

VERIFIED TRANSCRIPT

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into budget estimates 2007–08

Melbourne — 10 May 2007

Members

Mr G. Barber	Mr G. Rich-Phillips
Mr R. Dalla-Riva	Mr R. Scott
Ms J. Graley	Mr B. Stensholt
Ms J. Munt	Dr W. Sykes
Mr M. Pakula	Mr K. Wells

Chair: Mr B. Stensholt
Deputy Chair: Mr K. Wells

Staff

Business Support Officer: Ms J. Nathan

Witnesses

Mr G. Jennings, Minister for Aboriginal Affairs;
Ms J. Samms, acting deputy secretary, people and community advocacy division;
Ms A. Jurjevic, executive director, Aboriginal Affairs Victoria; and
Mr S. Gregory, chief finance officer, Department for Victorian Communities.

The CHAIR — I now welcome Ms Jennifer Samms, acting deputy secretary, people and community advocacy division; Ms Angela Jurjevic, executive director, Aboriginal Affairs Victoria; and Mr Stephen Gregory, chief finance officer, Department for Victorian Communities. I call on the minister to give us a presentation of no more than 5 minutes on the more complex financial and performance information relating to the Aboriginal affairs portfolio. I think you have had passed around a brief summary of the overheads.

Overheads shown.

Mr JENNINGS — Thank you very much. I think I might even be quicker than 5 minutes. It is important for us to understand the gravity of the issues that we are dealing with, and the gravity of the issues that we are dealing with is that Aboriginal people in the state of Victoria are continuing to die approximately 20 years on average below the rest of the population. Many people, when they consider the experience of indigenous people in Australia, forget that we have an issue in Victoria, and that applies to Victorians as much as it applies to other people in other parts of the country. It is certainly something that I spent a lot of time on, convincing the commonwealth government on that issue.

We want to work in partnership with Aboriginal people and have a number of agreements that have been entered into and collaborative arrangements that underpin the work of taking the life experience of Aboriginal people forward by engaging and empowering Aboriginal communities and indeed by an appropriate level of coordination between our efforts and the Aboriginal community organisations' efforts. That culminates in a framework where we have made commitments, through the Victorian indigenous affairs framework, about long-term sustained variation to the quality of life for Aboriginal people, to be measured by the success in those areas over a 5, 10, 15-year horizon.

With the annual budget in Mr Forwood's day I used to say that we continue to have exponential growth within the Aboriginal affairs budget, and probably if he were here I would say it again. That is what it certainly looks like; that is an exponential curve. What I may worry about is that there are a number of one-off elements within that budget and that I may not be able to say this the next year, so I will say it this year. Over the life of our government we have had exponential growth within the Aboriginal Affairs budget, culminating in \$30.8 million in that budget this year.

In outlining these issues I err on the side of crossing over between what I am formally responsible for, which is the 30 million, as distinct from the projects I am about to talk about, but I do play a whole-of-government role in terms of providing for the indigenous affairs framework, coordinating the ministerial taskforce on Aboriginal affairs and playing an active role within those program areas.

I draw to the committee's attention significant investment in this year's budget to deal with the early years of children by providing access for disadvantaged Aboriginal kids to receive free early childhood education. We want to increase the capacity of the early childhood education programs and undertake an important piece of benchmarking work on the wellbeing of indigenous children, so that we can benchmark our efforts now and into the future.

Within my responsibilities is the funding of \$5.1 million over four years to continue to support the capacity of indigenous organisations, particularly through governance and through innovative ways of delivering and coordinating services and providing for the new voices of Aboriginal people through those programs.

In the last year, as I indicated to the committee, we have introduced Improving the lives of Indigenous Victorians as the overarching framework by which government efforts in six key areas will be measured and benchmarked over a 5, 10, 15-year horizon. We have been very successful in rolling out the governance training program, which is designed to support the governance acumen of community organisations that are charged with a lot of responsibilities in their community and also receive significant investment from the public purse to undertake very important community building and community service responses.

We have implemented the commonwealth heritage act, which will be proclaimed shortly and will take effect at the end of this month. We have embarked upon a new regime of community engagement and representation, which is sorely needed in all Aboriginal communities, including those in Victoria. After the demise of ATSIC there has been a malaise in the degree of coordinated voices of Aboriginal people. Regardless of what people think of the relative merits of ATSIC, it provided such a space and an opportunity, and there has been a vacuum on the national political horizon since.

We are undertaking important work in terms of the infrastructure audit and the current state of assets in the hands of Aboriginal communities to try and ensure that they comply with occupational health and safety and fire regulations so that people are working in safe workplaces that provide for well-rounded community services.

The CHAIR — Thank you, Minister.

Dr SYKES — Minister, my question relates to the funding of the implementation of the Aboriginal Heritage Act and concerns raised with me by the Bangerang people. Given that you have agreed to meet with them personally, and also in the interests of keeping it moving to enable Mr Barber to get a couple of questions in, I am happy to have my question taken on notice.

In essence, the question relates to how registered Aboriginal parties will cover their costs in fulfilling their obligations under the cultural heritage act processes and questions in relation to the estimated cost of management plans of about \$15.8 million over the next 10 years. I am happy just to table it.

Mr JENNINGS — I am happy to answer it. In fact interestingly enough, Dr Sykes, as somebody who is asking questions on behalf of the Bangerang, I think you might be sitting next to somebody who might be asking questions on behalf of the Yorta Yorta. You might be balancing one another out.

The substantive point in relation to either Bangerang or Yorta Yorta's aspirations for being a registered Aboriginal party is that they are currently being considered by the Aboriginal Heritage Council which is charged with responsibility for making that determination under the act. The council is very mindful of public and private statements I have actually made to say the aspirations of the people in question should be recognised and responded to and acted on appropriately by the heritage council. The answer applies to anybody who might ask me a question about that.

On the question of how does a registered Aboriginal party maintain sustainability, that is something that is exercising the heritage council and my office greatly and, I am sure, members in the community are concerned about it too. The basic building blocks of the story are that there are a range of activities of cultural analysis and assessment and monitoring that Aboriginal organisations are charged with the responsibility of undertaking under the act.

They will attribute a certain cost structure which is yet to be determined but is being circulated in draft form in terms of the regulatory impact statement where there are suggestions about what the appropriate fee structure should be to be able to provide for a meaningful and professional service by a registered Aboriginal party and enables them to be financially viable. So there is a balancing act between what the costs to a developer may be and for being the beneficiary of that work, and what might be the appropriate cost structure to ensure the cultural heritage program is viable. And that is the balancing act we are trying to achieve. Was there one other element to that question?

The last issue was about the cost within the regulatory impact statement. I draw to the committee's attention that the no-change basis in terms of the commonwealth legislation and its requirements in terms of the assessments and management plans that have not been undertaken but should have been, and of course many costly delays to projects, that in fact the net cost may actually be reduced to Victorian business over the course of the next 10 years because the assessments and approval processes are done up front before planning approval is given rather than being an overlay after construction has commenced when people have realised they should have taken account of cultural heritage and did not.

Mr SCOTT — My question relates to the Victorian Indigenous Affairs Framework, a whole-of-government approach to Aboriginal affairs that you outlined in your statement. What is the expected progress for the current budget in developing and implementing a whole-of-government approach to Aboriginal affairs?

Mr JENNINGS — I thank you for the question, because this is something we have dedicated a lot of our time to in the last couple of years, in getting to this situation involving lots of consultation both with the Aboriginal community and within government to try and make sure there is an appropriate alignment between what the indicators of quality of life are saying about what improvements need to be made for Aboriginal people and the way in which government goes about it in partnership with Aboriginal people.

We have drilled down into the first six areas that we wanted to emphasise. This is not to abrogate any of our responsibilities to provide quality service and access to Victorian Aboriginal people, just as we should provide them for any Victorian citizen. Specifically we go beyond that by trying to find ways to improve maternal and childhood health, literacy and numeracy, year 12 completion or equivalent, and the pathways to employment, that we prevent family violence and improve justice outcomes, we improve economic development, settle native title claims and address planned access issues and that we build six indigenous capacity issues. They are the six areas that are priorities, strategic areas for intervention. Within those, we have a number of specific actions that we require. I will not go through the lot, but I will give the committee an example of them.

In relation to improving maternal health and early childhood development, there are five measures. The first is to reduce reported smoking and alcohol use during pregnancy by indigenous mothers. In this budget there is a corresponding investment in maternal and child health programs. Again, that applies to the second and third indicators which are designed to reduce the indigenous perinatal mortality rate — so those children up to the age of three who die prematurely — and we try to ensure that babies, when they are born, have a high birth weight rather than a low birth weight and so that they are, as a consequence, not at risk of jeopardising their long-term health.

Action number four is increasing the indigenous four-year-old kindergarten participation rate. We have done that in a two-fold way by making sure that Aboriginal people get access to kindergartens just as all Victorian children from low-income families will get access to that. But we have taken that further by providing the same support for indigenous three-year-old children. Indeed we want to reduce the rate of indigenous child protection substantiations.

In my previous presentation to the committee, and in my work as the minister who is responsible for child protection matters, I can assure you that we will be leaving no stone unturned in terms of trying to provide the wherewithal of Aboriginal agencies which are charged with the responsibility of placing Aboriginal children, and that we will provide a lot of impetus and support to Aboriginal families to make them stronger so that their children are not at risk. That applies to the original family of an Aboriginal child, but also those foster families who may receive a child. We want to see the same empowerment, capacity and resilience. In all Aboriginal families we will insist both of them staying at home in the first instance, but if they are out of home, they are to be placed in families that are functioning well, are resilient and can actually cater for the child's needs.

They are very tangible and specific actions that have a direct link back to the budget. I could, if we were here long enough, go through the rest of the framework to indicate where we are taking action in accordance with that framework. We are very determined to turn around the circumstances of Aboriginal people during the life of this government and beyond.

Mr BARBER — Minister, again in relation to the implementation of the heritage act this year, which I am sure will be a major activity for your department, your regulatory impact statement says that the cost to your department, in addition to the processing of applications and so forth, is that Aboriginal affairs will also be undertaking a range of other activities to support the new legislative regime, and that you will 'provide training, guidelines and advice to affected parties' on the new legislative requirements. I am presuming that is correct.

Mr JENNINGS — Yes.

Mr BARBER — Then when it talks about the cost to registered Aboriginal parties, it really just talks about it in terms of the fees. So I think it is a bit light on in that respect. The issues that I think may arise for registered Aboriginal parties, which will come back to your department's support in terms of training guidelines and advice, are things like section 113 of the act, where people actually have to be registered as Aboriginal parties and how that can end up in VCAT, under section 114; again in section 116 of the act; and later, when it comes to the actions of registered Aboriginal parties, in section 150 of the act there is a whole set of requirements for people to demonstrate their status as a registered party, and in some cases proving things that they had to prove as part of their native title claims all over again; and onto section 153 of the act.

In terms of just getting registered and then being able to adequately represent yourself as a registered party when a matter comes up, what training guidelines and advice to affected parties will you provide, and will that advice run to funding them to be able to maintain the advice, to get the advice and to go through the processes that your act has set up?

Mr JENNINGS — As a starting point, we do not want people to reinvent the wheel. In fact I am sure, Mr Barber, you are an astute observer of the building blocks of this legislation and how it differs from the commonwealth legislation. As a building block of our approach there is a far closer correlation between traditional owners, native title aspirants and what the outgoing commonwealth legislation was. So when the Heritage Council makes a decision about who should be a registered Aboriginal party it is obliged under the act to consider what native title determination has been found.

Mr BARBER — Sure.

Mr JENNINGS — Or what is the standing of that claimant group.

Mr BARBER — Yes.

Mr JENNINGS — And in fact for the vast majority of native title claimants there will be no additional documentary evidence of their standing beyond what they may have already undertaken in relation to preparing their native title claim. That does not mean that any of them should have the luxury of sitting back and not forwarding it to the Heritage Council, or that they should comply with the open invitation to ensure that that information is provided to the Heritage Council to enable it to make a decision. Beyond that we recognise that there are some people who have connection to country.

They may not be native title claimants — they may seek to be — or have currently not achieved that level of analysis to be able to provide for that certainty and that confidence. Through the Heritage Council and through Aboriginal Affairs Victoria we have contacted many Aboriginal community organisations and people who may be aspirants to encourage them to be very mindful of what information they may need to obtain and to suggest to them the form that should take, and indeed we are very willing — through the auspices of the Heritage Council — and sympathetic to any potential registered Aboriginal party to assist them in a tangible way to ensure that they can make an application.

I have been encouraging, and I encourage anybody who is interested in this area to say to potential registered Aboriginal parties that they should have a specific conversation with the secretariat of the Heritage Council about this matter to see what assistance may be able to be provided through their auspices.

The ongoing question about people's capacity to pay goes back to part of Dr Sykes' question about the fee structures and the viability of registered Aboriginal parties. Depending upon the volume of work that may be appropriate and that they may be considered in, or depending upon their degree of extra cultural heritage involvement and expertise that may have additional commercial benefit to be able to drive that — —

Mr BARBER — And to defend those decisions through VCAT if necessary under section 125.

Mr JENNINGS — I will get there. Part of this financial sustainability — and I have said it at every community event that I have been at, and I have been to hundreds — is to say that the structure of the program should account for the costs of going to VCAT. If it is required that will be something that registered Aboriginal parties may be called upon to fund within the context of defining a sustainable business model for the registered Aboriginal party. At every turn the Heritage Council and Aboriginal Affairs Victoria are very, very dedicated to ensure that we create a viable business model for those registered Aboriginal parties.

In terms of the path to VCAT, we should understand that effectively under the reserve and default powers of a registered Aboriginal party under the act, they will not be going to VCAT voluntarily because the only time that an issue will go to VCAT is when there is a dispute between a developer and a registered Aboriginal party because if a registered Aboriginal party says no to a development — —

Mr BARBER — The developer has to challenge it.

Mr JENNINGS — The developer has to challenge it. It is not the other way around.

Mr BARBER — Yes.

The CHAIR — We have got time for two more quick questions. Ms Graley?

Ms GRALEY — Yes, I am mindful of the time. What progress has been made in commissioning the statue of Sir Doug and Lady Nicholls?

Mr JENNINGS — Okay. The importance of Doug and Lady Nicholls is actually something that I hope will be more and more of a feature of the Victorian community whereas in fact probably Doug Nicholls became most recognised and most popular in South Australia, even though he was a very, very important Victorian. And in recognition of the great role that he has played in a whole variety of ways — he came to prominence in the sporting field and beyond that in terms of his pastoral care in the community, but far beyond being a pastor of religion he provided inspiration to generations of Aboriginal people involved in a whole raft of community organisations — this year we are wanting to make sure that we pay due recognition to his significant contribution.

We anticipate it to be on the 101st anniversary of his birth, on 9 December. We have set ourselves a target to try and unveil the statue to mark his life and his beloved Lady Gladys's life for their important contribution. We have provided for a space for it to occur in the parliamentary gardens on Spring Street. It will be one of the first opportunities that there will be access for an indigenous person to be in such a prominent public space within Melbourne. Hopefully it will not be the last; it will be the foreteller of others to come.

Significant preparatory work has been undertaken in terms of getting the land available, and dealing with Melbourne City Council and various agencies within government. An artist has been commissioned to do the work. Louis Laumen — in fact I probably do not do justice to the French pronunciation of that glorious name, and I will provide the spelling to our friends to make sure that we do justice to it — has commenced the work. We are very optimistic that it will be a great community event when we bring his ancestors together to celebrate his achievement and to mark the prominence of Aboriginal people within the state of Victoria. Doug Nicholls is as good as any person to be the personal embodiment of that.

Dr SYKES — And a glorious football player as well.

Mr JENNINGS — Exactly!

The CHAIR — And as a final very quick question, Mr Barber, because I am conscious of your time, Minister?

Mr JENNINGS — Sure.

Mr BARBER — Thank you. You might be able to provide a more fulsome answer on notice, but section 38 of the Charter of Human Rights and Responsibilities Act is going to require a whole range of government departments, including yours, to have its activities in compliance with that act with some deadlines throughout this year.

One of the rights under that act is that for Aboriginal people to maintain their distinctive spiritual material and economic relationship with the land and waters of Victoria, what activities will fall to your department this year to assist public agencies, including your own, but other agencies I am sure, to be in compliance with that part of the act and what costs and requirements will that put on your department? Given that a number of them will probably ring you up straight away when they realise they need to be in compliance with that section of the act!

Mr JENNINGS — It is very tempting to answer this question in a different way, but I will not. I will resist the temptation to answer in terms of what the perception of those public practices may be. But what I can volunteer is that there are many programs designed already in terms of training and immersion in cultural heritage values and understanding. It is more developed in some departments than others, and most of them to deal with land management issues are reasonably well versed, if not very well versed, in cultural heritage.

That does not mean from time to time there may not be some contentious issues that occur within public land, but as a general rule, and in terms of making sure that there is cultural awareness provided there are well-developed and well-integrated opportunities for that to take place in terms of the specific programs under the land and economic development program. As you would be aware, there is a whole emphasis on making sure Aboriginal people are empowered to provide for their own interpretation of cultural heritage matters and their involvement in land management matters, and even though agreements that may not actually be fully living up to their potential, such as the land management arrangements around the Yorta Yorta, as you and I have actually discussed in the Parliament

previously, there are open doors and opportunities available for community aspirations to be expressed and understood, and ingrained within the actions of government.

The CHAIR — Thank you, Minister. I have a question on notice which I will pass to the secretary to convey to you. That concludes consideration of budget estimates for the portfolios of community services and Aboriginal affairs. I thank the minister, witnesses and departmental officers for their attendance today. It has been a very good session. Where questions were taken on notice the committee will follow up with you in writing at a later date and the committee requests written responses to be supplied within 30 days and considered for inclusion in a further report of the committee to Parliament. Thank you everybody.

Witnesses withdrew.