



ALS

Aboriginal Legal Service (NSW/ACT) Limited

20 February 2017

Mr David Hale
Staysafe Joint Standing Committee on Road Safety
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

By email: staysafe@parliament.nsw.gov.au

Dear Mr Hale,

Re: Inquiry into Driver Education, Training and Road Safety

I write to you on behalf of the Aboriginal Legal Service (NSW/ACT) Limited ("ALS"). The ALS thanks you for the opportunity to provide its views in relation to the terms of reference for the Parliament of NSW Inquiry into Driver Education, Training and Road Safety ("the inquiry").

The ALS has had the opportunity to consider the draft terms of reference for the inquiry, and makes this submission as a reflection of the needs and experiences of Aboriginal and Torres Strait Islander people from communities across NSW.

The needs of Aboriginal and Torres Strait Islander driver groups

Aboriginal and Torres Strait Islander people represent 0.4% of all driver licence holders but make up 2% of the eligible driver population in NSW.¹ This under-representation can be linked to the specific barriers Aboriginal and Torres Strait Islander people face in accessing driver education and training programs. These barriers include:

- The requirement of 120 logbook hours of supervised driving is difficult to attain for many Aboriginal and Torres Strait Islander learner drivers given limited access to available licensed drivers and appropriate registered vehicles;
- The "3 for 1" benefit of hours undertaken with qualified driving instructors is unlikely to significantly impact Aboriginal and Torres Strait Islander learner drivers given the prohibitive cost of formal driving lessons;

¹ Audit Office of New South Wales, 'New South Wales Auditor-General's Report Performance Audit. Improving Legal and Safe Driving Among Aboriginal People' (Report, Audit Office of New South Wales, 2013).

- Limited financial capacity can impact the ability of Aboriginal and Torres Strait Islander people to afford the Driver Knowledge Test (“DKT”) fee, particularly if it is necessary for them to attempt the test multiple times;
- Poorer literacy and numeracy skills among Aboriginal and Torres Strait Islander lower pass rates for the DKT. Aboriginal and Torres Strait Islander people have a 57% pass rate of the DKT compared to 74% for other groups;
- The RMS Motor Registry experience, where there may be no Aboriginal and Torres Strait Islander staff and/or a lack of cultural awareness among staff more broadly, can compound the difficulty caused by a lack of confidence in reading and writing skills;² and
- Up to 40% of the Aboriginal and Torres Strait Islander community in NSW have an outstanding debt with the State Debt Recovery Office (“SDRO”) and Aboriginal and Torres Strait Islander people are three times more likely than other groups to have their licence suspended for fine defaults.³ Unpaid fines significantly prevent many Aboriginal and Torres Strait Islander people from obtaining, retaining and regaining a driver licence.

The under-representation in licence holding by Aboriginal and Torres Strait Islander people is also linked to high rates of traffic offences, with Aboriginal and Torres Strait Islander people accounting for 6.4% of all traffic offenders despite representing 2.5% of the population. The most common traffic offence that an Aboriginal or Torres Strait Islander person is charged with is a “driver licence” offence,⁴ suggesting that inequitable access to driver education and training contributes to poor criminal justice outcomes for Aboriginal and Torres Strait Islander people. Approximately 12% of Aboriginal and Torres Strait Islander people found guilty of a “driver licence” offence were imprisoned, compared to only 5% of the general population.⁵ Driving while disqualified has major impacts on Aboriginal and Torres Strait Islander people, accounting for 15% of imprisonments between 2001 and 2008.⁶

Inequitable access to driver education and training increases the likelihood of contact with the criminal justice system and also limits the ability of Aboriginal and Torres Strait Islander people, particularly in regional and remote communities, to access appropriate justice. Not having a drivers licence can impact the ability of Aboriginal and Torres Strait Islander people to attend court or access affordable and culturally appropriate legal and other support services, including court diversionary or rehabilitation options.⁷

² Elliott and Shanahan Research, ‘Investigation of Aboriginal Driver Licencing Issues’ (Report, Roads and Traffic Authority (NSW), 2008) 23.

³ NSW Government, Submission to the Parliamentary Inquiry into access to transport for seniors and disadvantaged people in rural and regional NSW, 2016, p3

⁴ Audit Office of New South Wales, above n 1, 41.

⁵ Audit Office of New South Wales, above n 1.

⁶ NSW Government, Submission to NSW Parliament, *Parliamentary Inquiry into access to transport for seniors and disadvantaged people in rural and regional NSW* (2016) 9.

⁷ The Law Society of NSW, Submission to NSW Parliament, *Parliamentary Inquiry into access to transport for seniors and disadvantaged people in rural and regional NSW* (29 August 2016) 3.

The 1991 Royal Commission into Aboriginal Deaths in Custody (“RCIADIC”) identified this connection between a high prevalence of motor vehicle offences by Aboriginal and Torres Strait Islander people and their subsequent imprisonment, recommending that *“the factors relevant to such incidence be identified, and, in conjunction with Aboriginal community organisations, programs be designed to reduce that incidence of offending”*.⁸

Addressing barriers to accessing driver education and training programs

The ALS submits that it is necessary to promote of greater understanding of the options available to address unpaid fines (such as Work and Development Orders) and to work closely with the Aboriginal and Torres Strait Islander community so that the impact of debt on their ability to obtain and maintain a licence is minimised. This will have a positive flow on effect as more licensed drivers will then be available to assist learner drivers.⁹

The ALS submits that consideration needs to be given to how the experience of Aboriginal and Torres Strait Islander at RMS Motor Registries can be improved. This could include increasing understanding of the types of help available for those with literacy difficulties and increasing Aboriginal and Torres Strait Islander staff or field/liaison officers.

The ALS submits that there is a critical and ongoing need to consult and work closely with local Aboriginal and Torres Strait Islander communities to develop and run culturally appropriate driver education and training programs. End-to-end programs that involve continued case management, and that support both mature aged and young Aboriginal and Torres Strait Islander learner drivers, have the most benefit.¹⁰

The ALS supports the continuation and expansion of the programs such as Driving Change Licensing Support Program, Birrang Enterprises and Keeping Aboriginal Youth Safe (Blacktown) to ensure that more Aboriginal and Torres Strait Islander people can obtain and retain a driver’s licence.

The needs of metropolitan, rural and regional drivers

In regional and remote areas, a lack of public transport can further exacerbate the ability of Aboriginal and Torres Strait Islander people to access driver education and training programs. Approximately 70% of Aboriginal and Torres Strait Islander people in remote

⁸ Commonwealth, Royal Commission into Aboriginal Deaths in Custody, *National Report Volume 5* (1991) Recommendation 95.

⁹ Elliott and Shanahan Research, above n 2, 77.

¹⁰ Requested by 43% of clients in pilot program, see Rebecca Ivers and Desmond Jones, ‘Driving Change: development and implementation of a driver licensing support program for Aboriginal people in NSW’ (Speech delivered at the Lowitja Conference, Melbourne, 9 November 2015).

areas have no access to public transport,¹¹ yet less than 50% report having a valid driving licence.¹²

Family and cultural obligations, as well as access to employment, education and health services, often require Aboriginal and Torres Strait Islander people to travel long distances¹³. In many Aboriginal and Torres Strait Islander communities, particularly those in regional and remote areas, the prevalence of unlicensed driving is considered a necessity to achieve day to day tasks due given little access to licensed drivers.¹⁴

Case Study

Josie* is an Aboriginal woman living on the north coast of NSW. Her P1 licence had been suspended and she was advised by the RMS that she had to re-sit a driver knowledge test in order to get her licence back. Josie resided a considerable distance from town and made the mistake of driving her car to the RMS to sit her driver knowledge test. She was pulled over by police on the way and subsequently disqualified from driving for 12 months. This would have had a significant impact on her life as she was a single mother to two infant children and lived outside of town in a location which was inaccessible by public transport.

** Name has been changed*

In remote and regional areas, Aboriginal and Torres Strait Islander people are also disadvantaged by the comparative poor availability of driver education courses, frequently needing to travel considerable distances to access RMS offices.¹⁵

However, even in areas with a high apparent level of service provision, such as metropolitan centres, the barriers to licensing set out above continue to inhibit Aboriginal and Torres Strait Islander people, with licensing rates in urban Redfern substantially lower than those in the outer regional town of Griffith.¹⁶ The ALS submits that culturally appropriate driver education programs are required in metropolitan as well as rural and regional areas.

The experience of other jurisdictions, and interstate cross-border issues

Local public transport for people living in cross-border regions can present particular barriers making access to driver education and training even more important.

¹¹ Australian Bureau of Statistics, 'Access to Health and Community Services: Barriers to Accessing Services. 4704.0 - The Health and Welfare of Australia's Aboriginal and Torres Strait Islander people' (Report, Australian Bureau of Statistics, 2011).

¹² The George Institute for Global Health, 'Driving Change: Steering young people through the licensing system' (Speech delivered at The University of Sydney, February 2015).

¹³ Ivers, Rebecca, Kate Hunter, Kathleen Clapham et al, 'Driver licensing: descriptive epidemiology of a social determinant of Aboriginal and Torres Strait Islander health' (2016) 40(4) *Australian and New Zealand Journal of Public Health* 377.

¹⁴ Elliott and Shanahan Research, above n 2, 20.

¹⁵ Audit Office of New South Wales, above n 1, 28.

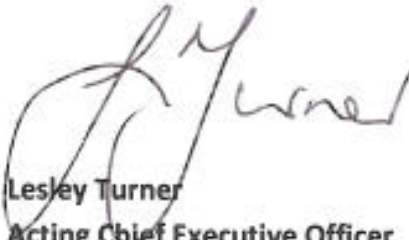
¹⁶ Ivers, Rebecca, Kate Hunter, Kathleen Clapham et al, above n 13, 380.

Discrepancies in learner driver restrictions across jurisdictions create confusion and increase likelihood of motor offences. For example, in NSW, drivers with a P1 licence cannot have more than one passenger under 21 between 11pm and 5am and can drive at a maximum speed of 90km/h. NSW RMS advises drivers to obey rules relating to the state where they obtained their licence. But in Victoria, passenger restrictions operate 24 hours per day, P1 can have no specific speed restrictions and police have to follow legislation which states drivers from all states must follow Victorian road rules.

These cross-border issues disproportionately affect Aboriginal and Torres Strait Islander people in places given high comparative populations in places like Toomelah (72% of the population identified as Indigenous at time of 2011 census), Dareton (36%) and Mungindi (20.1%).

Thank you for the opportunity to contribute to this inquiry.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lesley Turner', written over a circular stamp or seal.

Lesley Turner
Acting Chief Executive Officer
Aboriginal Legal Service (NSW/ACT) Limited