

Ms Sandra Lambert AM Chair ACT Remuneration Tribunal PO Box 964, CANBERRA ACT 2608 Email: <u>remtrib@act.gov.au</u>

Dear Ms Lambert

RE: Update on Aboriginal and Torres Strait Islander Affairs and the work of the Aboriginal and Torres Strait Islander Elected Body

I am writing to you further to my letter dated 20 November 2019 to provide an update on recent developments in relation to Aboriginal and Torres Strait Islander Affairs at the Territory and national levels as well as the outcome of the recent election that was held for the Aboriginal and Torres Strait Islander Elected Body (the Elected Body).

As you are aware, the Elected Body's functions cover the roles of facilitation, representation, and advocacy; consultation; monitoring and reporting; and advice on the protection of Aboriginal and Torres Strait Islander cultural material.

The Elected Body's primary responsibility is to receive and pass onto the Minister or Minister responsible the views of Aboriginal and Torres Strait Islander people living in the ACT on issues of concern to them (see section 7(a) of the *Aboriginal and Torres Strait Islander Elected Body Act 2008*). In addition, the Elected Body is to prepare a consultation plan (see sections 11-13A). This covers the Elected Body's requirement to consult, the development of a consultation plan, how to conduct a consultation and reporting back on the consultation. This determines the work of the Elected Body.

The Elected Body is also required to monitor and report on the effectiveness and accessibility of government programs and services.

Recent developments at the Territory and national levels

The <u>ACT Aboriginal and Torres Strait Islander Agreement 2019-2028</u> was signed by the Aboriginal and Torres Strait Islander Elected Body and ACT Government in 2019. It demonstrates the shared commitment and partnership of the ACT Government and the Aboriginal and Torres Strait Islander Elected Body to work together to improve life outcomes and self-determination for Aboriginal and Torres Strait Islander people in the ACT. The ACT Aboriginal and Torres Strait Islander Agreement 2019-2028 establishes a number of <u>Action Plans</u> which describe how we will deliver on the core and significant focus areas of the Agreement. The Action Plans identify actions across government against all ten focus areas, chosen by the Aboriginal and Torres Strait Islander community.

In 2020, the parties to the ACT Aboriginal and Torres Strait Islander Agreement 2019-2028 agreed to change the implementation timelines in response to the impact of the COVID-19 pandemic¹.

In April 2020, the Minister for Aboriginal and Torres Strait Islander Affairs presented the <u>2019 Annual Report - ACT Aboriginal and Torres Strait Islander Agreement 2019-</u> <u>2028</u> in the ACT Legislative Assembly. The Annual Report details actions undertaken for the first eight months of Phase One of the Agreement and demonstrates the genuine efforts of the Government to partner with the Aboriginal and Torres Strait Islander community to harness cultural knowledge and build a respectful, fair and inclusive community. The next Annual Report will be tabled in early 2022.

On 3 July 2020, the Joint Council on Closing the Gap agreed to the National Agreement, and endorsed it to be presented to First Ministers of all Australian governments, the Lead Convener of the Coalition of Peaks and the President of Australian Local Government Association. On 27 July 2020, the <u>National Agreement</u> came into effect upon agreement and signature of these parties.

The National Agreement has 17 targets across the following outcome areas: education, employment, health and wellbeing, justice, safety, housing, land and waters, and languages.

The Commonwealth, states and territories, local governments and the Coalition of Peaks share accountability for the implementation of the National Agreement and are jointly accountable for the outcomes and targets under the National Agreement.

The Joint Council on Closing the Gap has a workplan from January 2021 to December 2021 which will:

- Develop a Joint Communications Strategy to build awareness and ownership of the National Agreement
- Consider jurisdictional implementation plans
- Consider the first set of Sector Strengthening Plans for the early childhood care and development, housing, health and disability sectors (Priority Reform Two)

¹ Community Services Directorate, ACT Aboriginal and Torres Strait Islander Agreement 2019-2028, <u>https://www.communityservices.act.gov.au/atsia/agreement-2019-2028</u>

- Consider the locations for six new place-based partnerships (Priority Reform One); and
- Consider the additional targets the National Agreement commits to further develop within 12 months of it commencement².

The Joint Council will decide its 12 month work plan to December 2022 in the second half of 2021. The time commitment on the Joint Council will be confirmed with the secretariat.

The Elected Body, represented by the Chair as a Coalition of Peak member, undertakes their role in the context of membership to the Partnership Working Group and Joint Council. All matters for the ACT are dealt with as part of the InterDirectorate Committee and Strategic Board Sub-Committee where the Elected Body also have membership. The InterDirectorate Committee and Strategic Board Sub-Committee on Aboriginal and Torres Strait Islander Affairs meets on a monthly basis.

In September 2020, the Elected Body released the <u>Report on the Outcomes of the</u> <u>Aboriginal and Torres Strait Islander Hearings March 2020 – Tenth Report to the</u> <u>ACT Government</u>. The Government tabled the Tenth Report and the Government's response in February 2021. <u>Government-Response-to-ACT-Aboriginal-and-Torres-</u> <u>Strait-Islander-Elected-Body-Report-on-the-Outcomes-of-the-ATSIEB-Hearing-</u> <u>2020.pdf</u>

In April 2021, the ACT Government provided a submission on the Interim Report to the Australian Government in relation to the Indigenous Voice Co-Design Process³. This process is being led by the National Indigenous Australians Agency.

<u>Election outcome and commencement of a new term for the Elected Body</u> The terms of the members of the previous Elected Body ceased in July 2021. Voting to elect new members on the Elected Body took place during the week starting Saturday 3 July and concluded on Saturday 10 July 2021.

On 22 July 2021, the ACT Electoral Commissioner officially declared the following successful candidates in the order in which they were elected are:

- Tanya Michelle Keed;
- Lynnice Church;
- Maurice Walker;
- Margaret Blackman;

 ² Joint Council on Closing the Gap, <u>https://www.closingthegap.gov.au/joint-council-closing-gap</u>
 ³ <u>ACT Government Submission (April 2021) - Interim Report to the Australian Government in relation</u> <u>to the Indigenous Voice Co-Design Process</u>. In October 2019, the Minister for Indigenous Australians, the Hon Ken Wyatt AM MP, announced the start of the Indigenous Voice co-design process.

- Jo Chivers;
- Leah House; and
- Paula McGrady.

The first formal meeting of the new Elected Body was held on 4 August 2021. At this meeting, the Elected Body elected the following members as Chair and Deputy Chair:

- Chair: Lynnice Church; and
- Deputy Chair: Tanya Keed.

It is noted that out of the seven Elected Body members, four are current ACT public servants. However there are appropriate arrangements in place for members to prevent or manage any conflict of interest issues⁴.

Remuneration Tribunal Determination 13 of 2020 currently applies to the Elected Body. Under this determination, the Elected Body receives remuneration of:

- Chair: \$32,745 per annum;
- Deputy Chair: \$26,205 per annum;
- Member: \$17,385 per annum.

During the 2019 Spring Review, the Remuneration Tribunal considered submissions from the Elected Body and CSD which outlined the 2017 legislative amendments that had extended the functions of the Elected Body to formally establish the hearing process and to allow more comprehensive community and stakeholder engagement by the Elected Body. At the time, the Remuneration Tribunal decided that there had been a significant increase in the work value and type of work being undertaken by the members of the Elected Body, which resulted in an increase in remuneration for the Chair, Deputy Chair and members (reflected in <u>Determination 13 of 2019</u>).

The work value and type of work being undertaken by the Elected Body has continued to increase since 2019.

Following the election of the new Elected Body members, there has been some questions raised from the members on the expectations on the number of hours/days per week that members will be required to undertake Elected Body work.

The Elected Body must meet at least 6 times in a financial year under the *Aboriginal and Torres Strait Islander Elected Body Act 2008*. However, the Elected Body can meet more than this. A quorum is achieved where there are four members present at a meeting. Section 20 of the *Aboriginal and Torres Strait Islander Elected Body Act*

⁴ For further information, see the <u>Aboriginal and Torres Strait Islander Elected Body - Conflicts of</u> <u>Interest Policy Advice (August 2021)</u> and the <u>Aboriginal and Torres Strait Islander Elected Body -</u> <u>Guidance for elected ACT Public Service employees (August 2021)</u>

2008 allows for the members to conditionally or unconditionally take leave from specific meetings or for periods of time.

The number of hours or days per week that members will be required to commit to Elected Body work depends on the number of formal meetings which are held each year.

The Elected Body is required to hold 2 hearings over the term of their membership. Hearings are classified as two Elected Body meetings (if held over two days). So as required by the *Aboriginal and Torres Strait Islander Elected Body Act 2008*, members are required to hold 6 meetings per year. The agenda of those meetings could include preparation for the hearings and any other meetings.

Historically, the Elected body members have operated on the basis of working at least one day a week on Elected Body matters. The time worked on Elected Body matters is determined by the current membership. The main focus for the Elected Body is to engage effectively with the ACT Aboriginal and Torres Strait Islander community.

<u>Attachment A</u> provides a list of meetings which Elected Body members have been participating in over recent years. These meetings are in addition to the meetings and commitments outlined in the *Aboriginal and Torres Strait Islander Elected Body Act 2008.* These meetings are at the discretion of the Elected Body members and their individual capacity to attend, contribute and participate.

Some additional material is being prepared on the base meeting requirements of the Elected Body. This additional material would be useful for the Remuneration Tribunal to consider. I am consulting with the new Elected Body Chair on these base meeting requirements and will provide this to the Remuneration Tribunal as soon as possible, so that this can be considered as part of the 2021 Spring Sitting.

The Elected Body is represented at the Joint Council and its Partnership Working Group by the Chair of the Elected Body. The Chair of the Elected Body undertakes this additional role under *Aboriginal and Torres Strait Islander Elected Body Regulation* 2017 section 7 'The ATSIEB chair has the following functions' '(a) to act as a representative of ATSIEB'. The time commitments on these forums will be confirmed by the Coalition of Peaks' secretariat.

The Tribunal may recall that the former Elected Body Chair (Ms Fanning) was engaged as a casual public servant under the Public Sector Management Act 1994 to support the work of the Elected Body in preparation for its participation in the Coalition of Peaks process. This arrangement was established due to time constraints in recruiting further staffing support for the Elected Body. Ministerial and directorate level discussions are underway with the new Elected Body Chair (Ms Church) in relation to arrangements to meet the ongoing commitments and responsibilities of the national work.

The Aboriginal and Torres Strait Islander Elected Body Act 2008 has now been in operation for 13 years. Given the work underway at the Territory and national levels to advance Aboriginal and Torres Strait Islander Affairs, the current roles, responsibilities and commitment required of the Elected Body is very different to those that were envisaged in 2008. As a result, it is important that the level of the remuneration and the payment arrangements accurately reflect the contemporary requirements.

I hope that this letter provides the Remuneration Tribunal with an update on the status of the Aboriginal and Torres Strait Islander Elected Body and recent developments in the Territory and national levels.

I will provide the additional material on the base meeting requirements of the Elected Body, following discussions with the new Elected Body Chair.

I would welcome the opportunity to discuss this further with the Remuneration Tribunal. Should you require any further information, please contact me by phone on (02) 6205 0839 or email <u>AnneMaree.Sabellico@act.gov.au</u>.

Yours sincerely

Montico

Anne-Maree Sabellico Deputy Director-General Community Services Directorate

6 October 2021

ATTACHMENT A

MEMBERS' MEETINGS

ALL ATSIEB MEMBERS	COMMENTS
 Attend ATSIEB meetings approximately every 2 months, August, October, December, January, March, April, June, including any scheduled community consultations as outlined in the Aboriginal and Torres Strait Islander Elected Body Community Consultation Plan 2021-2024 (to be developed) 	As indicated in members calendar
ATSIEB member meetings with portfolio DGs	either monthly or bi-monthly
ATSIEB Members' Meeting with Minister for Aboriginal and Torres Strait Islander Affairs	bi-monthly
Attend Aboriginal and Torres Strait Islander Elected Body Public Hearings	Two Hearings per term
Attend ACTCOSS Peaks Forums	As requested
Participate on ACT Aboriginal and Torres Strait Islander grant panel assessments	As requested
Participating in selection panel where and when requested	As requested
Budget Day Community Briefing	As invited

DIRECTORATE	CHIEF MINISTER, TREASURY AND ECONOMIC DEVELOPMENT (CMTEDD)	COMMENTS
	Chairperson Lynnice Church	
CMTEDD	ATSIEB Chairperson meetings with Minister for Aboriginal and Torres Strait Islander Affairs	As requested
Portfolios:	 ATSIEB Chairperson meetings with CMTEDD Head of Services and Senior Executives, Major Projects, CIT and Commissioner for Work Health and Safety 	bi-monthly
Major Projects	 Aboriginal and Torres Strait Islander Inter-Directorate Committee (IDC) 	Bi-monthly
Canberra	 Regular Coalition of Peaks teleconference and Joint Council 	As requested
• Canberra Institute of	 Implementation Working Group - Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020 (and JACS Rep) 	monthly/bi monthly or on request
Technology	 Aboriginal and Torres Strait Islander Procurement Policy: Initial Review Committee Meeting (hosted by CMTEDD) 	As requested
Office of the	ACT Audit Office reviews	As requested
Work Health and	Budget Consultation Mtgs	As requested
Safety Office	Assessment of Aboriginal and Torres Strait Islander Grants	As requested
	ACTPS Strategic Board Aboriginal and Torres Strait Islander Affairs Sub-committee meeting	Bi-monthly
	Co-Chair Inter-Departmental Committee (IDC) for ACT Agreement 2019-2028	Bi-monthly
	 Budget media event and Pre-Budget Announcement 	As requested
	AFP Reconciliation Action Plan Advisory Board (RAPAB) meeting	Bi-monthly
	ACT Policing Aboriginal and Torres Strait Islander Advisory Board meeting (and JACS Rep)	monthly or bi monthly
	Governance Working Group	As requested
	Other meetings that relate to the CMTEDD portfolio	as requested

DIRECTORATE	COMMUNITY SERVICES DIRECTORATE	COMMENTS
	Deputy Chairperson Tanya Keed	
Justice and	ATSIEB meeting with DG CSD and senior executives	monthly
Community Safety	ACT Aboriginal and Torres Strait Islander Cultural, Leadership and Scholarship Grant assessment	As requested, this is a requirement under the Grant Guidelines to have an Elected Body member on the panel, including where a 24 hour turnaround is required
	ATSIEB meetings with Minister for Aboriginal and Torres Strait Islander Affairs	Bi-monthly
	Attend Aboriginal and Torres Strait Islander Inter-Directorate Committee (IDC) if Chairperson is unavailable	As requested
	Canberra Relief Network Advisory Committee	As requested
	Connecting with Mura Lanyon Community Centre	To be confirmed
	 Meeting with Public Advocate and Children and Young People Commissioner – Consultation 	As requested
	Implementation Reference Group – ACT Aboriginal and Torres Strait Islander Whole of Government Agreement	monthly
	Youth Justice Blueprint Implementation Group	monthly
	Family Group Counselling Advisory Committee	monthly
	Our Booris, Our Way Implementation Steering Group	monthly
	Other meetings that relate to the CSD portfolio	As requested

DIRECTORATE	ACT HEALTH DIRECTORATE and CANBERRA HEALTH SERVICES	COMMENTS
	Member Leah House	
Portfolios:	 Meeting with DG ACT Health and senior executives 	monthly
	Meeting with DG Canberra Health Services and senior executives	monthly
ACT Health	Aboriginal and Torres Strait Islander Steering Group	monthly
Directorate	ATSIEB meetings with Minister for Aboriginal and Torres Strait Islander Affairs	Bi-monthly
	Canberra Hospital Expansion Project Consumer Reference Group	monthly
Canberra Health	ACT Corrective Services' Disability Action and Inclusion Plan	As requested
Services	ACT LifeSpan - Aboriginal and Torres Strait Islander Working Group	As requested
	Canberra Health Services - Integrated Care Feedback	monthly
	Needs Assessment Working Group Meetings	monthly
	Ngunnawal Bush Healing Farm Advisory Board	monthly
	Canberra Hospital Expansion Project (CHEP)	monthly
	Disability Justice Reference Group	Bi-monthly
	Aboriginal and Torres Strait Islander Consumer Reference Group	monthly
	Mental Health (Secure Facilities) Act Review	If required
	Minimum Age of Criminal Responsibility (MACR) meeting	As requested
	Commonwealth Partnership Health Forum	As requested
	Aboriginal and Torres Strait Islander Health Workforce	As requested
	Canberra Health Services Governance Committee	As requested
	Other meetings that relate to the Health portfolios	As requested

DIRECTORATE	TRANSPORT CANBERRA AND CITY SERVICES (TCCS) DIRECTORATE	COMMENTS
	Member Paula McGrady	
	ATSIEB Member meeting with DG TCCS and senior executives	monthly
Portfolio:	ATSIEB meetings with Minister for Aboriginal and Torres Strait Islander Affairs	Bi-monthly
	Kingston Arts Precinct community panel meeting	As requested
Transport Canberra	TCCS Boomanulla Oval Working Group	As requested
and City Services	ACT Drug Strategy Action Plan (DSAP) Advisory Group	As requested
	Other meetings that relate to the TCCS portfolio	As requested

DIRECTORATE	EDUCATION DIRECTORATE	COMMENTS
	Member Maurice Walker	
Portfolio:	ATSIEB Member meeting with DG TCCS and senior executives	monthly
	ATSIEB meetings with Minister for Aboriginal and Torres Strait Islander Affairs	Bi-monthly
Education	Kingston Arts Precinct community panel meeting	As requested
	ACT Public Education and Senior Secondary Scholarships Awards Ceremonies	As requested
	Meetings regarding Boomanulla Oval	As requested
	Together Forward CHS artwork Working Group	As requested
	Koori Pre-School Co-design Workshops	As requested
	Know Your Country Campaign Meetings	As requested
	Aboriginal and Torres Strait Islander Education Advisory Group	As requested
	Other meetings that relate to the EDUCATION portfolio	

DIRECTORATE	ENVIRONMENT, PLANNING AND SUSTAINABLE DEVELOPMENT DIRECTORATE	COMMENTS
	Member Margaret Blackman	
Portfolio:	ATSIEB meeting with DG EPSDD and senior executives	monthly
	ATSIEB meetings with Minister for Aboriginal and Torres Strait Islander Affairs	Bi-monthly
Environment,	Kingston Arts Precinct community panel meeting	As requested
Planning and	Namadgi Agreement	As requested
Sustainable Development	Other meetings that relate to the EPSDD portfolio	As requested

DIRECTORATE	JUSTICE AND COMMUNITY SAFETY (JACS) DIRECTORATE	COMMENTS
	Member Jo Chivers	
	ATSIEB Member meeting with DG JACS and senior executives	monthly
Portfolio:	ATSIEB meetings with Minister for Aboriginal and Torres Strait Islander Affairs	Bi-monthly
	Aboriginal and Torres Strait Islander Justice Board	monthly
Justice and Community Safety	 Implementation Working Group - Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020 	monthly
Directorate	ACT Corrective Services' Disability Action and Inclusion Plan	As requested
	Roundtable on Overrepresentation of Aboriginal and Torres Strait Islander people in the ACT Justice System	As requested
	Restorative Justice Interest Group meeting	As requested
	Aboriginal and Torres Strait Islander Justice Partnership Advisory Group	monthly
	Justice Reinvestment Strategy Advisory Group	monthly
	Throughcare Governance Group	monthly
	Justice Reform Strategy Advisory Group	monthly
	ACT Policing Aboriginal and Torres Strait Islander Advisory Board	Bi-monthly
	Indigenous Right to complaint strategy – working group (Commonwealth Ombudsman)	As requested
	Other meetings that relate to the JACS portfolio	monthly
	Aboriginal and Torres Strait Islander Justice Caucus	monthly