place, they have assisted with the delivery of these programs. In 2009, DFC will trial the management of a small-scale youth recreational program out of the Family Centres. In the past, the lack of consistent on the ground supervision and support of youth support workers has contributed to inconsistent program delivery. It is anticipated that bringing the youth program under the supervision of the Family Centre CSO will introduce an increased level of management and accountability as well as providing youth support workers with daily supervision and additional support. In 2009/10, youth programs will be delivered by youth support workers engaged on a casual basis.

Q. 7 – Disability co-ordinators

- There is a Senior Special Needs Manager and Disability Co-ordinator based in Marla but working across all communities.
- There is an Intensive Support (Positive Behaviour) Practitioner based at Umuwa and either one or two trainees in each Family Centre who work across the various aged care and disability programs.

Q8 – Status of Documents & Plans

- The Secondary Education & Vocational Training Report titled *Excellence or Exit* for the APY Lands prepared by Charles Darwin University in July 2008 – status and public nature of that report.
- The report is complete, and it had been produced by the Charles Darwin University for the benefit of the Pitjantjatjara Yankunytjatjara Education Committee (PYEC). I understand the essence of the report is to inform and guide the PYEC in order to improve Anangu educational outcomes. PYEC are now considering that report, and it remains confidential until such time as they develop their response.
- The (draft) SA Aboriginal Strategic Plan – status and public nature of that report.
- I refer you to relevant comments made by Ms Nerida Saunders on page 65 of the R&RIC where she stated:
 - *“The draft Aboriginal Strategic Plan has actually been developed, and it has been agreed and signed off by CE’s of government agencies. It is currently sitting with the Minister on hold whilst we await the final outcome of the COAG negotiations on the NPA so that they can be incorporated into that plan as part of its working plan”.*
 - The status of the (draft) Aboriginal Strategic Plan remains on hold until such time it is holistic by incorporating other emerging policy areas of indigenous reform to ensure consistency in strategy, approach, and application.

- APY Lands Strategic Plan (2004) and the involvement of TKP – status, how often they meet, who is on it, public nature of interactions.
- The APY Lands Strategic Plan (2004) is a State Government driven and determined plan to inform and guide and coordinate whole of government effort and activities in response to areas of government determined priorities.
- The TKP Action Plan is an Anangu driven plan which is designed to empower Anangu as a major contributor to sustainable solutions in response to areas of priority determined by Anangu. Such priorities are actioned by agreement in a manner which is complimentary to government strategies and investment.
- The TKP Action Plan is undergoing review in April 2009. The review will strengthen tasks and actions against agreed priority areas, and there will be a strengthening of reporting requirements for Anangu organisations and agencies against that Action Plan.
- I am advised that throughout the development of the TKP Action Plan, a number of previous strategic plans and consultancy reports were considered – including the APY Lands Strategic Plan (2004).
- The TKP membership comprises:
 - State Government representatives from the Aboriginal Affairs and Reconciliation Division of the Department of the Premier and Cabinet,
 - Australian Government representatives from the Department of Health and Ageing (DoHA), and the Department for Families Housing Community Services and Indigenous Affairs (FaHCSIA), and the Indigenous Coordination Centre (Port Augusta),
 - The Directors from seven (7) Anangu Organisations, being PY Media, PY Ku, Nganampa, AP Services, Ku Arts, PYEC, and APY.
 - There are twelve (12) members in total that makeup TKP.
- TKP meets quarterly, they are closed meetings, and it is expected that Anangu representatives and organisations will disseminate information amongst their membership base.

Q.9 – Homemaker Centres

- There are seven Family Centres (also referred to as Homemaker Centres) on the APY Lands. The Mimili centre building still requires some maintenance work before it can be used - in the meantime, programs in this community are being managed out of alternative buildings.
- DFC is currently addressing a program of repairs and renovations to a number of the Centres.
- DFC is not planning to develop Family Centres in other communities, but will look for other opportunities and funding to deliver appropriate programs in the smaller communities.
- Each of the Family Centres employs a Community Support Officer (CSO) as a supervisor, two trainees (from April 2009) and a number of casual CDEP participants.

- The CSO and trainees are full time employees. The CSO positions are funded by the State Government, trainees are jointly commonwealth/state government funded.
- Some people working in the Family Centres (in the homemaker program delivered from the Family Centre, along with disability and aged care programs) have been receiving CDEP top up money.
- DFC hosts a traineeship program to train disability and aged care workers in the Family Centres. Five of the centres have two trainees in each centre and two centres have only one trainee.

Q. 10 – Homemaker centres and CDEP

- There are ongoing discussions between State and Australian government in relation to the availability of funds to convert CDEP into full-time employment. These discussions remain in confidence and any communication of funding similarly must remain in confidence.
- Each of the Family Centres employs a Community Support Officer (CSO) as a supervisor, two trainees and number of casual CDEP participants.
- The CSO and trainees are full time employees whose positions are funded by the South Australia government.
- Some people working in the Family Centres (in the homemaker program delivered from the Family Centre, along with disability and aged care programs) have been receiving CDEP top up money.
- DFC hosts a traineeship program to train disability and aged care workers in the Family Centres. Five of the centres have two trainees in each centre and two centres have only one trainee. Trainees will be on a 35-hour per week contract – as a result there will not be the same volume of work for CDEP participants seeking top up money.
- Where appropriate, people have been receiving the CDEP top up money.

Q11 – Economic Participation NP (CDEP Conversions)

- It is my understanding that the actual number of CDEP conversions into state government positions ought to remain confidential on the basis that in confidence conversations are taking place between the South Australian and Australian Governments in furtherance of developing implementation plans that sit under the Economic Participation NP.
- That information will be communicated as part of a communication strategy, and most certainly as part of Anangu engagement.

Q. 12 – Aged care facilities

- The intention behind the Independent Living Units (ILUs) on the APY Lands was to provide individual residential facilities for elderly people who are independent and do not require care.
- When the ILUs were built they were signed off to the communities to manage and maintain.

- There are 4 ILUs on the APY lands. They are situated in Indulkana, Amata, Fregon and Kalka.
- There is an aged care/respite facility in Pukatja that serves a different purpose in that it provides care and is fully staffed with nurses, health workers and a manager.
- The Indulkana ILU has mainly young people residing in the units and the HACCC kitchen is also located in this complex.
- The Amata ILU has been occupied by people with a disability and the aged. However, it was closed for a long period due to a death on the grounds, but is now being occupied once again.
- The Kalka ILU is the most recent development. Residents are now signing up and two people were scheduled to move in during the week of 10 March 2009. However, the roles and responsibilities of agencies and the community remains an issue. DFC is in the process of working with DFC (Housing), the Municipal Services Officer and the community to resolve a number of the issues.
- DFC Housing will sign up residents who will pay rent to cover repairs and maintenance, utilities and the employment of a cleaner for the kitchen and common areas and bathrooms. DFC will provide support with trainees and CDEP workers to assist with blanket washing and to assist residents to clean their own rooms. HACCC meals will also be provided to those who are eligible.

Q13 – \$25M APY Lands Housing

- The State Government is in possession of the \$25 million dollars as it relates to dedicated housing and infrastructure projects on the APY Lands.
- In relation to the acquittal of the \$25 million dollars for its intended purpose, discussions between the South Australian and Australian Governments are continuing to determine whether this money will be included, or remain in addition to the \$291 million dollars over 10 years attached to the Housing NP. Clarification is expected in the next few months as part of continuing bilateral Housing NP discussions.
- Further to that, these discussions will be intrinsically linked to bilateral discussions around the implementation of the Infrastructure NP to ensure there is an integrated and collaborative approach and framework designed to underpin the success of other NP's – including but not limited to the Housing NP.

Q. 14 - Mullighan Inquiry

- The APY Mullighan Task Force has met ten times since May 2008.
- The Executive Director of AARD/DPC, Nerida Saunders chairs the meeting.
- The Director of the Remote Communities Team within AARD/DPC sits on the special task force.
- The Implementation Plan was tabled in Parliament in October 2008.

Q15 – State Government Response to Excellence or Exit Report

- I am advised that the PYEC *Excellence or Exit Report* prepared by the Charles Darwin University contains numerous recommendations and areas of priority for PYEC to consider actioning.
- My response first mentioned at Question 8 equally applies here. The said report remains confidential to PYEC. Accordingly, the State Government is unable to consider any formal response to this report until such time it is released – in

which case the Department for Education and Children's Services (DECS) will develop an educational response on behalf of the State Government.

- PYEC is next meeting on 26 May 2009 on the APY Lands, and DECS will be in attendance at that meeting. The release of the said report is on the agenda.

Responses to Additional Issues Raised:

Question on roll-out of Opal and diesel fuel in Yalata (Page 42):

- In or about 2005, a Yalata working group was re-established and is co-chaired by the ICC (Ceduna) and Aboriginal Affairs and Reconciliation Division of DPC. This working group continued to develop initiatives and strategies related to petrol and substance misuse in response to the Yalata community being declared a community in crisis by the Commonwealth.
- DPC/AARD and the ICC held numerous discussions with DoHA with respect to rolling out Opal fuel at Yalata.
- DoHA agreed to provide some infrastructure funding and DPC-AARD and the Department of Health SA also contributed some funding. This funding was placed in a trust account with Edwards Marshall Accountants. The State government has provided funding to that account and DoHA entered into a funding agreement with Yalata Council as a conditioned precedent prior to releasing any funds.
- DoHA encouraged the Yalata Council to roll out the provision of Opal and diesel fuel.
- An Opal fuel working group consisting of ICC, AARD/DPC, DoHA, YCI and the Eyre Regional Development Board looked at ways to insure that the roll out of Opal fuel was self-funding. A business plan has been developed which will guide and inform the work of the Opal Fuel Working Group.
- Misconceptions amongst the community regarding the need to modify vehicles so as to enable the use of Opal have served to confuse the process and are being addressed.

Question on Illicit Drug Diversion Initiative (Pg 48):

- The Illicit Drug Diversion Initiative (IDDI) operates on the APY Lands.
- The Drug and Alcohol Services South Australia (DASSA) is the service provider.
- There have been no diversions from the APY Lands recorded under the IDDI.
- Advice to DASSA from Senior Sgt Tim Pfitzner (Drug and Alcohol Policy State Coordinator, SA Police) is that SA Police are undertaking a review of their policing procedures in the APY Lands which may be of relevance to this initiative.

Question on Foetal Alcohol Syndrome (FAS) and Acquired Brain Injury (p 42)

Foetal Alcohol Syndrome (FAS):

- Foetal Alcohol Syndrome (FAS) is not a reportable syndrome.
- DASSA does not have specific data on FAS rates for the APY Lands. [Currently, FAS in Australia is reported by health professionals to the Birth Defects Registers in some jurisdictions. However, because contributors are asked to report birth defects rather than syndromes and knowledge about FAS and FASD is poor, it is likely that there is under-ascertainment of cases. The first attempt to estimate birth prevalence of FAS in Australia was by Bower et al. who found, using two data sources, a rate of 0.02 per 1,000 non Indigenous live births and 2.76 per 1,000 Indigenous live births in Western Australia. Subsequent studies in the Northern Territory and nationally through the Australian Paediatric Surveillance Unit found similar or lower rates but all authors acknowledge under-ascertainment is likely. Routine assessment and recording of maternal alcohol use during pregnancy, education about diagnosis of FAS, and methods of

collecting national data are required before we can confidently estimate true prevalence rates of FAS in Australia. The best available South Australian data we have indicates the rate of FAS is 0.02 per 1000 births (South Australian Birth Defects Register 1986-2005).]

Acquired Brain Injury:

- DASSA does not collect or have access to information on the incidence of Acquired Brain Injury on the APY Lands.
- DFC manages disability programs from the Family Centres. These programs also apply to clients with Acquired Brain Injury from petrol sniffing. The DFC disability team that delivers programs on the Lands includes an Intensive Support (Positive Behaviours) Practitioner who provides an immediate response to clients with Acquired Brain Injury, as well as developing a planned program for the client and carers.