

Policy on *Eligibility for Aboriginal and Torres Strait Islander specific programs and services*

DELIVERED BY THE TASMANIAN GOVERNMENT

PURPOSE

The Tasmanian Government provides a range of programs and services for the social, cultural and economic advancement of Aboriginal and Torres Strait Islander people. The Tasmanian Government requires applicants for these programs and services to provide evidence of their eligibility. The onus of proof is on the applicant to establish their eligibility.

This policy has been developed to assist applicants and to provide consistency in the verification of a person's eligibility to access Aboriginal or Torres Strait Islander specific programs and services delivered by the Tasmanian Government.

The policy is consistent with the application of the term 'Aboriginal person' as defined in the *Australian Aboriginal and Torres Strait Islander Commission Act 1989* and the *Tasmanian Aboriginal Lands Act 1995*.

APPLICATION

This policy applies to all Aboriginal and Torres Strait Islander specific programs and services provided by the Tasmanian Government. It also applies to eligibility for membership/representation on Tasmanian Government committees/boards/groups etc. where the person is required to be an Aboriginal person or Torres Strait Islander.

I. ELIGIBILITY CRITERIA

Eligibility for Tasmanian Government programs and services is based on the three-tiered criteria used by the Australian and Tasmanian Governments and as defined by Federal and Supreme Court decisions. The criteria for eligibility requires that an Aboriginal person or Torres Strait Islander:

- is of Aboriginal or Torres Strait Islander descent
- identifies as an Aboriginal or Torres Strait Islander
- is accepted as such by the community in which he or she lives or has lived.

2. ESTABLISHING A CLAIM OF ELIGIBILITY

Descent

A person must be able to demonstrate that s/he is of Aboriginal or Torres Strait Islander descent. A person should provide documentary evidence that shows a direct line of descent linked back through an identifiable family name to traditional Aboriginal or Torres Strait Islander society.

Documentary evidence will usually take the form of a verifiable family tree, archival or verifiable historical documentation which links a person to a traditional Aboriginal or Torres Strait Islander family or person.

In circumstances where documentary evidence is not available, other relevant evidence (refer below) can be considered, however, this will need some form of verification and where possible will be checked against available archival information.

The Archives Office of Tasmania may be consulted in relation to verifying any evidence or documentation that has been provided. Where there is verifiable documentary evidence available, such evidence will have a greater weight than other relevant evidence that may be provided (refer below).

Other relevant evidence

An applicant can provide other evidence that they consider relevant. Examples of this can be personal statements (oral or written) and statements from other people. However, it should be noted that this type of evidence might not provide conclusive evidence of ancestry and will have a lesser weight than documentary evidence.

Self Identification

In addition to demonstrating descent, a person must be able to demonstrate self-identification as an Aboriginal person or Torres Strait Islander.

Communal Recognition

In addition to demonstrating descent and self-identification, a person must be able to demonstrate communal recognition or acceptance by members of the Aboriginal community in which he or she lives or has lived. In practical terms a person will generally be required to:

- obtain three signatures from recognised members of the Aboriginal community in which he or she lives or has lived
- demonstrate that these three community members are able to acknowledge that person's or family's identification as Aboriginal or Torres Strait Islander
- demonstrate that the signatories are not from the immediate family group of the person seeking confirmation and are from family groups who are accepted members of the Aboriginal community in which he or she lives or has lived

and/or:

- provide a fully completed Confirmation of Aboriginality or Torres Strait Islander Descent form.

The weighting given to a Confirmation of Aboriginality or Torres Strait Islander Descent form will vary depending on the organisation's eligibility threshold.

The Registrar of Aboriginal Corporations does not require evidence of Aboriginality from members of a corporation established under the *Aboriginal Councils and Associations Act 1976*. Given this, it would not usually be sufficient for confirmation of communal recognition to come from an Aboriginal organisation alone, without separate support from members of the Aboriginal community in which he or she lives or has lived. However, evidence of communal recognition may be considered from one or more Aboriginal organisations alone, if the basis of the evidence can be properly demonstrated.

Where a person claims Aboriginal or Torres Strait Islander descent from outside Tasmania, proof of that descent and communal recognition must be demonstrated.

3. ELIGIBILITY ASSESSMENT PROCESS

Checking eligibility

Agencies will be required to seek a determination from the Office of Aboriginal Affairs (OAA) on the eligibility of applicants seeking Aboriginal and/or Torres Strait Islander specific programs or services. The OAA will consider any existing available evidence of eligibility for applicants. If the applicant is unknown or there is insufficient or conflicting information to support a decision on the eligibility of an applicant, the agency will be advised and the OAA will request the applicant to provide evidence of their eligibility.

Request for information from applicants

The OAA will write to the applicant requesting evidence to support their claim. The applicant will also be provided with a copy of this Policy. The applicant will be given 21 days to provide the information to the OAA. An extension to this timeframe may be granted if the applicant is having difficulty in obtaining additional information and has applied for an extension in writing.

Consideration of the evidence provided

The OAA will consider all of the evidence presented and any other information, such as archival information, that is available when making its decision. A decision will be made on the balance of probabilities.

The OAA will advise the relevant Agency and the applicant as to whether or not the applicant meets the eligibility criteria.

4. CONTACTS

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