

Committee Members
Ald Eva Ruzicka (Chairman)
Deputy Lord Mayor Ald Ron Christie
Ald Philip Cocker
Ald Sue Hickey
Ald Leo Foley
Aldermen
Lord Mayor Ald Damon Thomas
Ald Marti Zucco
Ald Jeff Briscoe
Ald Peter Sexton
Ald Helen Burnet
Ald Bill Harvey
Ald John Freeman

N. Heath – General Manager
T. Short – G.M.E.E.D.
Corporate Services
H. Salisbury – D.G.M./D.C.S.
B. Daly – E.O.C.S.
A. Roth – C.S.O.
Financial Services
D. Spinks – D.F.S.
Parks & Customer Services
R. Viney – D.P.C.S
Infrastructure Services
M. Painter – D.I.S.

Community Development
P. Holliday – A.D.C.D.
Development & Environmental Services
N. Noye – D.D.E.S.
Media
Mercury
ABC Radio
Sub Total: 20
Minutes
Reception
Public 2
Trolley/Spare
Total Distribution: 25



CITY OF HOBART

AGENDA

SPECIAL STRATEGIC GOVERNANCE COMMITTEE MEETING (OPEN PORTION OF THE MEETING)

MONDAY, 28 JULY 2014

AT 4.20 PM

THE MISSION

Our mission is to ensure good governance of our capital City.

THE VALUES

The Council is:

- | | |
|----------------------------|--|
| about people | We value people – our community, our customers and colleagues. |
| professional | We take pride in our work. |
| enterprising | We look for ways to create value. |
| responsive | We're accessible and focused on service. |
| inclusive | We respect diversity in people and ideas. |
| making a difference | We recognise that everything we do shapes Hobart's future. |

HOBART 2025 VISION

In 2025 Hobart will be a city that:

- Offers opportunities for all ages and a city for life
 - Is recognised for its natural beauty and quality of environment
 - Is well governed at a regional and community level
 - Achieves good quality development and urban management
 - Is highly accessible through efficient transport options
 - Builds strong and healthy communities through diversity, participation and empathy
 - Is dynamic, vibrant and culturally expressive
-

**SPECIAL STRATEGIC GOVERNANCE COMMITTEE AGENDA
(OPEN PORTION OF THE MEETING)
28/07/2014**


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- 3. SECTION 18C OF THE RACIAL DISCRIMINATION ACT 1975 – FILE REF: 15-1-2**

**BUSINESS LISTED ON THE AGENDA IS TO BE CONDUCTED IN THE ORDER
IN WHICH IT IS SET OUT UNLESS THE COMMITTEE BY SIMPLE MAJORITY
DETERMINES OTHERWISE**

I, Nicholas David Heath, General Manager of the Hobart City Council, hereby certify that:

1. In accordance with Section 65 of the Local Government Act 1993, the reports in this agenda have been prepared by persons who have the qualifications or the experience necessary to give such advice, information or recommendations included therein.
2. No interests have been notified, pursuant to Section 55(1) of the Local Government Act 1993, other than those that have been advised to the Council.


N.D. HEATH
GENERAL MANAGER

SPECIAL STRATEGIC GOVERNANCE COMMITTEE AGENDA (OPEN)

Committee Members

Ruzicka (Chairman)
Deputy Lord Mayor Christie
Cocker
Hickey
Foley
Aldermen
Lord Mayor Thomas
Zucco
Briscoe
Sexton
Burnet
Harvey
Freeman

**Special Strategic Governance Committee (Open Portion
of the Meeting) - Monday, 28 July 2014 at 4.20 pm in the
Lady Osborne Room.**

PRESENT:

APOLOGIES:

LEAVE OF ABSENCE:

CO-OPTION OF COMMITTEE MEMBERS IN THE EVENT OF A VACANCY

Where a vacancy may exist from time to time on the Committee, the Local Government Act 1993 provides that the Council Committees may fill such a vacancy.

1. INDICATIONS OF PECUNIARY AND CONFLICTS OF INTEREST

In accordance with Part 2 Regulation 8 (7) of the Local Government (Meeting Procedures) Regulations 2005, the chairman of a meeting is to request Aldermen to indicate whether they have, or are likely to have, a pecuniary interest in any item on the agenda.

In addition, in accordance with the Council's resolution of 14 April 2008, Aldermen are requested to indicate any conflicts of interest in accordance with the Aldermanic Code of Conduct adopted by the Council on 27 August 2007.

Accordingly, Aldermen are requested to advise of pecuniary or conflicts of interest they may have in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the committee has resolved to deal with, in accordance with Part 2 Regulation 8 (6) of the Local Government (Meeting Procedures) Regulations 2005.

**SPECIAL STRATEGIC GOVERNANCE COMMITTEE AGENDA
(OPEN PORTION OF THE MEETING)
28/07/2014**

2. FEDERAL FUNDING CUTS TO HOBART BASED SCIENTIFIC RESEARCH BODIES – FILE REF: 10-6-1

11x's

Report of the General Manager of 24 July 2014.

DELEGATION: Council

TO : Strategic Governance Committee
FROM : General Manager
DATE : 24 July, 2014
SUBJECT : **FEDERAL FUNDING CUTS TO HOBART BASED
SCIENTIFIC RESEARCH BODIES**
FILE : 10-6-1 NH:FC (document2)

1. INTRODUCTION

- 1.1. The purpose of this report is to address a Notice of Motion tabled by Alderman Burnet in relation to Federal Government funding cuts to Hobart-based scientific research bodies.

2. BACKGROUND

- 2.1. At its 14 July 2014 meeting, the Council adopted the following Notice of Motion:

That in recognising the importance of scientific research sectors to Hobart's economy, culture and international prestige:

- 1) *An urgent report be prepared to determine an appropriate response to the federal budget cuts and the impact of these cuts on institutions such as the Commonwealth Scientific and Industrial Research Organisation (CSIRO), the Australian Antarctic Division (AAD), the Institute of Marine and Antarctic Sciences (IMAS) and other University of Tasmania (UTAS) research facilities;*
- 2) *That this report:*
 - (a) *Investigate the impact of the predicted job losses on the economy of Hobart;*
 - (b) *Consider the impact these cuts will have on Hobart's reputation as Tasmania's Antarctic Gateway.*
- 3) *That the Council also organise an urgent delegation to meet with the Board of CSIRO and its director Mr Simon McKeon, and the Leader of the Senate, Minister for Employment, Senator Eric Abetz, to raise concerns associated with the intended axing of jobs and resulting implications on the City of Hobart.*

- 2.2. Tasmania has a reputation as an international marine and Antarctic research and education hub with Tasmanian scientists at the CSIRO and other organisations participating in significant national and international research projects which in turn have a major positive effect on the economic well being of both Tasmania and Australia.
- 2.3. To fully grasp the importance of the scientific research sector to Hobart, Tasmania and indeed Australia, it is necessary to understand the activities which are undertaken by the CSIRO, the AAD and IMAS here is Hobart as well as Tasmania's role as an Antarctic Gateway.

Tasmania – Antarctic Gateway

- 2.4. Tasmania's geographic location means that it is a natural gateway to the Antarctic with the State having many other significant competitive advantages including the largest concentration of Antarctic and Southern Ocean researchers and institutions anywhere in the world.
- 2.5. Hobart is recognised around the world as one of five Antarctic gateway cities with direct air and sea access to East Antarctica where stations are operated by Australia and nine other nations.
- 2.6. The Antarctic is a priority area for the State Government who are focussed on the areas where Tasmania has globally competitive advantages and where there is the greatest potential for the sector's development, including:
 - Expanded global recognition of Hobart's standing as the pre-eminent Antarctic gateway city;
 - Creation of a critical mass of scientific and research capability that will be unsurpassed anywhere in the world;
 - Growth of 50 per cent in locally based sector expertise; and,
 - Confirmation that Tasmanian-supported institutions in the sector practice the highest levels of environmental stewardship and responsibility.
- 2.7. Hobart hosts a world class array of Antarctic, Southern Ocean and climate-research institutions including:
 - The Australian Antarctic Division (AAD);
 - The CSIRO Marine and Atmospheric Research (CMAR);
 - The Antarctic and Climate Ecosystems Cooperative Research Centre (ACE CRC); and

- The recently established Institute of Marine and Antarctic Studies (IMAS) which consolidates much of Hobart's considerable sector research, expertise and knowledge into a single institution.
- 2.8. The sector's wide-ranging activities are important to the State's economy with research being the primary sector activity on which all else is dependent. The other main economic components are:
- Logistics and supply support activities;
 - Commercial activities in the region including tourism and fishing; and,
 - Sector related activities with flow-on economic and other benefits.
- 2.9. The sector's flow-on benefits for Tasmania are largely associated with the investment by entities involved in scientific research, cultural activities and education and builds upon existing relationships, particularly those with the AAD and the French Antarctic program to generate economic growth.
- 2.10. The State Government's *'Developing Tasmania's Antarctic Sector, A vibrant industry in a global market'* document identifies key sector initiatives which will chart a path to maximise the sector's economic and other opportunities for the benefit of Tasmania, including:
- Build Tasmania's capacity and reputation as a centre for Antarctic skills development and education and promote Antarctic careers;
 - Further develop Hobart's role as an international centre for Antarctic and Southern Ocean research programs; and,
 - Explore opportunities arising from growth in collaborative research and logistics programs with the other East Antarctic nations, other cold-climate activities and the use of Hobart as an Antarctic transit point

The Commonwealth Scientific and Industrial Research Organisation (CSIRO)

- 2.11. The CSIRO is Australia's national science agency and one of the largest and most diverse research agencies in the world working with nearly 2000 companies on diverse projects. CSIRO scientists work in areas of climate adaptation, biosecurity, digital productivity and services, renewable energy, biosensor technology in food manufacturing, preventative health measures, medical research, sustainable agriculture and marine science.

- 2.12. It is Australia's largest patent holder with 3582 patents, 728 inventions and 275 trademarks. It invented wireless LAN (Wi-Fi) technology; the world's first effective influenza treatment, Relenza; Aerogard; plastic bank notes (polymer) which are used in Australia and 30 countries around the world to prevent counterfeiting, and developed the world's first vaccine to prevent the spread of Hendra virus from horses to humans.
- 2.13. In Hobart, CSIRO staff research the oceans and atmosphere, coastal ecosystems, forestry, agriculture and natural resource management. They aim to advance Australian climate, marine, ecosystem and agricultural science, and operate from a number of locations within Tasmania, including:
- The **Battery Point marine laboratories** which is home to 375 staff and more than 125 affiliates (students, fellows, contractors and visitors) who undertake research into sustainable marine resources and industries, climate, weather and ocean prediction, integrated coastal and oceans management as well as health and sustainable energy use. Staff also perform environmental modelling and monitoring in collaboration with the Australian Antarctic Division and the University of Tasmania whilst providing technical support to observe and monitor regional oceans and waterways;
 - The **Intelligent Sensing and Systems Laboratory (ISSL)** formerly the Tasmanian ICT Centre which is responsible for the development of innovative systems to support decision making through its world class ICT research capability in environmental sensor networks, mobile sensor integration, computational intelligence and semantic and knowledge engineering;
 - The **CSIRO Science Education Centre** which is the hub for the CSIROs science education programs in Tasmania;
 - At the **CSIROs Sandy Bay Centre**, research is focused on working with industry, government and communities on sustainable competitive forest based industries and the role of forests in the landscape. Industry support for forestry research has declined significantly over the past seven years with flow on effects for CSIROs forestry research capability;
 - **Australia's Marine National Facility** provides a blue-water research vessel to the Australian research community which is funded by the Australian Government and operated by the CSIRO. The home port for this research vessel is the CSIRO Marine Laboratories in Hobart. A new purpose built research vessel, RV Investigator, will arrive in Hobart this year and will enable research to be carried out to the Antarctic ice edge; and,

- The **Cape Grim Baseline Air Pollution Station** in north-west Tasmania which supplies vital information about changes to the atmospheric composition of the Southern Hemisphere.

The Australian Antarctic Division (AAD)

- 2.14. The Australian Antarctic Division (AAD) is a division of the Department of the Environment and is responsible for the advancement of Australia's strategic, scientific, environmental and economic interests in the Antarctic by protecting, administering and researching the region.
- 2.15. The AAD leads and delivers a world class science program under the Antarctic Science Strategic Plan. The Scientific program focuses on research relevant to the sound environmental stewardship of the Australian Antarctic Territory (AAT), the Southern Ocean and the Territory of Heard Island and McDonald Islands (HIMI).
- 2.16. It also undertakes work designed to inform policy development by Government and meet our international obligations by understanding the key role that Antarctica and the Southern Ocean plays in Australian and global climate systems. It also informs further understanding around the consequences of climate-driven changes. This work is underpinned by research that furthers understanding of the diversity, structure, function and vulnerability of terrestrial and marine Antarctic and Southern Ocean ecosystems.
- 2.17. Over 300 staff (permanent and temporary) are employed, including
 - Support Centre, policy and science personnel based at Kingston;
 - The Summer and Wintering expeditioners serving in the Antarctic and subantarctic; and
 - Key program scientists located at the University of Tasmania.
- 2.18. The Kingston buildings house laboratories for science, electronics and electron microscopy, mechanical and instrument workshops, a krill research aquarium, equipment stores, communications and other operational and support facilities.

Institute of Marine and Antarctic Sciences (IMAS)

- 2.19. The Institute for Marine and Antarctic Studies (IMAS) pursues multidisciplinary and interdisciplinary work to advance understanding of temperate marine, Southern Ocean, and Antarctic environments.

- 2.20. IMAS is a centre for both research and education. Its basic and applied research is characterised as innovative, relevant, and globally distinctive. The Institute's natural advantages include the Southern Ocean location proximal to Antarctica and Tasmania hosting one of the world's largest critical masses of marine and Antarctic researchers.
- 2.21. IMAS have 135 staff (70 academic, 65 professional) located at two sites in Sandy Bay and Taroona.

Impacts of budget cuts on Research Agencies

- 2.22. The Australian Government handed down its 2014/15 budget on May 13 2014.
- 2.23. The budget included a number of funding cuts to a number of Australia's flagship research agencies including the CSIRO and the AAD
- 2.24. The **CSIRO** have had a funding cut of \$111M over four years with the cuts to start from next year at a value of \$26.4 million. The Union representing the employees at the CSIRO, the Community and Public Sector Union (CPSU) also indicates that the CSIRO will be hit with a separate 'efficiency dividend' cut of \$3.4M over the forward estimates.
 - 2.24.1. Commentators state that the budget cuts are a blow for Australian science research as Australia already lags behind the rest of the world, investing comparatively very little (0.5% of GDP) when it comes to research and development.
- 2.25. According to media following the release of the 2014/15 budget, the CSIRO's Chief Executive Officer (CEO) Dr Megan Clark released a company-wide Annual Directions Statement outlining organisational planning and restructure of the CSIRO. Dr Clark announced that the budget cuts would result in the loss of 500 jobs at the CSIRO and eight research site closures. This comes on top of 300 jobs cut last year and according to media reports could result in the CSIRO having 1000 fewer staff by the end of the four year process with roughly 70% of those losses being science positions.
- 2.26. In terms of what impact these budget cuts will have on those areas of the CSIRO based in Hobart, the following information has been provided:
 - The details of impacts on Hobart forestry staff is part of an ongoing consultation process, after which the location and size of staff cuts will be known, although it is currently estimated that six to ten positions may be lost from Hobart's Sandy Bay laboratory;

- The CSIRO will be retaining capability in forest sciences that can contribute to greenhouse gas mitigation and climate adaptation strategies, as well as science focused on water, fire and environmental management relating to trees in landscapes, some of which will be located at the CSIROs Sandy Bay laboratory;
 - 18 CSIRO Marine and Atmospheric staff based at Battery Point have been advised that they are impacted as this research division transitions to the new Oceans and Atmosphere Flagship and issued with notification that they are potentially surplus to requirements;
 - The CSIRO will continue to deliver science in support of marine industries, especially with longstanding partners in fisheries (although there will be some reduction in the CSIROs fisheries capability – 4 of the 18 impacted staff);
 - As part of the CSIROs restructure process, nine administration staff have been advised that they are potentially surplus to requirements. Two research management staff are also potentially surplus to requirements through the restructure process; and,
 - The CSIRO advise that where staff have been advised that they are potentially surplus to requirements, the usual redeployment process applies under the CSIROs Enterprise Bargaining Agreement is now underway. A number of these staff had nominated for voluntary redundancy substitution during the restructure process.
- 2.27. The State Government's Department of State Growth do not yet know the full impact on the CSIRO in Hobart of Federal budget cuts to the organisation as they are not privy to the details of how the total \$111 million Federal cut to the CSIRO as a whole is to be apportioned.
- 2.28. It is understood that Marine and Atmospheric Research is largely being absorbed into the new Oceans and Atmosphere Flagship, whose Director and Deputy Director are based in Western Australia and Canberra respectively.
- 2.29. The **AAD**, part of the Department of Environment, will have its budget cut by 15 per cent to \$157M, and by 26 per cent in later years. This will logically have an impact on what activities the Division can undertake. The nature of these activities cannot be determined at this time.
- 2.29.1. About 480 public servants working for the Department of Environment will lose their jobs on top of 190 who have already gone.

- 2.29.2. It is expected that hundreds of programs and activities will either be modified or axed in a restructure as the Department copes with dwindling funds.
- 2.29.3. It is important to note the generally speaking the job cuts are across the entire department and not just in the AAD.
- 2.30. The ABC reported in April 2014 that over the past few months the AAD had already shed 30 positions but that staff had not been told how many more redundancies would be offered.
- 2.31. It is understood that in fact over the last two years the AAD has already gone through two rounds of voluntary redundancies which have resulted in 26 positions being lost and the Division is currently in a third round of voluntary redundancies. This program is not directly related to the budget but rather an ongoing process.
- 2.32. It should be noted that possibly more important than the budget changes in the longer term is the current review and 20 year plan for the Antarctic being written by Dr Tony Press. It is understood that Dr Press will present his report to the Australian Government in the week commencing 28 July 2014.
- 2.33. The Minister for the Environment, Greg Hunt MP has indicated that this Plan will ensure Tasmania's position is enshrined at the centre of Antarctic research and services to the region.
- 2.34. This paper will inform the future of Australia's Antarctic efforts.
- 2.35. The direct budget cuts to the AAD although significant in the current year should also be weighed up against other commitments the Australian Government has made that are Antarctic related.
- 2.36. The Australian Government remains committed to the Antarctic and has indicated that it will deliver on its election commitments to maintain Australia's polar connections headlined by air-link spending (\$11M per year), a \$38M expansion to Hobart Airport to make it usable by large long-haul aircraft, including Antarctic traffic and moves to acquire a new icebreaker. The government has also met an election commitment to a \$24M Antarctic Gateway Partnership over the next three years between the AAD, University of Tasmania and the CSIRO and \$65.7M over four years to operate the new research vessel the RV Investigator. It is also understood that there is also a commitment to a new icebreaker which will in due course replace the Aurora Australis. It is understood that the Government also committed to a further 5 years of funding to the ACE CRC worth \$25M.

- 2.37. Given these commitments by the Australian Government and the State Government's desire to chart a path to maximise the Antarctic sector's economic and other opportunities for the benefit of Tasmania it would appear that Tasmania's reputation as a gateway to the Antarctic is assured.
- 2.38. Thus the recent budget will clearly impact the AAD but it has both positive and negative impacts and any job losses would appear to be coincidental with rather than as a result of the budget.
- 2.39. In terms of economic impact, given the urgency of the request for this report there has been insufficient time to undertake detailed analysis.
- 2.40. However previous work undertaken by SGS Economics and Planning indicated that the value added from spending an additional \$1 in the *Scientific, Research, technical and computer Services* ANZIC industry classification segment generates \$1.31 to the economy. There is an argument to therefore say that the reduction of spending accordingly has the reverse effect. However further analysis would be required to better determine this.

3. PROPOSAL

- 3.1. It is proposed that a Council delegation consisting of the Lord Mayor and any interested Aldermen, the General Manager and/or his nominee meet with the Leader of the Senate and Minister for Employment Senator Eric Abetz to discuss the funding cuts to Australia's research flagships, including the CSIRO and AAD.

4. IMPLEMENTATION

- 4.1. Once the Council has determined the make up of the delegation then arrangements will be made to make contact with the Office of the Leader of the Senate and Minister for Employment Senator Eric Abetz to coordinate a meeting.

5. STRATEGIC PLANNING IMPLICATIONS

- 5.1. The importance of the scientific research sector to the City of Hobart is significant and is supported by the following future Direction Statements:

Future Direction 1 – Offers opportunities for all ages and a city for life;

Future Direction 7 – Is dynamic, vibrant and culturally expressive.

6. DELEGATION

- 6.1. This matter is delegated to the Council.

7. CONSULTATION

- 7.1. Consultation has occurred with the State Government's Department of State Growth the AAD and the CSIRO.

8. CONCLUSION

- 8.1. The purpose of this report is to respond to a Notice of Motion tabled by Alderman Burnet in relation to Federal Government funding cuts to Hobart-based scientific research bodies.
- 8.2. Hobart has a favourable reputation for being a gateway to the Antarctic and is the location for a number of Australia's flagship research agencies including the CSIRO, AAD and IMAS who in turn are responsible for the employment of a large number of workers Tasmania, Australian and around the world.
- 8.3. During May, the Australian Government handed down its 2014/15 budget which contained significant funding cuts to the CSIRO and AAD.
- 8.4. The direct impact of these budget cuts to the CSIRO and AAD are largely unknown, however, the CSIRO has advised that in accordance with their Annual Direction Statement for research investment coupled with a decline in external support in some areas there will be impacts for the CSIRO staff at the Sandy Bay and Battery Point Laboratories working on marine and atmospheric research, forestry and administration and management.
- 8.5. The CSIRO have confirmed that 18 CSIRO Marine and Atmospheric staff (including 4 from the CSIRO's fisheries capability) based at Battery Point in Hobart have been advised that they are impacted as this research division transitions to the new Oceans and Atmosphere Flagship and issued with notification that they are potentially surplus to requirements, it is currently estimated that six to ten positions in forestry may be lost from Hobart's Sandy Bay laboratory, nine administration staff have been advised that they are potentially surplus to requirements. Two research management staff are also potentially surplus to requirements through the restructure process.
- 8.6. The AAD, part of the Department of Environment, will have its budget cut by 15 per cent to \$157M, and by 26 per cent in later years, however no further specific details have been obtained as to the direct impact on those areas of the AAD based in Tasmania.

- 8.7. Despite the budget cuts to the AAD, the Australian Government has confirmed its election commitments to maintain Australia's polar connections headlined by air-link spending, a \$38M expansion to Hobart Airport, \$24M for the Antarctic Gateway Partnership over the next three years between the AAD, University of Tasmania and the CSIRO and \$65.7M over four years to operate the new research vessel the RV Investigator.
- 8.8. The Australian Government is also developing a 20 Year Strategic Plan for Antarctic and Southern Ocean Research which is to be released later this year. The Minister for the Environment, Greg Hunt MP has indicated that this Plan will ensure Tasmania's position is enshrined at the centre of Antarctic research and services to the region.
- 8.9. Given these commitments by the Australian Government and the State Government's desire to chart a path to maximise the Antarctic sector's economic and other opportunities for the benefit of Tasmania it would appear that Tasmania's reputation as a gateway to the Antarctic is assured.

9. RECOMMENDATION

That:

- 9.1. *The report NH:fc(document2) be received and noted.***
- 9.2. *A Council delegation consisting of the Lord Mayor and any interested Aldermen together with the General Manager and/or his nominee meet with the Leader of the Senate and Minister for Employment Senator Eric Abetz to discuss the funding cuts to Australia's research flagships, including the CSIRO and AAD.***

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



(N. D. Heath)

GENERAL MANAGER

**SPECIAL STRATEGIC GOVERNANCE COMMITTEE AGENDA
(OPEN PORTION OF THE MEETING)
28/07/2014**

**3. SECTION 18C OF THE RACIAL DISCRIMINATION ACT 1975 –
FILE REF: 15-1-2**

20x's

Report of the Acting Director Community Development of 21 July 2014 and attachments.

DELEGATION: Council

TO : General Manager

FROM : Acting Director Community Development

DATE : 21 July 2014

SUBJECT : **SECTION 18C OF THE RACIAL DISCRIMINATION ACT 1975**

FILE : 15-1-2 :MJ:SF:KP:DT (o:\council & committee meetings reports\sgc reports\2014 meetings\28 july special\section 18c of the racial discrimination act 1975-jul14.doc)

1. INTRODUCTION

1.1. This report responds to the Notice of Motion tabled at the Strategic Governance Committee on 8 July 2014, that:

“In recognising the fundamental importance of Section 18C of the Racial Discrimination Act 1975, which affords the protection of individuals from offence, insult, humiliation or intimidation due to race or ethnicity, and also recognising the strong, consistent position of this Council on ensuring an inclusive community, free from racism:

1. *An urgent report be prepared to consider the impacts on our community if section 18C of the Racial Discrimination Act 1975 were repealed.*
2. *Upon receipt of the urgent report referred to in Clause 1 above, the following be undertaken:*
 - (i) *That the Lord Mayor write to the Federal Attorney General, Senator George Brandis strongly urging him not to repeal Section 18C, and that he withdraw the Draft Exposure Amendment to the Racial Discrimination Act;*
 - (ii) *That the Lord Mayor write to all Tasmanian Senators and MPs urging them to continue to support the rights and safety of our multicultural residents by opposing this amendment.*
3. *In so doing, Council reinforce our stance as part of the Australian community in not tolerating racism.”*

2. BACKGROUND

2.1. The Racial Discrimination Act 1975 (the Act) was endorsed by the Federal Parliament to implement the terms of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) into Australian Domestic Law.

- 2.2. The Act is administered by the Australian Human Rights Commission, the Australian human rights and equal opportunities ‘watchdog’, with an Australian Human Rights Commissioner responsible for investigating complaints.
 - 2.2.1. The Commission also attempts to raise awareness about the obligations that individuals and organisations have under the Act.
- 2.3. The Act was introduced to create a fairer Australia for all, and aims to stop people from offending, insulting, humiliating or intimidating another person or a group of people based upon of the race, colour or national or ethnic origin of the other person.
- 2.4. On 25 March 2014, the Australian Government Party Room approved reforms to the Act which would repeal 18B, 18C, 18D and 18E.
- 2.5. The Attorney General’s office argues that Section 18C of the Act is unreasonably restrictive on freedom of speech, and in particular on freedom of public discussion. (Attachment A)
- 2.6. The proposed amendments would remove the words **offend, insult and humiliate** and would instead refer to **intimidation** and **vilification**.
- 2.7. At the time of writing this report a date had not been identified for the tabling of the legislation in the Parliament.
- 2.8. The City of Hobart has been actively involved in the promotion and celebration of multiculturalism in the Hobart community for many years.
- 2.9. Through this, the City of Hobart seeks to improve the wider community’s awareness and understanding of the educational, social, economic and cultural benefits of cultural diversity, and through this mitigate the effects of racism and cultural isolation for multicultural communities in Hobart.
- 2.10. In 1999, the Council worked with all four of the Greater Hobart councils to coordinate the Commonwealth-funded *Networking for Harmony* project. The Council then resolved to maintain a Community Development Officer (CALD) position post-grant funding for 24 hours per week.
- 2.11. The Cultural and Linguistic Diversity Strategy (CALD), first developed in 2009, provides the City of Hobart and the community with a clearly defined framework by which the City can continue to meet the needs and build the capacity of multicultural communities in Hobart.

- 2.12. The City of Hobart works with local networks, service providers and the wider multicultural community to identify, develop and implement appropriate community initiatives and activities that develop community understanding.
- 2.13. A recent example of the commitment of the City of Hobart to address racism was signing up to the Australian Human Rights Commission '*Racism. It Stops With Me*' campaign. The following organisations and councils have committed to preventing racism by pledging to undertake activities over the next three years in support of the campaign.
- (i) Metro Tasmania
 - (ii) Yellow Cabs Tasmania
 - (iii) 131 001 Hobart
 - (iv) Taxi Combined Services, Hobart
 - (v) Glenorchy City Council
- 2.14. In 2004, the City of Hobart committed to becoming the first Refugee Welcome Zone in Tasmania and the one hundredth in Australia. This is promoted at events and continuously on event signage at two major entry points to the city.
- 2.15. The City of Hobart is also committed to the principles of Equity and Discrimination in the Workplace and the elimination of inappropriate and unlawful discrimination, all forms of harassment and bullying as outlined in the Council policy. The Equity and Discrimination in the Workplace Policy and associated procedures apply to all Council employees, contractors and volunteers.
- 2.16. Anti-racism messages are regularly communicated at events such as the annual Harmony Day '*Welcome to Humanitarian Entrant, Migrant and International Students*', Refugee Week and Human Rights Week.
- 2.17. The Hobart Networking for Harmony CALD Advisory Group which was founded in 1999, continues to address racism through activities as part of the Council's CALD Strategy.

Community Response to the Proposed Amendments

- 2.18. On 25 March 2014, the Australian Government called for public submissions on an exposure draft of the new Act.
- 2.19. It has been reported in the media that over 5,000 submissions in response to the proposed amendment were received by the Attorney General's office by the 30 April closing date.

- 2.20. More than 50 city, rural and regional Australian councils have passed a motion calling on the Attorney General's office to drop the proposal to repeal Section 18C of the Act. The main issues raised have been potential increased impacts to the community which may include:
- (i) Effects to mental and physical health
 - (ii) Increased social isolation
 - (iii) Racially-motivated violence
 - (iv) Economic impact
- 2.21. Community sector organisations around Australia, as well as within Tasmania, that work with multicultural communities have also responded to the proposed amendments. Some of these are responses are outlined below.
- 2.22. It is understood that the concerns of members of Tasmania's multicultural community are that these proposed changes to the Act may mean that many forms of racial slur and intimidation will no longer be unlawful.
- 2.23. The following Hobart organisations and community representatives have identified a range of potential impacts on the local community, as a result of the proposed changes to the Act.

Multicultural Council of Tasmania

- 2.24. The Multicultural Council of Tasmania recently met with nineteen community leaders in Hobart, who supported the reconsideration of the proposed changes to the Act to ensure that the Act continues to protect Australian citizens from racist speech and to promote harmony. The communiqué that was developed as a result of this meeting is provided at Attachment B to this report.
- 2.25. The group stated that: *"The proposed changes to the Act send the wrong message", and that "Insulting, offending or humiliating a person because of their race leads to increased discord in our community, and serious personal consequences for victims of discrimination."*
- 2.25.1. The nineteen leaders represented the following community groups / organisations:
- (i) Italian Community
 - (ii) Croatian Senior Citizens Association
 - (iii) Friends of Sri Lanka
 - (iv) Sierra Leone Community Southern Tasmania
 - (v) Multicultural Friends of Tasmanian Parliament
 - (vi) Indian Community

- (vii) Fiji Australia Association
- (viii) Migrant Resource Centre (Southern Tasmania)
- (ix) Tibetan Community of Tasmania (Australia) Inc
- (x) Hindu Society of Tasmania Inc
- (xi) Australian Croatia Association
- (xii) Multicultural Women's Council of Tasmania
- (xiii) Indonesian Diaspora Network
- (xiv) Multicultural Council of Tasmania member
- (xv) Youth Chair, Federation of Ethnic Communities Council
- (xvi) Australia China Friendship Society
- (xvii) Chinese Cultural Society
- (xviii) Tasmanian Ethiopian Association (INC)
- (xix) Papua New Guinea Tasmania Association & Multicultural Women's Support Group

University of Tasmania (UTAS)

- 2.26. A report from the Cooperative Research Centre for Aboriginal Health has stated the adverse impact of racism on the health of Aboriginal and Torres Strait Islander people has led to higher incidences of psychological distress and higher rates of depression and poor mental health.
- 2.27. Research also shows that there is a high financial cost associated with long-term psychological distress.

Office of the Anti-Discrimination Commissioner of Tasmania

- 2.28. The Office of the Anti-Discrimination Commissioner (OADC) of Tasmania has submitted a 37 page report on the draft amendments as well as a letter of support to the Council regarding the proposed representation by the Council. This is provided at Attachment C to this report.
- 2.29. The Commissioner notes that in her view, *“the proposed changes to the RDA (noted below) risk significantly diminishing available protections under federal law against expressions of public hostility toward people in Australia from diverse racial and ethnic backgrounds and undermine the right of all people in Australia to live in a community free of racial discrimination and racially offensive conduct.”*

- 2.30. The OADC notes the following impacts associated with the proposed changes to the legislation:
- (i) *“Remove the existing federal protections available to a person or groups of persons who are offended, insulted or humiliated on the basis of their race, colour or national or ethnic origin;*
 - (ii) *Significantly narrow the interpretation of ‘intimidation’ under the federal law to that which causes a fear of physical harm;*
 - (iii) *Restrict protection in federal law against actions that could amount to racial vilification to actions that incite hatred toward a person or group of persons because of their race, colour or national or ethnic origin;*
 - (iv) *Remove the requirement in federal law to establish the impact of the actions against the standard of a reasonable representative of the race, colour, or national or ethnic origin of the complainant and substitute that with the requirement to establish the impact of the action from the perspective of an ordinary reasonable member of the Australian community;*
 - (v) *Remove the responsibility under federal law of employers or agents who may have vicarious liability for the action under consideration; and*
 - (vi) *Significantly broaden the scope of the available exceptions (defences) to include a wider range of activities and remove the requirement that actions falling within the range of available exceptions be exercised cautiously and in the least discriminatory manner possible.”*

Refugee Council of Australia (RCOA)

- 2.31. The RCOA is the national umbrella body for refugees, asylum seekers and the organisations and individuals who work with them, representing over 170 organisations and 700 individual members.
- 2.32. RCOA also argues that there is a lack of a clear rationale for these changes, which have only been brought about after extensive media attention regarding one case. Research shows that these laws have been considered in less than 100 finalised court cases since 1995 and RCOA argues that the courts have applied these laws reasonably and appropriately.

3. PROPOSAL

- 3.1. Given the Council's long term and active support, commitment and celebration of multiculturalism in the Hobart community and its participation in the Australian Human Rights Commission '*Racism. It Stops With Me*' campaign, it proposed that the Council give consideration to making a submission to the Federal Attorney General, Senator George Brandis in regard to the proposed repeal Section 18C, and the associated Draft Exposure Amendment to the Racial Discrimination Act 1975, expressing the concerns of Hobart's Culturally and Linguistically Diverse (CALD) communities.
- 3.2. It is also proposed that the Council give some consideration to communicating with other Tasmanian councils, Tasmanian Senators and Federal MPs on this matter.

4. STRATEGIC PLANNING IMPLICATIONS

- 4.1. This issue aligns with the following strategic Future Directions.
Future Direction 1 - "*Offers opportunities for all ages and a city for life*";
Future Direction 6 - "*Builds strong and healthy communities through diversity, participation and empathy*"; and
Future Direction 7 - "*Is dynamic, vibrant and culturally expressive.*"
- 4.2. The City of Hobart's support for the issue aligns with specific elements of the following City of Hobart strategies:
 - (i) City of Hobart Strategic Plan 2014 - 2019 particularly the Priority Area of Activity - 4, Strong, Safe and Healthy Communities, where it is stated that:
"The Council will continue to build a socially inclusive Hobart, working in partnership with community members, groups, organisations and government agencies to respond to the needs and aspirations of the Hobart community."
 - (ii) Cultural and Linguistic Diversity Strategy
Encourage strategies that address racism within the Hobart mainstream community.

(iii) Social Inclusion Strategy

Health and Wellbeing: This domain is about encouraging every part of the community to live healthy connected lifestyles including maintaining a reasonable level of public health and safety and the provision of opportunities for shared community experiences. It is about bringing people together around recreational, social or arts opportunities, and

Community Safety: This domain is about ensuring our community is more resilient and able to cope with potential emergencies. It is about developing effective initiatives that build community safety and the perceptions of safety, and responding to anti-social issues, including those relating to alcohol and other drugs.

5. FINANCIAL IMPLICATIONS

5.1. None are foreseen.

6. SOCIAL IMPLICATIONS

6.1. Tasmanians experience racism, prejudice and discrimination on a regular basis. Racism can have serious consequences for the people who experience it. It can shatter confidence and sense of worth. It can undermine work or study performance and can affect physical health and life expectancy.

6.2. The City of Hobart has developed a broad range of activities to promote cultural diversity and mitigate the effects of racism and cultural isolation for culturally and linguistically diverse (CALD) communities in Hobart.

6.3. Consultation with a number of Hobart multicultural organisations and community representatives indicates that there is widespread concern amongst these parts of the Hobart community that amendments to sections 18B, C, D and E of the Racial Discrimination Act may mean that many forms of racial slur and intimidation would no longer be unlawful.

7. COMMUNICATION AND MEDIA IMPLICATIONS

7.1. There would be an opportunity for the City of Hobart develop a media release to reinforce and promote the Council's position on the proposed changes to the Act.

8. DELEGATION

8.1. This matter is delegated to the Council for determination.

9. CONSULTATION

- 9.1. The Acting Manager Community Inclusion, Manager Community Development Support, Community Participation Co-ordinator, Community Development Officer - CALD and Community Safety Officer have been consulted in the development of this report.
- 9.2. The following community organisations and community representatives were also consulted:
- (i) University of Tasmania;
 - (ii) Multicultural Council of Tasmania;
 - (iii) Refugee Council of Australia;
 - (iv) Office of the Anti-Discrimination Commissioner;
 - (v) Amnesty International Australia; and
 - (vi) Federation of Ethnic Communities' Councils of Australia

10. CONCLUSION

- 10.1. The Racial Discrimination Act 1975 was endorsed by the Federal Parliament to implement the terms of the International Convention on the Elimination of all Forms of Racial Discrimination into Australian Domestic Law.
- 10.2. The Act was introduced to create a fairer Australia for all, and aims to stop people from offending, insulting, humiliating or intimidating another person or a group of people based upon of the race, colour or national or ethnic origin of the other person.
- 10.3. On 25 March 2014, the Australian Government Party Room approved reforms to the Act which would repeal 18B, 18C, 18D and 18E.
- 10.4. The Attorney General's office argues that Section 18C of the Act is unreasonably restrictive on freedom of speech, and in particular on freedom of public discussion.
- 10.5. The proposed amendments would remove the words **offend, insult and humiliate** and would instead refer to **intimidation** and **vilification**.
- 10.6. The City of Hobart has been actively involved in the promotion and celebration of multiculturalism in the Hobart community for many years. The city is continually striving to improve the wider community's awareness and understanding of the educational, social, economic and cultural benefits of cultural diversity and to mitigate the effects of racism and cultural isolation for multicultural communities in Hobart.

- 10.7. Consultation with a number of Hobart multicultural organisations and community representatives indicates that there is widespread concern amongst these parts of the Hobart Community that amendments to sections 18B, C, D and E of the Racial Discrimination Act may mean that many forms of racial slur and intimidation would no longer be unlawful.
- 10.8. Hobart organisations and community representatives have identified a range of potential impacts on the local community, as a result of the proposed changes to the Act.

11. RECOMMENDATION

That:

- 11.1. *The report (o:\council & committee meetings reports\sgc reports\2014 meetings\28 july special\section 18c of the racial discrimination act 1975-jul14.doc) be received and noted.***
- 11.2. *Given the Council's the long term and active support, commitment and celebration of multiculturalism in the Hobart community and its participation in the Australian Human Rights Commission 'Racism. It Stops With Me' campaign, the Council give consideration to making a submission to the Federal Attorney General, Senator George Brandis in regard to the proposed repeal Section 18C, and the associated Draft Exposure Amendment to the Racial Discrimination Act 1975, expressing the concerns of Hobart's Culturally and Linguistically Diverse (CALD) communities on this matter.***
- 11.3. *The Council also give consideration to communicating with other Tasmanian councils, Tasmanian Senators and Federal MPs on this matter.***

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



(Philip Holliday)

ACTING DIRECTOR COMMUNITY DEVELOPMENT

- Attachment A: Attorney General's Office Media Release (1)
Attachment B: Multicultural Council of Tasmania submission (6)
Attachment C: The Office of the Anti-Discrimination Commissioner of Tasmania letter (3)



Attorney-General for Australia
Minister for the Arts
Senator the Hon George Brandis QC

Racial Discrimination Act

25 March 2014

The Government Party Room this morning approved reforms to the *Racial Discrimination Act 1975* (the Act), which will strengthen the Act's protections against racism, while at the same time removing provisions which unreasonably limit freedom of speech.

The legislation will repeal section 18C of the Act, as well as sections 18B, 18D, and 18E.

A new section will be inserted into the Act which will preserve the existing protection against intimidation and create a new protection from racial vilification. This will be the first time that racial vilification is proscribed in Commonwealth legislation sending a clear message that it is unacceptable in the Australian community.

I have always said that freedom of speech and the need to protect people from racial vilification are not inconsistent objectives. Laws which are designed to prohibit racial vilification should not be used as a vehicle to attack legitimate freedoms of speech.

This is an important reform and a key part of the Government's freedom agenda. It sends a strong message about the kind of society that we want to live in where freedom of speech is able to flourish and racial vilification and intimidation are not tolerated.

The draft amendments are released for community consultation. The Government is interested in hearing from all stakeholders on the proposed reforms. Submissions can be made until 30 April 2014 at s18cconsultation@ag.gov.au.

A copy of the draft amendments is attached.

Exposure Draft

Freedom of speech (Repeal of S. 18C) Bill 2014

The *Racial Discrimination Act 1975* is amended as follows:

1. Section 18C is repealed.
2. Sections 18B, 18D and 18E are also repealed.
3. The following section is inserted:

1. It is unlawful for a person to do an act, otherwise than in private, if
 - a. the act is reasonably likely
 - i. to vilify another person or a group of persons; or
 - ii. to intimidate another person or a group of persons.

and

- b. the act is done because of the race, colour or national or ethnic origin of that person or that group of persons.
2. For the purposes of this section:
 - a. vilify means to incite hatred against a person or a group of persons;
 - b. intimidate means to cause fear of physical harm
 1. to a person; or
 2. to the property of a person; or
 3. to the members of a group of persons.
 3. Whether an act is reasonably likely to have the effect specified in sub-section (1)(a) is to be determined by the standards of an ordinary reasonable member of the Australian community, not by the standards of any particular group within the Australian community
 4. This section does not apply to words, sounds, images or writing spoken, broadcast, published or otherwise communicated in the course of participating in the public discussion of any political, social, cultural, religious, artistic, academic or scientific matter.



Multicultural Leaders' Communique on Racial Discrimination

Published May 23, 2014 in Our news

Hobart, 20 MAY 2014

Today, Tasmanian leaders of community organisations representing diverse cultures and faiths and organisations that support them, met to discuss proposed changes to the Racial Discrimination Act. The leaders below agreed to the following statement:

The Racial Discrimination Act was introduced to protect Australians from the racist comments and to promote harmony in Australia's multicultural community.

The introduction of the additional protections contained in section 18C has proved to be a vital tool in reducing the incidence of racist-speech.

Many Australians are deeply concerned by recent evidence of racist incidents across Australia, whether it is abuse directed at someone because they're speaking a language other than English, or because of the colour of their skin, or the faith they follow.

We need our leaders to reinforce the message that racism is not acceptable, and we unreservedly condemn it.

The proposed changes to the Racial Discrimination Act send the wrong message.

Insulting, offending or humiliating a person because of their race leads to increased discord in our community, and serious personal consequences for victims of discrimination.

It is behaviour that should be condemned, not condoned.

We need laws that preserve freedom from fear, not ones that promote freedom to hate.

On behalf of the organisations listed below, we call on the Federal government to reconsider its proposed changes to the Racial Discrimination Act and ensure that the Act continues to protect Australian citizens from racist-speech and to promote harmony.

Liberatore Allocca

Italian Community

Ivan Matas

Croatian Senior Citizens Association

Rohan Wirasinha

Friends of Sri Lanka

Isaiah Lahai

Sierra Leone Community Southern Tasmania

Joseph Masimo

Multicultural Friends of Tasmanian Parliament

Mahender Singh Bisht

Indian Community

Susie Shea & Gloria Smith

Fiji Australia Association

Cedric Manan

Migrant Resource Centre (Southern Tasmania)

Ramesh Narayana

Hindu Society of Tasmania Inc

Yongbei Tang

Chinese Cultural Society

Sajini Sumar

Multicultural Women's Council of Tasmania

Danijela Hlis

Multicultural Council of Tasmania member

Davor Perovic

Australian Croatia Association

Julie Marsaban

Indonesian Diaspora Network

Salma Sumar

Youth Chair, Federation of Ethnic Communities Council

Karma Phuntsok

Tibetan Community of Tasmania (Australia) Inc

Anna Gerard

Papua New Guinea Tasmania Association & Multicultural Women's Support Group

Adane Mebratu

Tasmanian Ethiopian Association (INC)

Jan Everett

Australia China Friendship Society

Iranian Australian Community Association of Southern Tasmania Inc

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Multicultural Council of Tasmania

It's

only couple of days left to celebrate Festival of Voices. That is how long you have to see our bilingual project that brings so many different cultures under the same concept. Don't walk past the singing booth:

festivalofvoices.com/events/singing-booth

Singing Booth | Festival of Voices

festivalofvoices.com

Situated in the Salamanca Arts Centre, the Singing Booth is a first for the Festival and Tasmania. Come in and sing your favourite song or a dedication to a loved one or festival artist. Just like the hero messages to athletes at the Olympics, sing a 'hello' or 'good luck' to your favourite artists...

5 days ago

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Office of the Anti-Discrimination Commissioner

Celebrating Difference, Embracing Equality

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Our ref: DOC/14/59609

Please quote on all correspondence

The Lord Mayor and Aldermen
Hobart City Council
50 Macquarie Street
HOBART TAS 7000

ATTENTION: Sjaan Field, Community Development Officer, CALD

By e-mail to: fields@hobartcity.com.au

Dear Lord Mayor and Aldermen

Organisation and community response on section 18C of the *Racial Discrimination Act 1975* (Cth)

I refer to your Council's request of 16 July 2014 regarding the potential impacts of proposed changes to the *Racial Discrimination Act 1975* (Cth) (RDA) being considered by the Federal Attorney-General, Senator the Hon George Brandis, QC.

At the outset I wish to congratulate the Hobart City Council for its consideration of this important matter. The changes proposed by the Federal Attorney-General have been strongly opposed by many local bodies which, like Hobart City Council, are concerned about the community impacts of the proposals.

It is my view that the proposed changes to the RDA risk significantly diminishing available protections under federal law against expressions of public hostility toward people in Australia from diverse racial or ethnic backgrounds and undermine the right of all people in Australia to live in a community free of racial discrimination and racially offensive conduct.

The changes will have the following impacts:

- remove the existing federal protections available to a person or groups of persons who are offended, insulted or humiliated on the basis of their race, colour or national or ethnic origin;
- significantly narrow the interpretation of 'intimidation' under the federal law to that which causes a fear of physical harm;
- restrict protection in federal law against actions that could amount to racial vilification to actions that incite hatred toward a person or group of persons because of their race, colour or national or ethnic origin;
- remove the requirement in federal law to establish the impact of the actions against the standard of a reasonable representative of the race, colour, or national or ethnic origin of the

complainant and substitute that with the requirement to establish the impact of the action from the perspective of an ordinary reasonable member of the Australian community;

- remove the responsibility under federal law of employers or agents who may have vicarious liability for the action under consideration; and
- significantly broaden the scope of the available exceptions (defences) to include a wider range of activities and remove the requirement that actions falling within the range of available exceptions be exercised cautiously and in the least discriminatory manner possible.

Taken as a whole these changes will considerably lessen the federal protections available against racism. Indeed, it is difficult to imagine a scenario of racist speech that would fall foul of the proposed provisions. Even overt expression of racial hatred at a public rally is likely to be permissible given the limit on the scope of the protection and the breadth of the proposed defences.

By narrowing the application of the RDA, federal protection will no longer be available against racist speech and behaviour and the Act will be considerably diminished in its capacity to give effect to Australia's obligations under international law, including commitments contained within the *International Convention on the Elimination of all Forms of Racial Discrimination*. The changes are not consistent with the limitations placed on the right to freedom of thought, conscience and religion in the *International Covenant on Civil and Political Rights*. The *International Covenant on Civil and Political Rights* provides that the exercise of these rights are limited where it is necessary to do so in order to protect the fundamental rights and freedoms of others and expressly prohibits any advocacy of national, racial or religious hatred, including acts that incite discrimination, hostility or violence.

In Tasmania, section 17(1) of the *Anti-Discrimination Act 1998* (Tas) makes it unlawful for a person (or organisation) to engage in conduct that offends, humiliates, intimidates, insults or ridicules another person on the basis of race. Section 19 of the Tasmanian Act makes it unlawful for a person (or organisation), by public act, to incite hatred toward, serious contempt for, or severe ridicule of, a person or group of persons on the grounds of a range of attributes, including race.

In assessing complaints under the Tasmanian Act, it is necessary to consider all of the circumstances in which the behaviour took place and, with regard section 17(1), to determine whether a reasonable person would have anticipated that a person would feel offended, humiliated, intimidated, insulted or ridiculed in the circumstances. The Tasmanian Act also provides a number of exceptions for behaviour that is, for example, a fair report of a public act or done in good faith for academic purposes.

The protections currently available in the RDA are somewhat similar to those in the Tasmanian Act and have been consistently interpreted by the courts to capture behaviour that has a profound or serious effect on the person toward whom it is directed.

Racist behaviour is abhorrent in our diverse community and requires a comprehensive response at all levels. The RDA as currently drafted provides an appropriate level of protection nationally, particularly in circumstances where the behaviour is not dealt with by state or territory laws.

I have spoken publicly on my opposition to the proposed changes and about the misinterpretation of the right to freedom of expression that underpins the approach proposed.

My views on the proposed changes to the RDA were also outlined in detail in my submission on the exposure draft Freedom of Speech (repeal of s18C) Bill circulated by the Federal Attorney-General in March of this year. A copy of that submission, together with that made by the Australian Council of Human Rights Agencies is attached for your information.

Yours sincerely



Robin Banks

ANTI-DISCRIMINATION COMMISSIONER

21 July 2014

Encl: Submission of the Anti-Discrimination Commissioner of Tasmania on the exposure draft Freedom of Speech (repeal of s18C) Bill 2014
Submission of the Australian Council of Human Rights Authorities on the exposure draft Freedom of Speech (repeal of s18C) Bill 2014