

**Submission
No. 59**

DRIVER EDUCATION, TRAINING AND ROAD SAFETY

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THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: IIC/PWak:1263277

27 February 2017

Mr Greg Aplin MP
Chair
Staysafe Joint Standing Committee on Road Safety
Parliament of NSW
Macquarie Street
SYDNEY NSW 2000

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

Dear Chair,

Inquiry into Driver Education, Training and Road Safety

Thank you for the opportunity to provide comments to the inquiry into Driver Education, Training and Road Safety ("inquiry").

The Law Society of NSW submission is limited to considering the particular needs of Aboriginal and Torres Strait Islander people in regional, rural and remote NSW in the context of developing targeted driver education initiatives. We note the impact that a lack of driver education programs and transport services can have on their contact with the criminal justice system.

The Law Society supports an approach to driver licence education that addresses the particular barriers faced by Aboriginal and Torres Strait Islander people in accessing and maintaining safe driving practices. Driver licence education is an important component of meeting the holistic needs of Aboriginal and Torres Strait Islander people in NSW, and particularly those in regional and remote NSW.

In this regard, the Law Society also refers this inquiry to the recent NSW Legislative Assembly Committee on Community Services inquiry to access to transport for seniors and disadvantaged people in rural and regional NSW. Specifically, recommendation 10 of the report is relevant to the present inquiry, which recommended that Transport for NSW, subject to evaluation, expand the Driving Change Program to provide more opportunities for Aboriginal and Torres Strait Islander people in rural and regional communities.¹ The Driving Change program is partly funded by Transport for NSW and was developed and run in partnership with Indigenous community organisations around NSW.² The report notes that it finished in September 2016 and is now being evaluated.

¹ NSW Legislative Assembly Committee on Community Services, *Report 1/56: Inquiry into access to transport for seniors and disadvantages people in rural and regional NSW*, December 2016, 25.

² *Ibid*, 26.

The Law Society supports the expansion of the Driving Change Program, as well as the continuation of the NSW Government's Driver Licensing Access Program, to reduce barriers that prevent Indigenous people from obtaining their licences. In particular, we submit that any initiatives should be specifically targeted to regions with high Indigenous populations and should take into account the particular needs of rural and remote areas.

We also note the success of the Birrang Aboriginal Corporation learner driver program that operates in many Aboriginal and Torres Strait Islander communities in regional and remote NSW. Birrang has partnered with Driving Change to enhance access to driving programs, and we note the partnership in Bourke as part of the Justice Reinvestment/Maranguka initiative in Bourke.

Another innovative approach to education in Aboriginal and Torres Strait Islander communities can be seen through the Literacy for Life program being rolled out in remote Indigenous communities in NSW.³ Based on the premise that between 40% and 60% of Indigenous adults are functionally illiterate in English,⁴ and that there is a causal link between poor literacy and poor social outcomes, the Literacy for Life program targets older Aboriginal and Torres Strait Islander people who may struggle with literacy, with a focus on helping to build a community culture that values and supports learning. The Law Society considers that there could be an opportunity for any learner driver program that involves working with adults in Aboriginal and Torres Strait Islander communities to partner with the Literacy for Life Foundation on driver education programs, which would incentivise buy-in and positive outcomes in communities.

The need to create employment opportunities for people living in regional and remote NSW is well-documented. Research published in the Australian and New Zealand Journal of Public Health found a very strong link between licensing, education and employment.⁵ In this regard, it is critical that any driver education program is designed to include participation of people with low literacy. This will ensure that the benefits of any driver program can yield results that lead to employment and enhanced social inclusion.

Regarding the need for appropriate and targeted education, the Law Society also submits that any change to Road Rules should be communicated effectively and appropriately to all road users and should take particular account of communication to Indigenous communities.

We provide the following additional information, regarding the difficulties experienced by Aboriginal and Torres Strait Islander people, particularly in rural and remote areas, in obtaining a drivers licence, and the impact that this has on their contact with the criminal justice system.

³ See: <http://www.lff.org.au/>.

⁴ Literacy for Life Foundation, *information accessed through LFLF community surveys, combined with analysis of national literacy survey data*, <http://www.lff.org.au/about-csgz>, accessed 20 February 2017.

⁵ Ivers et al. 'Driver licensing: descriptive epidemiology of a social determinant of Aboriginal and Torres Strait Islander health', *Australian and New Zealand Journal of Public Health* (Online), 2016.

Difficulties in obtaining a drivers licence and the link to higher rates of Indigenous incarceration

The Law Society considers that the licensing system in NSW effectively excludes some marginalised and disadvantaged people in regional, rural and remote NSW, for a number of reasons, including an inability to complete the test due to literacy issues; lack of access to birth certificates to support a license application; or insufficient funds to afford or maintain a car. In particular, the Law Society understands that there are many Aboriginal and Torres Strait Islander communities in NSW where people face significant barriers to obtaining and maintaining driver licences, which results in people driving unlicensed.

This finding was also noted by the NSW Legislative Assembly Committee on Law and Safety Report on driver licence disqualification reform, which found that inquiry participants explained that some sectors of the community, particularly Aboriginal and Torres Strait Islander people, can find it difficult to obtain a licence, which can lead to unauthorised driving becoming more prevalent in those communities.⁶ The inquiry found that obstacles that those communities face include limited access to cars and licensed drivers to supervise learners and difficulties in obtaining identity documents such as birth certificates.⁷

The Law Society also notes that existing licence sanctions for unauthorised driving do not take into account the particular circumstances of these communities. Rather, they exacerbate the ongoing disadvantage and do not provide sufficient opportunities for people to obtain their licence.

The NSW Law Reform Commission report on the penalty notice system stated that driver licence sanctions

“can cause severe problems...for people who live in areas not well served by public transport and who require a driver licence to work or to access essential services.”⁸

Disqualification periods can have a significant impact on an individual's everyday life and may be disproportionate to the offence. The Law Society notes the importance of having a driver licence, particularly in regional, rural and remote areas which may have little, or no, access to public transport.

Existing licence sanctions for unauthorised driving have had a significantly disproportionate effect on disadvantaged and vulnerable young people, particularly within the Indigenous community. Some of the highest rates of licence suspensions due to fines include areas with high Aboriginal and Torres Strait Islander populations such as Bourke, Brewarrina and Walgett.⁹ We also note the link between driver licence offences and the comparatively higher incarceration rates for these offences in remote communities.

⁶ NSW Legislative Assembly Committee on Law and Safety, *Report 3/55: Driver licence disqualification reform*, November 2013, viii, accessed at: <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/5254/Driver%20licence%20disqualification%20reform%20report.pdf>.

⁷ Ibid.

⁸ NSW Law Reform Commission, *Report 132: Penalty notices* (February 2012), accessed at: <http://www.lawreform.justice.nsw.gov.au/Documents/r132.pdf>, para 34, XI.

⁹ NSW Legislative Assembly Committee on Law and Safety, *Report 3/55: Driver licence disqualification reform*, 17.

The NSW Legislative Assembly Parliamentary Inquiry into driver licence disqualification reform contains recommendations relevant to the present inquiry.¹⁰ The report provides a clear summary of the legislation and current arrangements in NSW for dealing with unauthorised driving offences and provides recommendations for reform to the current legislative regime.

Thank you for your consideration of this submission. Questions may be directed to Anastasia Krivenkova, Principal Policy Lawyer, on [REDACTED] or [REDACTED]

Yours sincerely,

[REDACTED]
Pauline Wright /
President

¹⁰ NSW Legislative Assembly Committee on Law and Safety, *Report 3/55: Driver licence disqualification reform*, November 2013.