



Western Australia

**Indigenous Business and Economic Participation Bill  
2017**

## **Explanatory Memorandum**

The Prime Minister's 2017 Closing the Gap Report accounted for the socio-economic disparity evident between Indigenous and non-Indigenous Australians as one that is perpetuated from childhood disadvantage. The report delineates Indigenous issues within the areas of culture, infancy and early childhood, education, employment, economic development, health, and communal safety. The alarmingly low indigenous employment rate, at a meagre 48.4 percent in 2014-15, and the lacking post-school qualifications of Indigenous peoples, only 31 percent of the indigenous male population holding a rudimentary vocational certificate, is also accentuated. Likewise, the Prison to Work Report (2016) highlighted the fact that, while Indigenous peoples represent the 3 per cent of national population, they comprise 27 percent of the adult prison population and an overwhelming 78 percent of the juvenile prison population in Western Australia. While the preceding report stipulates prospective employment schemes that would keep Indigenous peoples as participants within workforce by minimizing reoffending and implementing transitional vocational programs, the indigenous post-prison employment rate remains stagnant and the overall employment rate has deteriorated in the past decade.

An analysis of the amalgamation of Indigenous disadvantage reveals a need to reform the household structure or, more expediently, provide an entry through a door towards equity and away from disadvantage. The need to reform the Indigenous household structure is met by the need to foster stronger communities, grant harmonious self-determination, and provide for full economic participation. Accordingly, the following Bill works to confront Indigenous disparity by addressing the socio-cultural, economic and communal needs of the nation's indigenous peoples.

Given the increasing focus on small business as the driver of the Western Australian and national economy subsequent to the resources boom and the recent budgetary provisions that have allocated revenue to incentivizing small business start-ups, the Indigenous Business and Economic Participation Scheme provides bonus packages to Indigenous businesspeople and offers an array of benefits to participants who are employed under the scheme. Thus, this Bill works as an extension of present public initiatives and current Indigenous Procurement Policy through the Indigenous Business and Economic Participation Scheme.

The aim of this Bill, therefore, is to encourage Indigenous economic participation by means of providing Indigenous peoples who have not entered, or are currently removed from, the workforce with the qualifications, expertise, and support network to thrive within Australian society. Importantly, this bill recognises the importance of youth empowerment through its incorporation of an employment scheme that mandates vocational training for Indigenous youth. Furthermore, in establishing the Indigenous Business and Economic Participation Agency (IBEPA), this Bill works to warrant accountability, mandate review, and facilitate the longevity of the scheme.



Western Australia

# Indigenous Business and Economic Participation Bill 2017

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## CONTENTS

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### **Part 1 — Preliminary**

1.	Short title	1
2.	Commencement	1
3.	Interpretation	1

### **Part 2 — Indigenous Business and Economic Participation Scheme**

#### **Division 1 — Participation Eligibility**

4.	Urban Requisites	4
5.	Rural Requisites	4
6.	Youth Requisites	5

#### **Division 2 — Small Business Grants Package**

7.	Schedule of Grants	5
8.	Application Process	6
9.	Funding Limits	6
10.	Eligibility for further funding	7
11.	Change to Schedule of Grants	7

#### **Division 3 — Benefits of Participation**

12.	Vocational Course	8
13.	Financial Advisory	8
14.	Housing	9

15.	Other Benefits	10
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### **Part 3 — Reallocation of Indigenous Budgetary Expenditure**

#### **Division 1 — Scheme Financing**

16.	Establishment of Indigenous Business and Economic Participation Agency Account	11
17.	Composition of the Account	11
18.	Control of the Account	11
19.	Use of Indigenous Business and Economic Participation Agency Account	12

### **Part 4 — Indigenous Business and Economic Participation Agency**

#### **Division 1 — Establishment of the Agency**

20.	Roles of Agency Members of IBEPA	13
21.	Member Working Groups within IBEPA	13
22.	IBEPA Members	14
23.	Role of Overseeing Members	14
24.	Process of Meetings	15

#### **Division 2 — Selection Criteria and Method**

25.	Selection of Overseeing Member	15
26.	Supplementary Note for Selection of Overseeing Member	
27.	Selection of Members Representing the DPC, DCD, and Treasury	15
28.	Selection of General Council Members	16
29.	Restriction of IBEPA Composition	17
30.	Chairperson of Council	17
31.	Resignation; when council position becomes vacant	17

#### **Division 3 — Non-Agency Employees**

32.	Purpose	17
33.	Qualifications	18
34.	Training	18

#### **Division 4 — Review**

35.	Scheme Review	19
36.	Agency Review	19



Western Australia

**A Bill for —**

**An Act that encourages Indigenous economic participation by means of providing Indigenous peoples who have not entered, or are currently removed from, the workforce with qualifications and expertise through the *Indigenous Business and Economic Participation Scheme*.**

The YMCA Youth Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This Bill may be cited as the *Indigenous Business and Economic Participation Bill 2017*.

### **2. Commencement**

This Bill commences on the day on which this Act receives Royal Assent.

### 3. Interpretation

In this Bill, unless the contrary intention appears —

“**ABN**” means Australian Business Number.

“**Administrative conduct**” means the propriety of non-council employees of the IBEPA.

“**Competency assessment**” means a biannual assessment issued to non-council employees of the IBEPA on fundamental requisites and structures of the IBEPA.

“**DCD**” means the Department for Community Service.

“**DPC**” means Department of the Premier and Cabinet.

“**External player**” means a professional advisory to participants within the Indigenous Business and Economic Participation Scheme who are not non-council employees of IBEPA

“**Financial advisory**” a professional advisory to participants within the *Indigenous Business and Economic Participation Scheme* with relation to matters or information pertaining to commerce fields, such as economics, accounting, finance, and mathematics.

“**Financial literacy**” fundamental knowledge in the commerce fields of economics, accounting, finance, and mathematics as deemed necessary for an adult to manage a business, as stipulated by the IBEPA.

“**General consultant**” means a non-council employee who offers advice and clarifies queries that *participants* employed within the *Indigenous Business and Economic Participation Scheme* may have.

“**IBEPA**” means the Indigenous Business and Economic Participation Agency as established in Part 2, Division I of this Bill.

“**ISBE**” means Indigenous Small Business Enterprise.

“**Institutional management**” means management of the IBEPA as an institution.

“**Metropolitan area**” means boundaries as stipulated by current electoral legislation within the State of Western Australia.

**“Public departmental support”** means support services from a governmental agency, department, or organization other than IBEPA that is provided to participants within the Indigenous Business and Economic Participation Scheme.

**“Policy assessment”** means a biannual assessment issued to non-council employees of the IBEPA on employee codes of conduct within the IBEPA.

**“Qualified Medical Practitioner”** means any registered practitioner with the Australian Health Practitioner Regulation Agency.

**“Rural Area”** means boundaries as stipulated by current electoral legislation within the State of Western Australia.

**“To be released”** means persons who have six months of their prison term remaining.

**“the Minister”** means the Minister responsible for Aboriginal Affairs in Western Australia.

**“Unsupportive household”** means a household that would normally require a child to be transferred into foster care, as detailed by current policy of the Department of Protective Services.

**“Youth”** means in the context of the IBEPA scheme, a “youth” is a person aged between 15 to 17 years.

## **Part 2 — Indigenous Business and Economic Participation Scheme**

### **Division 1 — Participation Eligibility**

Participants within the *Indigenous Business and Economic Participation Scheme* must meet the following requisites, in accordance with their classified demographic:

#### **4. Urban Requisites**

- (1) Reside in metropolitan areas of Western Australia;
- (2) Are currently not pursuing further non-school qualification; such pursuits include:
  - (a) a tertiary qualification
  - (b) a polytechnic qualification
  - (c) an apprenticeship.
- (3) Have been out of the workforce for a period of more than 2 years.
- (4) Are presently removed from the labour force.
- (5) Are to be released from incarceration or have been recently released.
- (6) Have participated in an alternative post-incarceration vocational program, and have been unable to secure employment.
- (7) Have an independent individual annual salary of below \$20 000.
- (8) Are within a household of at least three people, in which aggregate earnings are below \$42 000;

#### **5. Rural Requisites**

- (1) Have resided in rural jurisdiction for a period of at least 6 months.
- (2) Conform to requisites stipulated under clause 4, subsections (2-8).



**6. Youth Requisites**

- (1) Have not achieved grade 12 retention and are currently not seeking further education in the form of:
  - (a) a polytechnic qualification; and
  - (b) an apprenticeship.
- (2) Are not part of the labour force.
- (3) Have been unemployed for a period of more than 6 months.
- (4) Are to be realised from juvenile incarceration or recently released.
- (5) Are presently within an unsupportive household that has prevented:
  - (a) grade 12 retention;
  - (b) the pursuit of a polytechnic qualification;
  - (c) the pursuit of an apprenticeship; and
  - (d) the pursuit of another form of higher education commissioned by the IBEPA.

**Division 2 — Small Business Grants Package**

**7. Schedule of Grants**

Participants within the *Indigenous Business and Economic Participation Scheme* are eligible for the following grants:

- (1) Small Business Start-up Grant:
  - (a) applicable to new business ventures, that have been operating for a maximum 12 months.
- (2) Business Expansion Grant:
  - (a) applicable to established businesses that have been operating for more than 12 months.
- (3) New Market Expansion Grant:
  - (a) applicable to established businesses that have been operating for more 12 months.

- (3) Regional events scheme grant:
  - (a) applicable to business ventures that operate outside the Perth Metropolitan Area; and
  - (b) applicable to business ventures that operate outside the Perth Metropolitan Area.

## **8. Application Process**

- (1) The Agency is the sole provider of a formal process for grant applications that will include the following at their discretion:
  - (a) date periods for applications to be submitted;
  - (b) rules pertaining to the limits on how many applications can be submitted;
  - (c) the medium and method by which an application can be submitted; and
  - (d) any other relevant details pertaining to the grant applications process.
- (2) Participants must have a registered ABN for the application process of the grant.
- (3) The Agency has the sole discretion to reject any application. The Agency will not provide an appeal process to any rejected application.
- (4) Rejection of an application will not disallow any participant from submitting a new application.

## **9. Funding Limits**

- (1) The grants mentioned in clause 7 are at the discretion of the Agency. Funding limits will be determined by the Agency in line with the available funding at their disposal.
- (2) The grants mentioned in clause 7 are at the discretion of the Agency. Funding limits will be determined by the Agency in line with the available funding at their disposal.

- (3) The Agency will re-evaluate funding available to the Schedule of Grants mentioned in clause 7 every financial year.
- (4) Successful Application funding will be given to the participant in Australian Dollars (AUD).
- (5) Funding will be transacted to successful participants via any method deemed appropriate by the Agency.
- (6) Only the Minister may veto funding awarded to a participant, if the Minister does not believe the funding is in line with the aims of the Agency.

#### **10. Eligibility for Further Funding**

- (1) These grants are stand-alone in their receipt. They do not disqualify participants from accessing and applying for any other Federal, State or Local Government grants that are applicable to the wider Small Business community.

#### **11. Change to Schedule of Grants**

- (1) All grants mentioned in clause 7 must be made available to participants throughout the financial year.
- (2) Each financial year the Agency can determine to close an existing grant and/or open new grants. Any such change to the Schedule of Grants must be created only via amending the Act.

**Division 3 — Benefits of Participation**

**12. Vocational Course**

- (1) Individuals with history of incarceration under the Indigenous Business and Economic Participation Scheme will be eligible for reimbursement for vocational training if the following criteria is satisfied:
  - (a) have been incarcerated in a correctional facility or detention centre located in Australia;
  - (b) have been unemployed for a period of at least 3 months since their release;
  - (c) have been rejected by businesses due to their criminal record; and
  - (d) been diagnosed by a qualified medical practitioner from either Post Incarceration Syndrome; Institutionalised Personality Traits; Post Traumatic Stress Disorder; Antisocial Personality Traits; Social Sensory Deprivation Syndrome and/or; Substance Use Disorders.
  
- (2) Individuals classified as youth, enrolled under the Indigenous Business and Economic Participation Scheme will be eligible for reimbursement and support if the following criteria is satisfied:
  - (a) currently attending a secondary educational institution or undertaking a full-time load in a vocational tertiary education course; or;
  - (a) currently an employee within a business established under the Indigenous Business and Economic Participation Scheme; or;
  - (b) have been unemployed for a period of at least 3 months.

**13. Financial Advisory**

- (1) All participants enrolled under the Indigenous Business and Economic Participation Scheme will be eligible for financial advisory and support to the extent determined by the IBEPA, within the following areas:
  - (a) financial literacy training;
  - (b) accounting and finance advisory;
  - (c) legal advisory; and
  - (d) public departmental support.

- (2) Financial advisory will be commissioned and initially administered by IBEPA, unless:
  - (a) the financial advisory needs of participants within the scheme cannot be met by the expertise of employees within IBEPA; and
  - (b) if employees of IBEPA approve external financial advisory.
  
- (3) Where financial advisory is not administered by IBEPA, a report on the nature of the financial advice between the external player and the person enrolled in the Indigenous Business and Economic Participation Scheme must be produced.

#### **14. Housing**

- (1) Individuals who have been employed under the scheme will be eligible for the assistance under subclause (2), if the following criteria is satisfied:
  - (a) they have been self-employed as a small business owner for a period of least 3 months; or;
  - (b) they have been an employee within an existing business that is approved by the IBEPA for a period of at least 3 months;
  - AND*
  - (c) they are earning a projected annual salary of below \$42 000; and
  - (d) they are under the age of 18 and are living within an unsupportive household.
  
- (2) Upon satisfaction of the criteria stipulated in subclause (1), participants employed under the *Indigenous Business and Economic Participation Scheme* are eligible for one or more of the following incentives:
  - (a) commissioned home loans of a sum equivalent to half an employee under the Indigenous Business and Economic Participation Scheme, as and issued by the IBEPA;
  - (b) Indigenous First-Home Owners Grants, to be reviewed and issued to the discretion of IBEPA.; and
  - (c) residential support, advisory and counselling to be administered by the IBEPA, or, otherwise, transferred to another public support service affiliated with the IBEPA as prescribed in Part 4.

**Indigenous Business and Economic Participation Bill 2017**

**Part 2** Indigenous Business and Economic Participation Scheme

**Division 3** Benefits of Participation

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- (3) Upon satisfaction of the criteria stipulated in subclause (1), youth participants employed under the *Indigenous Business and Economic Participation Scheme* are eligible for one or more of the following incentives:
- (a) foster home provision that is commissioned and administered by the IBEPA, for individuals living within unsupportive households.
  - (b) Indigenous First-Home Owners Grants, to be reviewed and issued to the discretion of IBEPA.; and
  - (c) accommodation, utility, and transport cost subsidization, upon the review and discretion of the IBEPA.

**15. Other Benefits**

Other benefits will be stipulated by the IBEPA Council upon review.

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## **Part 3 — Reallocation of Indigenous Budgetary Expenditure**

### **Division 1 — Financing**

#### **16. Establishment of Indigenous Business and Economic Participation Agency Account**

An agency special purpose account called the Indigenous Business and Economic Participation Agency Account is established under section 16 of the Financial Management Act 2006.

#### **17. Composition of the Account**

- (1) The Indigenous Business and Economic Participation Agency Account shall consist of:
  - (a) moneys directed by the Treasurer for the operational purpose of the Agency in line with government indigenous expenditure;
  - (b) moneys from time to time appropriated by Parliament for the purpose, or advanced by the Treasurer in any case where the moneys otherwise standing to the credit of the Account would be insufficient for the purposes of this Act;
  - (c) moneys that are received in the account which have not been sourced in the ways mentioned in subclause 1, (a) and (b). These moneys must be reported to the Treasurer; and
  - (d) the amount of any advance made to the account by the Treasurer, to the extent to which such advance is for the time being not repaid, is a charge on the Account.

#### **18. Control of the Account**

- (1) The Minister is in control of the account. Subject to the approval of the Minister, the Treasurer may be authorised to manage the account.
- (2) The Agency does not have direct control of the account. Payments recommended by the Agency are to be authorised by the Minister, with the following exceptions to this rule:
  - (a) the Minister find the agency recommendation to not be in line with the aims of the Agency;

- (b) the Minister find the Agency to have recommended funds erroneously; and
- (c) the Minister finds the recommended payment contravenes provisions outlined in this Act.

**19. Use of Indigenous Business and Economic Participation Agency Account**

- (1) The moneys standing to the credit of the Indigenous Business and Economic Participation Agency Account shall be used for the purpose of providing grants in line with the aim of this Act.
- (2) Moneys are to also be used for the operational matters relating to the Agency, including:
  - (a) employee wages and entitlements;
  - (b) agency housing/rental expense;
  - (c) agency housing fitting and fixtures;
  - (d) agency expenditure incurred in the delivery of grants;
  - (e) agency materials and supplies; and
  - (f) any other expense approved by the Minister for the purpose of the Agency's operation.
- (3) The Minister is responsible for determining the moneys available for the delivery of all grants in this Act. The Agency can only recommend grants in line with the amount determined by the Minister.
- (4) Any charge on the Account must be repaid at the beginning of the financial year in which operational moneys are deposited into the account.
- (5) If in any case the Agency ceases to exist, the Treasurer is responsible for the reallocation of funds from the Indigenous Business and Economic Participation Agency Account.



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## **Part 4 — Indigenous Business and Economic Participation Agency**

### **Division 1 — Establishing the Indigenous Business and Economic Agency**

#### **20. Roles of the IBEPA**

The roles of the IBEPA include, but are not limited to –

- (a) engaging with Australian Federal Government and State and Local governments to influence and support the development of Indigenous Small Business Enterprises (ISBEs) under the Indigenous Business and Economic Participation Scheme;
- (b) engaging in representative bodies, community organisations, peak bodies in industry and business, and stakeholders within Western Australia in order to establish collaborations and partnerships with indigenous business and employees within the Indigenous Business and Economic Participation Scheme;
- (c) commissioning and administering financial advisory under the Indigenous Business and Economic Participation Scheme;
- (d) commissioning and administering legal advisory under the Indigenous Business and Economic Participation Scheme.
- (e) providing policy advice to the Western Australian Government on priority policy areas in Aboriginal Affairs, informing policy design, implementation, and practice that will aid the success of initiatives established under the Commissioning and administering financial advisory under the Indigenous Business and Economic Participation Scheme; and
- (f) providing a "Performance Improvement Plan (PIP)" where additional effort is required to address the economic participation priorities of indigenous peoples by government.

#### **21. Member Working Groups within IBEPA**

The Agency will be comprised of member working groups that will deliver policy advice and recommendations to be considered by the full Agency.

- (a) each working group will be chaired by a youth agency member;
- (b) a Chairperson for each working group will be nominated by youth agency members. If contested a majority vote will decide position;
- (c) each working group will be comprised of no less than three (3) and no more than five (5) youth agency members;

- (d) a working group chair and youth agency members will work closely with nominated representatives from state government agencies who have legislated responsibilities for key areas of development; and
- (e) the Working Group Chair and agency members will engage and consult with policy experts, Aboriginal & Torres Strait Islanders peoples, business, academics, communities and non-government organisations is to ensure the advice provided is current and informed by best practice in the relative field of development

**22. IBEPA Members**

The Agency is composed of:

- (a) no more than two (2) overseeing members;
- (b) no less than three (3) members that represent the DPC, the DCD, and the Treasury; and
- (c) fourteen (14) general agency members from seven (7) different prescribed regions pursuant to clause 28.

**23. Role of the Overseeing Member**

The role of the overseeing member/s includes but is not limited to:

- (1) Representing the concerns and policies of the Western Australian State government;
- (2) Running general meetings;
- (3) Ensuring that the decisions made by the ISBAC adhere to the standards of federal and state law;
- (4) Setting up the framework of the *Indigenous Business and Economic Participation Scheme*;
- (5) Dealing with ongoing administrative duties outside of meetings to handle queries, questions, and concerns about the *Indigenous Business and Economic Participation Scheme* and implementation;
- (6) Representing the IBEPA:
  - (a) empowered to draw upon the expertise of key agencies and organisations funded by state government to provide evidence and explanation about performance of service providers;
  - (b) facilitate communication and representation by IBEPA members between key senior personnel of service providers and other government agencies.

**24. Process of IBEPA Meetings**

- (1) A minimum of two (2) meetings will be held annually that coincide with the start and mid-cycle financial year; and
  - (a) meetings must be held in an official DPC building.
- (2) Meetings will be primarily concerned with but not limited to:
  - (a) reviewing the performance of agencies and organisations against 3 key areas of youth development on a state and regional basis;
  - (b) identifying youth-led solutions to major issues or concerns; and
  - (c) formation of Performance Improvement Plans (PIP) as required.
- (3) It is required that the minutes of the meetings are available to the public no later than one (1) month after the meeting is adjourned, and
  - (a) this time period may be lengthened to no more than six (6) months at the discretion of the overseeing member; and
  - (b) it is required the Performance Improvement Plans (PIP's) are made available to the public no longer than two (2) months after the meeting is adjourned.

**Division 2 — Selection Criteria and Method**

**25. Selection of Overseeing Member**

The overseeing member is required to:

- (a) possess a Bachelor's degree; and
- (b) be a public servant of the Western Australian Government.

**26. Supplementary Note for Selection of Overseeing Member**

In the circumstance where the above requirements cannot be met, the Treasurer of Western Australia is responsible for providing suitable members to fill this position.

**27. Selection of Members Representing the DPC, DCD, and Treasury**

Three (3) public servants will be appointed to support the ISBAC drawn from designated primary departments including:

- (a) one (1) public servant from the WA Department of Premier & Cabinet;
- (b) one (1) public servant from the Department of Community

- Development; and  
(c) one (1) public servant from the WA Treasury Department

**28. Selection of General Council Members**

- (1) Membership for Council is open to young people older than 25 years of age.
- (2) All general agency members must identify as of Aboriginal and/or as of Torres Strait Islander descent.
- (3) Members for the term of office of the Council are opened to the public and are evaluated and nominated by the Department of Premier & Cabinet (DPC).
- (4) The seven (7) prescribed regions are:
  - (a) Perth Metropolitan;
  - (b) Great Southern;
  - (c) Gold Fields;
  - (d) Gascoyne;
  - (e) Pilbara;
  - (f) West Kimberly; and
  - (g) East Kimberly.
- (5) Members are to conform to the following criteria in regards to the region they represent:
  - (a) have lived in the region for at least 180 months; and
  - (b) have a demonstrable record of voluntary community work for at least 12 months or have been employed in the community youth sector or related field for more than 120 months.
- (6) Members are required to be proficient in Standard Australian English.
- (7) Candidates are required to submit an application form and provide one form of primary identification document and one form of a secondary identification document; and
  - (a) candidates that are eighteen years and older must hold a valid Working With Children Check.

**29. Restriction of IBEPA Composition**

Each region must have exactly two (2) IBEPA members as regional representatives.

**30. Chairperson of Council**

- (1) Every 24 months each Council member will nominate another Council member as Chairperson of the IBEPA.
- (2) The position of Chairperson will be given to the nominee with the most votes, and –
  - (a) in the event of a tie, another vote will be conducted with only the two highest nominated individuals available to be voted for;
  - (b) in the event of another tie after subclause 2(a) has been performed, another vote of the same two candidates will be conducted; and
  - (c) in the event of another tie after subclause 2(b) has been performed, the Chairperson will be selected on the advice of the Minister.

**31. Resignation and Position Vacancy**

- (1) Any council member may at any time resign from office by notice in writing delivered to the Minister.
- (2) If, before a council member's term of office expires, they die, resign, or are removed from office, the seat becomes vacant.
- (3) A vacancy can only be formally re-appointed with a new member at either of the two annual meetings held by the council.
- (4) Vacancies that occur due to subclause (2) are appointed directly by the Minister.
- (5) Any council member can be removed from their position in the council by the Minister.

**Division 3 — Non-Council Employees**

**32. Purpose**

Non-Council employees of the IBEPA will be employed for purposes including, but not limited to:

- (1) Undertaking administrative tasks, including:

- (a) processing *Indigenous Business and Economic Participation Scheme* applications;
- (b) commissioning benefits claimed by participants employed under the *Indigenous Business and Economic Participation Scheme*, once council review has been undertaken;
- (c) allocating participants within the *Indigenous Business and Economic Participation Scheme* to appropriate vocational programs; and
- (d) serving as general consultants to participants within the *Indigenous Business and Economic Participation Scheme*.

(2) Performing advisory roles in the forms of:

- (a) financial advice; and
- (b) legal advice.

### **33. Qualifications**

All non-council employees must conform to the following standards of professional qualification:

- (1) Hold at least a bachelor's degree if employed for administrative purposes
- (2) Hold professional tertiary qualification that would normally be required for individuals employed as a:
  - (a) financial advisor; and
  - (b) legal advisor.

### **34. Training**

- (1) All non-council members must undergo competency and policy assessments prior to their employment at the IBEPA, in order to ensure that services are delivered optimally and the aims of the IBEPA are achieved.
- (2) All non-council members must undergo biannual competency and policy assessments once employed, in order to ensure that they are administering updated standards stipulated in PIPs

### Division 4 — Review

#### 35. Scheme Review

- (1) A progress review of the *Indigenous Business and Economic Participation Scheme* will be undertaken through the submission of a PIP every two years
- (2) PIPs will aim to provide the Premier and Ministers with evidence and reports on the progress of the *Indigenous Business and Economic Participation Scheme* and include, but not limited to:
  - (a) an analysis and consideration on where government and community action is successful; and
  - (b) working groups reports on key findings and recommendations or progress.

#### 36. Council Review

- (1) The performance of members of the IBEPA Council will be investigated every two years by:
  - (a) an independent investigatory review body with relation to institutional management within the IBEPA undertaken by the State Department of Indigenous Affairs;
  - (b) an independent investigatory review body with relation to the administrative conduct within the IBEPA undertaken by the State Department of Indigenous Affairs; and
  - (c) allocating participants within the *Indigenous Business and Economic Participation Scheme* to appropriate vocational Programs.
- (2) The tenure of the Council Chair will terminate after a period of 2 years.