



Northern Edition

LAND RIGHTS NEWS

NORTHERN
LAND COUNCIL

Our Land, Our Sea, Our Life

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Illustration © Nick Bland

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A WORD FROM THE CHAIR

This year's Barunga Festival was a momentous event.

Huge crowds attended to mark the 30th anniversary of the 1988 Festival, where Prime Minister Bob Hawke was presented with the Barunga Statement.

Now we have the Barunga Agreement, a Memorandum of Understanding between the Northern Territory Government and the four Northern Territory land councils, which was signed on 8 June, the first day of this year's Festival.

The MoU lays the foundation for consultations with Aboriginal people about how to advance a treaty (or, treaties). With the chairs of the three other land councils, I was proud to sign the MoU on behalf of the NLC. Chief Minister Michael Gunner, who's been a committed driver of the treaty project, signed on behalf of the NT Government.

Barunga was also the venue, in the week before the Festival, for a meeting of the four NT land councils. The NLC met alone for the first day and a half before we sat down with the other three land councils. We all four are working harmoniously together on a range of policy matters of important common interest, like reform of the Aboriginals Benefit Account.

The joint meeting was also an opportunity for the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples to attend and hear from our members. The committee came equipped with all the paraphernalia necessary to record the proceedings for Hansard and had many questions for our members about their views on the Uluru Statement from the Heart and the need for Constitutional reform.

ANNUAL REPORT AND RACISM

It's that time of year when the NLC's resources are focussed on the production of our Annual Report.

I'm pleased to record that we received a Silver Award for Distinguished Achievement in the Australasian Reporting Awards for our 2016/17 Annual Report.

The 2017/18 Annual Report won't be tabled in Parliament until later this year, but I want to report what I have written in this report about racism:

I've been deeply disappointed about the tone of public discourse over the past few months, especially on social media, about Aboriginal rights.

The ongoing hearing by the Aboriginal Land Commissioner of land claims over beds and banks, the official gazettal in March 2018 of the Kenbi Open Area Declaration over beaches and the intertidal zone of Aboriginal land in the Cox Peninsula vicinity, our stance on the NT Government's Pastoral Land Legislation Amendment Bill, and, even, the early moves towards negotiation of a treaty with the NT Government and Aboriginal peoples have all provoked offensive and racist reactions from elements of the public.

More than 40 years after the enactment of the *Aboriginal Land Rights (Northern Territory) Act 1976*, some people still can't accept the rights that flow from that very special Commonwealth legislation.

The climate of hostility against efforts by the NLC to advance the interests of its Aboriginal constituents reminds me of the bad old days in the Northern Territory



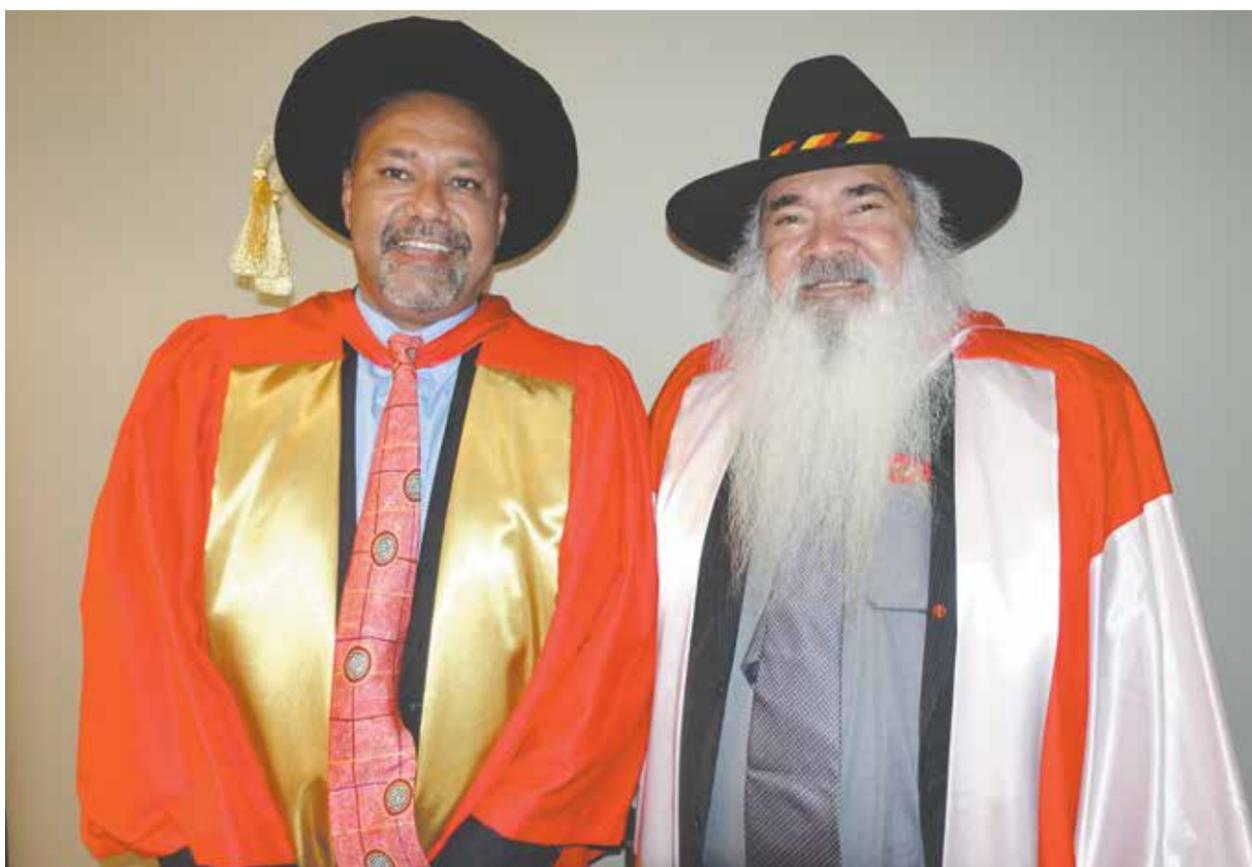
before (and many years after) the Land Rights Act was introduced.

I can only hope that decency is soon restored.

Samuel Bush-Blanasi

Chairman

Joe Morrison Awarded Honorary Doctorate



The University of New South Wales has conferred an honorary degree, Doctor of Science, on the NLC's CEO, Joe Morrison, at a ceremony on 22 June. The

official citation said the honorary degree was in recognition of his eminent service to the field of Indigenous leadership and environmental stewardship. Mr Morrison

already has a degree in land management from the University of Sydney.

Labor Senator Pat Dodson, who received an Honorary Doctorate of Letters from the same university in 2012, attended the ceremony.

Mr Morrison also delivered the Occasional Address at the UNSW's Faculty of Science graduation ceremony. He told the assembled graduates:

"I'm a believer that leadership isn't automated or bestowed but it can be grown and I believe that completing tertiary education is an important step towards being part of a large team of people that can make a difference, to ensure humanity builds resilience so that our children can enjoy a great world like we do, everyday.

"I have been blessed by having strong team members around me throughout my whole life and that is a large part of why I am standing in front of you today.

"An important piece of advice I have is to follow your dreams, whatever they may be, use your degree as a launch pad to go forth. My dream is of Australia as a nation that embraces Indigenous people fully and vice versa."

Government agency denies income to Native Title holders

An Australian Government-funded program testing for minerals and energy sources in the Northern Territory is benefitting mining and petroleum exploration companies and denying native title holders an income stream they could expect to receive if the mining companies were doing the work themselves.

Geoscience Australia promotes itself as the nation's trusted advisor on the geology and geography of Australia: "We apply science and technology to describe and understand the Earth for the benefit of Australia," its website says.

But benefits have not flowed to native title holders or traditional Aboriginal owners in the NLC region from Geoscience Australia's "Exploring for the Future" program (EFTF), described as "a \$100.5 million initiative by the Australian Government dedicated to boosting investment in resource exploration in Australia."

The four-year program focusses on northern Australia and parts of South Australia to gather new data and information about the potential mineral, energy and groundwater resources beneath the surface.

The NLC has written to Geoscience Australia, expressing concern that recent seismic surveys under the EFTF program over granted exploration titles has meant that private sector seismic work programs are heavily reduced in terms of scope and expense, "or made redundant in their entirety".

Exploration programs by mining and energy companies over native title land are negotiated with the NLC, and entitle native title parties to a percentage of the cost of the work by way of compensation payments.

Further, it is standard practice for private sector

proponents which are a party to native title agreements with the NLC to engage local Aboriginal people as "cultural monitors" to ensure that field activities avoid sacred sites. The cultural monitors are fairly paid for this work.

Geoscience Australia has not entered into any agreements with the NLC for work it has conducted so far in the NLC region, and the NLC estimates that native title holders have missed out on several hundred thousand dollars in compensation which would have been due if exploration companies had done the work; nor has Geoscience Australia engaged Aboriginal cultural monitors.

The NLC has told Geoscience Australia that it should act as a "model proponent" by ensuring that native title parties are not negatively affected and further disadvantaged by its programs: "In this regard, Geoscience Australia should continue to set the standard for industry to follow."

The NLC has proposed Geoscience Australia negotiate an agreement with respect to the EFTF program, with minimum conditions:

A provision for compensation (the NLC proposes a rate of 5% of expenditure on field activities).

Measures to ensure the protection of sacred sites and other culturally sensitive areas.

A requirement for consultation with native title parties and traditional Aboriginal owners, and for the NLC to be notified in advance of field activities.

The NLC wants the agreement to be backdated to provide compensation for work already done under the EFTF program.

The NLC has identified two exploration companies

which hold Exploration Permits and have been enriched because Geoscience Australia's seismic surveys have saved their having to do the work: Gina Rinehart's Hancock Prospecting Pty Ltd, and Armour Energy, an ASX listed company.

NORTHERN TERRITORY GOVERNMENT

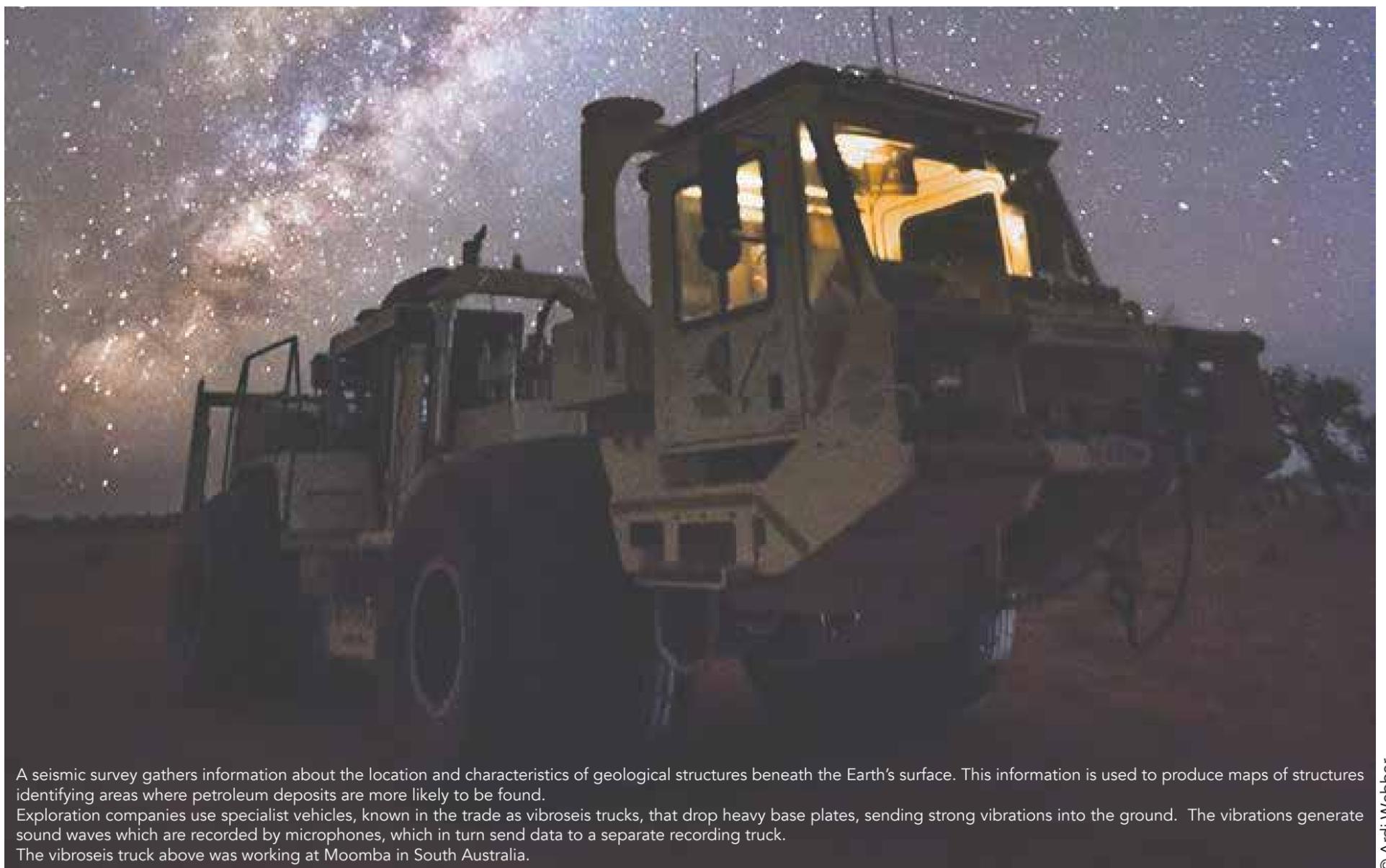
The NLC has also written to the Northern Territory Government's Department of Primary Industry and Resources, concerned that the NT Geological Survey (NTGS) has not advised the NLC of activities under the EFTF.

"Given the NTGS has been tasked with managing the stakeholder notification aspects of Geoscience Australia's EFTF program in the Northern Territory, the NTGS should provide notification to the NLC in relation to field activities undertaken both directly by the NTGS and by third parties via the EFTF and other such programs," the NLC wrote.

The NLC said it is standard practice for private-sector proponents which are a party to native title agreements or agreements under the Aboriginal Land Rights Act to notify the NLC and convene on-country consultations in advance of field activities being undertaken.

"Further, it is accepted as good practice for commercial proponents to engage local Aboriginal people (via the NLC) in their capacity as 'cultural monitors' to participate in field activities to ensure that sacred sites are avoided and as a matter of cultural courtesy whenever work is undertaken on their traditional lands."

The NLC has asked that the Department of Primary Industry and Resources enter into an agreement similar to that proposed with Geoscience Australia.



A seismic survey gathers information about the location and characteristics of geological structures beneath the Earth's surface. This information is used to produce maps of structures identifying areas where petroleum deposits are more likely to be found.

Exploration companies use specialist vehicles, known in the trade as vibroseis trucks, that drop heavy base plates, sending strong vibrations into the ground. The vibrations generate sound waves which are recorded by microphones, which in turn send data to a separate recording truck.

The vibroseis truck above was working at Moomba in South Australia.

BARUNGA 2018: Meeting of the four NT land councils

The Northern Territory's four land councils – Northern, Central, Tiwi and Anindilyakwa – met separately and jointly at Barunga in the first week of June, marking the 30th anniversary of the presentation in June 1988 of the Barunga Statement to Prime Minister Bob Hawke by the chairmen of the Northern Land Council (Galarrwuy Yunupingu) and the Central Land Council (Wenten Rubuntja).

The Barunga Statement included a request to the Commonwealth Parliament to negotiate a treaty “recognising our prior ownership, continued occupation and sovereignty and affirming our human rights and freedoms”. Mr Hawke responded with a note that his Government was “committed to work for a negotiated Treaty with Aboriginal people”. He left office in December 1991 without having achieved that undertaking.

On 8 June, the first day of this year's Barunga Festival, the chairmen of the four land councils and the Chief Minister, Mr Michael Gunner, signed a Memorandum of Understanding to advance a treaty (or treaties) with the NT's Aboriginal peoples.

The joint meeting of the four land councils also hosted a special sitting of the Commonwealth Parliament's Joint Select Committee on Constitutional Recognition.

Clockwise from top right: Federal Leader of the Opposition Bill Shorten, NT Chief Minister Michael Gunner, Federal Labor Member for Lingiari Warren Snowdon and NLC CEO Joe Morrison; Gumatj dancers perform before the signing of the Barunga Agreement; Senator Pat Dodson; political representatives and members of the NT land councils with the Barunga Agreement; Yolngu leaders Galarrwuy Yunupingu and Djambuwa Marawili; the cover of the Barunga Agreement.



BARUNGA 2018: "The Territory needs a genuine reckoning of its history"



Chief Minister Michael Gunner

NT Chief Minister Michael Gunner addressed the four Northern Territory Land Councils at Barunga on Friday 8 June, the 30th anniversary of the Barunga Festival when the Barunga Statement was presented to Prime Minister Bob Hawke. Here's the transcript of Mr Gunner's speech:

The Bagala people have hunted here, sung here, loved here, raised their families here for a thousand generations, and they will for a thousand more. A thousand generations!

I am proud it is this generation of Territorians, our generation, who this morning set a new course for lasting reconciliation in the Northern Territory – a foundation, a framework to spread from Barunga like a flame across our nation. I'm talking about Treaty – not only words, deeds.

In the 30 years since a Prime Minister stood in this very place and offered a Treaty with the First Australians a generation has grown up, a generation has passed away.

In the 30 years since a petition called the Barunga Statement was carried back to Canberra, a generation has grown disillusioned. A generation, another generation, has faced its head to the wind of policies, pronouncements and politics from Canberra and Darwin.

A generation has despaired.

The petition now hangs on the wall of Parliament House like a spectre.

The well-meaning promises 30 years ago at this place have washed away, like the song says, writing in the sand.

I've thought long about these things.

From a boy growing up in Alice, Tennant and Darwin to now Chief Minister, I've seen relationships and trust diminish, I've seen gaps widen. I've seen opportunities missed or wilfully ignored.

I've thought about our failings – past and present. I've thought long about the inevitable failings of the future should we sustain the status quo.

The Territory, the nation, needs a new direction – new relationships recognising Aboriginal culture, language and lore as fundamental to our identity, our strength, our past, our future.

The Territory needs a genuine reckoning of its history.

And then a coming together.

Ladies and gentlemen, we need a new moment, and I believe that moment is today.

I am proud to say that Barunga is a place of history again.

This morning I signed an agreement with the NT's four Land Councils to progress Treaty with the Territory's First Nation People, not in sand, but in ink, backed by my Cabinet and backed by the land councils.

Word and deed!

How a treaty will work will be up to Aboriginal Territorians. It will be up to Aboriginal Territorians if they wish for a treaty or treaties at all. Every group or individual who wants to contribute ideas and inspiration will have that chance.

There will most likely be many treaties with many groups, each tailored to the culture it is there to protect and promote.

This morning's MoU has the Government and the land councils in agreement to appoint a Treaties Commissioner to lead consultations and explore ideas. The Commissioner will be Aboriginal, and must have an understanding of the Territory. The Government has committed \$3 million over three years to the process.

Our signatures this morning also have the Government and the land councils in agreement as to some home truths. Among them:

- We agree that Aboriginal people were the prior owners and occupiers of the land, seas and waters that are now called the Northern Territory of Australia.
- We agree that First Nations peoples of the Northern Territory never ceded sovereignty of their lands and waters.
- We agree deep injustices have been cast upon Aboriginal people of the Northern Territory – dispossession, repression of language and culture, the forcible removal of children, exclusion, the appropriation of individual and collective agency.
- We agree Treaty must provide for genuine outcomes and honour the Articles of the United Nations Declaration on the Rights of Indigenous Peoples.
- And we agree successful co-existence between all Territorians begins with 'truth telling'.

Professor Mick Dodson said in 1997 of the stolen generations: "This is not someone else's history. This is all of our history."

This is true of the frontier violence, of the disease and theft.

For healing, this must be acknowledged, taught, remembered, commemorated in word and deed.

In August, I will visit the site of the Coniston Massacre, where more than 60 people were murdered over several months only 90 years ago. With Traditional Owners, I will pay my respects to those men, women and children who died defending their country.

For me, treaty or treaties should have these elements as their foundations: Truth telling, recognition, reconciliation, respect, reparations.

Reparations is where healing meets growing, where symbolism meets the practical.

But I don't believe in some lump-sum payoff – that's buying off sins with dollars, that's a transaction and then it's done, that's not healing, that's not growing.

Reparations must be more than money. It must be money and deed.

I believe in living reparations, ongoing opportunity in the form of contracts and agreements.

Ultimately, this means the NTG giving up decision-making power to communities in areas like housing, education, justice, local government, health and looking after kids.

This is our historic Local Decision Making agenda, which we've already begun, and which I believe can serve as a kind of seed from which treaties can grow and flower.

In short, I'm agreeing with communities:

- You take control of the schools and the curriculum, including language.
- You take control of the building and maintenance contracts.

- You make the decisions that best suit your people, culture, needs and resources.

Meaningful change in communities will come from the communities themselves, not a box-ticking bureaucrat in Darwin or Canberra.

Local decisions are the best decisions.

I'm also agreeing with communities that with control comes responsibility.

If community has the schools, community has the responsibility of getting kids to turn up.

If community has the contracts, community has the responsibility of making sure the jobs and training are getting to locals.

We will be accountable to each other. These things will be binding in law, they will be binding contracts lasting beyond any one Government or one Chief Minister.

Make no mistake, we're talking today – we're signing today – the most significant Aboriginal affairs reform in the Northern Territory this generation.

Words and deeds.

It is appropriate and right that we, the Northern Territory, should lead this process. It is right we lead because it is decent, because we are alive to – and with – Aboriginal culture like no other Australian jurisdiction.

But also because it is smart.

Fifty per cent of Territory land is Aboriginal under Australian law, 80 per cent of our coastline, a third of our population, and growing.

Aboriginal land and human resources are indivisible from any genuine conversation about developing the north. They are indivisible from the immense Northern Territory future I go up and down the track and across the oceans talking about.

Treaty – reconciliation, healing, empowerment – is fundamentally good for every Territorian.

I also understand that change of this order may be the hardest within Government itself. We're the biggest risk.

So I'm saying to the departments, this is non-negotiable. The old way is finished. At the pace communities are comfortable, the Government is ceding decision-making power back to where it belongs, the communities.

Ladies and gentlemen, I was honoured to be at very special ceremony yesterday at Biranybirany, a homeland in northeast Arnhem Land.

According to ancient stories, it was here the fire of Yolngu lore first landed and spread through their lands and people.

In more contemporary times, it is also the place where two musicians called Dr M Yunupingu and Paul Kelly penned the Yothu Yindi hit song, Treaty – "Back in 1988/All those talking politicians".

You might have heard it. It was about the unfulfilled promises made at this place 30 years ago.

We celebrated the life and achievements of Dr M, and unveiled a plaque in his honour. It reads:

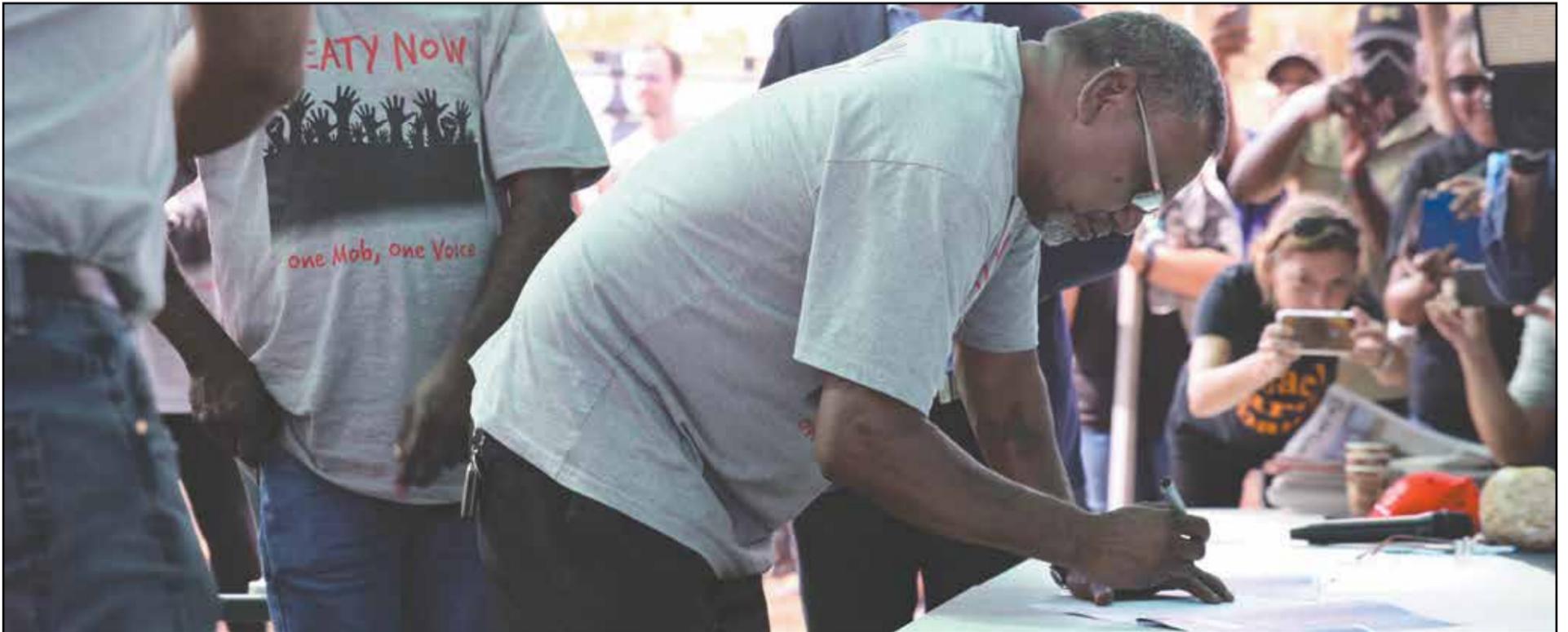
"My tongue is the flame, gathered, prepared and alight. It burns with truth carrying me across the land of my backbone."

In front of the plaque, a child, painted, and with a ceremonial dilly bag in his mouth, danced with his elders. Their truth, across the generations, remains unchanged.

The land was never given up. The land was never bought or sold.

The Northern Territory Government recognises this truth, too, and we build on it, word and deed.

BARUNGA 2018: The road to a Territory Treaty



NLC Chairman Samuel Bush-Blanasi signs the Treaty MoU at Barunga on 8 June 2018.

Treaty Principles

The Memorandum of Understanding signed by the four NT land councils and the NT Government, to advance a treaty includes a set of principles to guide the treaty consultation process.

1. It is envisaged that should a Treaty ultimately be negotiated, it will be the foundation of lasting reconciliation between the First Nations of the Territory and other citizens with the object of achieving a united Northern Territory.
2. All Aboriginal people of the Northern Territory need to be heard and the consultation process agreed to in this MOU needs to be inclusive, accessible and transparent to all.
3. Traditional owners, as the original owners and occupiers of the Northern Territory, and represented by the Aboriginal Land Councils, are integral to consultation concerning a Treaty.
4. All Territorians should ultimately benefit from any Treaty that is agreed in the Northern Territory.
5. The NTG must not exclude from discussions any legitimate issue raised by the Parties or other Aboriginal people for inclusion in a Treaty while the consultation process agreed to in this MOU is underway.
6. It is agreed that:
 - a) Aboriginal people, the First Nations, were the prior owners and occupiers of the land, seas and waters that are now called the Northern Territory of Australia.
 - b) The First Nations of the Northern Territory were self-governing in accordance with their traditional laws and customs; and that
 - c) First Nations peoples of the Northern Territory never ceded sovereignty of their lands, seas and waters.
7. It is also agreed there has been deep injustice done to the Aboriginal people of the Northern Territory, including violent dispossession, the repression of their languages and cultures, and the forcible removal of children from their families, which have left a legacy of trauma, and loss that needs to be addressed and healed.
8. The Treaty must provide for substantive outcomes and honour the Articles of the United Nations Declaration on the Rights of Indigenous Peoples.
9. Recognising that a treaty is of much wider significance than a normal agreement between the State and Indigenous peoples, it is also recognised that Treaty making involves the acceptance of responsibilities and obligations by all parties;
10. The Treaty should aim to achieve successful co-existence between all Territorians that starts with 'truth telling' which involves hearing about, acknowledging and understanding the consequences of the Northern Territory's history.

Treaty Commissioner

After the signing at of the Memorandum of Understanding the next big step will be the appointment of an independent Aboriginal person as the Treaty Commissioner. The functions of the Commissioner will include:

1. Consultation with all Aboriginal people and their representative bodies in the Northern Territory about their support for a Treaty and on a suitable framework to further Treaty negotiations with the NTG;
2. Providing a public report to the Chief Minister on the outcomes of the consultation process and a proposed framework for Treaty negotiations; and
3. Facilitating conversations for a possible Treaty framework process between the NTG, Aboriginal Land Councils and other Aboriginal representative bodies, and community groups.

Applications for the job of Treaty Commission close on 31 August. The Commissioner must be an Aboriginal person with strong connections to the Northern Territory.

The Commissioner will be appointed for a three year term. The appointment will initially be a non-statutory position while drafting legislation is underway for the position to be appointed as a statutory body established under an Act of Parliament.

BARUNGA 2018: Logistics behind the scenes



(L to R) NLC and CLC staff: Phil Mukundi, Michael Turner, Charlie Hodgson, Tony Renehan, Jone Lotu, Deep Uni and Tyrell Le Rossingnol.

The core business is to consult with Aboriginal people about their land and rights, protecting those rights, and advocacy. Most of our meetings happen on country. We need to hold meetings in some of the remotest parts of the Northern Territory, and, over the years, both the land councils have got better in doing this by assembling good logistics teams, who are mostly Aboriginal and with a can-do attitude.

Holding a big meeting in the bush is no easy task – it requires meticulous planning and preparation, having the right people and support services and equipment. All these factors are critical to successfully managing these sorts of events and are bound together with teamwork, camaraderie and hard work.

In June, the CLC Regional Services and NLC Regional Development units had the opportunity to work together to provide logistics and services for the joint meeting of the NT's four land councils at Barunga.

Planning started many months before the event to identify the site identification and obtain the right approvals

Land Councils have been the guest of the Barunga Traditional Owners and community on many occasions and we are thankful for their hospitality and goodwill. Working closely with the Barunga people, local government, regional Councillors and a host of local suppliers, the combined team delivered high quality support service to the Councils, members and staff. The foundation was set by establishing a fully functional camp that included:

- Powered site – set up a 55KVA Cummins generator
- Kitchen facilities and catering
- Setting up the meeting area
- 20 serviced toilets

- 8 hot showers
- Camping grounds with more than 140 tents

The regional teams are always the first to arrive and often the last to go, they have early starts, late finishes and leave the site in a clean condition and as they found it. At the Barunga meeting our teams arrived on site two days prior to the meeting to set up. The CLC's prime mover which brought in the kitchen, large refrigeration unit and food supplies left Alice Springs four days before the meeting so that it had sufficient time to travel and set up.

The meeting went for five days. Members from the four land council, staff, guests and the odd community member were provided with food and drink.

That meant long days in the kitchen: work started at 5:30am, and breakfast, morning tea, a cooked lunch, afternoon tea and fine dinners were served before the kitchen closed about 7:30pm.

The teams delivered up to 1,200 meals a day for the 280-plus people that attended the meeting over the five days. Nearly 6000 meals were served throughout the week, and 4 ½ pallets of water bottles were

consumed (more than 7,700 bottles).

That many water bottles provided a good opportunity to be environmentally friendly and get involved with the community. The teams the empty water bottles at the end of each day and dropped them at the Barunga School in the morning to help out the students' fund raising efforts that assist school projects and excursions. The visit to the school and interaction of our staff, teachers and students exposed the next generation of Aboriginal leaders to important land council business.

Providing high quality logistical support and services is critical in having good meetings; getting people to and from consultations, providing support services, responding to medical emergencies and technical issues, having people fed well and being comfortable are all part and parcel of this job. It allows for the rest of the land council to get on with doing their business. The feedback from a number of NLC Councillors and the Chair and CEO was that the Barunga meeting was logistically the best run meeting for some time.

The CLC and NLC teams enjoy working with each other and are looking forward to the next opportunity to meet up, compare vehicles and equipment, learn new tricks, swap uniforms and hats, tell tall tales over a camp fire, compete for whose music plays in the kitchen, listen to each other brag about who is the best cook and do it all again.



NLC staff member Richard Singh with students from Barunga School, where empty plastic water bottles were dropped off throughout the week to support the school's cash-for-container fundraising activities.

BARUNGA 2018: NLC submission to the Constitutional Recognition Joint Select Committee

The Commonwealth Parliament's Joint Select Committee on Constitutional Recognition travelled to Barunga to hear from the four NT land councils on 7 June. NLC CEO Joe Morrison presented a submission to the committee:



NLC CEO Joe Morrison presents the NLC's submission to the Joint Select Committee at Barunga on 7 June 2018.

// The Northern Land Council is proud to appear before this Committee on the 30th anniversary of the Barunga Statement which was presented to the then Prime Minister of Australia by the Chairs of both the NLC and Central Land Council and called for a national Treaty.

"That statement and the call for a treaty remains unfinished business. We are now seeking to address this with the Northern Territory for which an announcement will be made tomorrow.

"A treaty process with the Northern Territory does not diminish the need for a national Treaty process with the Commonwealth of Australia.

"We call upon this Committee and the Australian Government to provide the leadership required and agree to negotiate with the First Nations of Australia a Treaty or Treaties to provide for a just and moral basis for the settlement of Australia which occurred without our ancestors' consent.

"We note that this injustice occurred even though the Imperial instructions from King George III to Lieutenant James Cook required him to seek the consent of the 'natives':

You are likewise to observe the Genius, Temper, Disposition and Number of the Natives, if there be any and endeavour by all proper means to cultivate a Friendship and Alliance with them, making them presents of such Trifles as they may Value inviting them to Traffick, and Shewing them every kind of Civility and Regard; taking Care however not to suffer yourself to be surprized by them, but to be always upon your guard against any Accidents.

You are also with the Consent of the Natives to take Possession of Convenient Situations in the Country in the Name of the King of Great Britain: Or: if you find the Country uninhabited take Possession for his Majesty by setting up Proper Marks and Inscriptions, as first discoverers and possessors.

Barunga Statement

"We repeat the call expressed in the Barunga Statement to recognise our rights in accordance with relevant United Nations Declarations and Covenants on human rights, especially as they now relate to Indigenous peoples:

- To self-determination;
- To permanent control and enjoyment of our ancestral lands;
- To compensation for loss of lands, culture and associated trauma and dispossession;
- To protection for and control of our sacred sites, objects and cultural knowledge;
- The return of our ancestral remains;
- To respect our identity including our unique culture, languages and religion.

Uluru Statement from the Heart

"We also affirm the most recent Declaration by Indigenous Australians in the Uluru Statement from the Heart made in 2017.

"We call for substantive Constitutional recognition of our status as First Nations peoples, the elimination of discrimination in the Constitution including the race power, a power to pass beneficial laws, a First Nations Voice enshrined in the Constitution and a Makarrata Commission to facilitate Treaty making and truth telling about our history.

"In the Northern Territory the Territories power (s122) must be considered as well. It is a broad power of the Commonwealth Parliament which also allowed for the Intervention – the Northern Territory Emergency Response, a highly discriminatory act which suspended the Racial Discrimination Act. Aboriginal people continue to suffer the consequences of this racist public policy brought about by the Commonwealth Parliament. The Territories power needs to be constrained by a non-discriminatory requirement.

"In concluding this statement, it is our belief that the people of Australia will support these historic reforms to the Constitution of Australia. The challenge is for the Commonwealth Government and the Prime Minister to support these measures and sponsor with the Opposition in a bi-partisan manner a referendum to finally recognise and empower us, the First Nations of Australia."

THE PATH FORWARD ON RECOGNITION

The Parliament's Joint Select Committee on Constitutional Recognition was appointed in March 2018, and delivered an interim report on 30 July. The report centres on the proposal for a First Nations Voice, which arose from the *Uluru Statement from the Heart*. The report considers evidence in relation to the constitutionality, structure, function, and establishment of The Voice, and examines past and existing advisory bodies and new proposals that might inform the design of The Voice.

The committee is due to present its final report on 29 November 2018.

Labor Senator Pat Dodson (WA) is co-chair of the committee, and writes about its work for *Land Rights News*:

In March this year, the Australian Parliament appointed the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples to build on, but not replicate, the work of the 2015 Joint Select Committee, the 2012 Expert Panel, the 2017 Referendum Council and the *Uluru Statement from the Heart*.

It tasked us with finding a way to advance the recognition of Aboriginal and Torres Strait Islander peoples able to be supported by Australians from all walks of life and that could contribute to a more unified and reconciled nation.

Our Committee has met with First Nations peoples in places across Australia in the last four months, and we have many places we are yet to visit. On 30 July 2018, we released our Interim Report.

In my view, this Interim Report takes some small, but important steps towards the greater recognition of First Nations' peoples. It does three essential things.

Firstly, the report highlights that the lack of Aboriginal and Torres Strait Islander perspectives in policy and legislation formulation is undermining the good intentions aimed at improving educational, health, economic and criminal justice outcomes. These persistent failures highlight what the *Uluru Statement from the Heart* termed, "the torment of our powerlessness".

Secondly, it accepts the invitation articulated in the *Uluru Statement from the Heart* to work together towards the establishment of a First Nations Voice to address the structural disempowerment of Aboriginal and Torres Strait Islander peoples and enable them to have a greater say in their affairs.

Thirdly, it hears and considers the calls to provide a constitutional guarantee by way of referendum to entrench an enabling power to establish a Voice to the Parliament.

It also outlines the Committee's aspirations for our work during the second half of our inquiry and (in Chapter 7) puts some important questions for consideration.

While the *Uluru Statement from the Heart's* call for a First Nations Voice surprised many, it is in keeping with the international movement by nation states and First Nations peoples towards greater self-determination for Indigenous



The Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples addresses the four NT land councils at Barunga on 7 June 2018: Ms Cathy McGowan AO MP, Hon Linda Burney MP, Mr Julian Leeser MP, Senator Patrick Dodson, Hon Sussan Ley MP, Hon Warren Snowdon MP, Senator Rachel Siewert and Senator Malarndirri McCarthy.

populations, as agreed in the United Nations Declaration on the Rights of Indigenous People.

International experience tells us that a First Nations Voice could be a form of recognition with real potential to empower Aboriginal and Torres Strait Islander communities and improve socio-economic outcomes, without challenging the primacy of the Parliament, in most cases enhancing its ability to deliver mutually beneficial outcomes for the Nation.

Appropriately designed, it would not be a third chamber of this Parliament, as some have claimed. Instead it may enable and empower First Nations peoples to have a chance to provide advice on the policies and legislation that we make in this Parliament and create better outcomes for the outlays.

It is clear that the effectiveness of and support for a First Nations Voice will critically depend on its design and function. Moving forward on these questions is a major task of our Committee.

There is clear support in First Nation communities for a Voice grounded in local representation, feeding up advice into regional and national elements. Many of the challenges faced by people in their day to day lives, however, do not always fall within the jurisdiction of the Australian Government. To be effective, a First Nations Voice, we have been told, should operate at all three levels: locally, State and Territory, and nationally.

The Committee heard that a First Nations Voice should be made up of elected representatives with a balance of genders. It should defer to cultural authority and also remain inclusive of those Aboriginal and Torres Strait Islander peoples displaced from their ancestral homes.

The function and operations of the Voice will require further fleshing out in the work of the Committee.

The Referendum Council recommended that a First Nations Voice should advise the Australian Parliament in relation to the heads of power in section 51(xxvi) and section 122 of the Constitution –the races and territories owners. Others sought a broader advisory ambit to formal interact with the policy making process, early in the cycle.

There were mixed views on how to make sure that governments give this advice due consideration. They argued, it is not enough to have a Voice, if governments continue not to listen.

It is clear that the final design of any Voice must be built through cooperative co-design.

Our Committee has met with First Nations Peoples in places across Australia in the last four months, and we have many places we are yet to visit. In the Central West NSW town

of Dubbo we heard from Mr Des Jones from the Murdi Paaki regional organisation. When he was asked about the proposed Voice he said, "We have to have a representative body. The voice within that body must come from the people. It must be the people's voice."

One of the major issues facing the Committee, which we will need to work through in the next few months, is the question of the constitutional entrenchment of the Voice. Legislative advisory bodies have a chequered history and risk being abolished should they fall out of favour with the Government of the day.

It is the strong view in the *Uluru Statement* that any Voice needs to be entrenched in our nation's founding documents, through a change to the Constitution agreed through a referendum. However we need to work through the issues of what question should be put to the people, and whether, in order to build support, it was sensible to legislate first, then, after experience shows the Voice to be effective, put the question to the people. Others argued a different view and encouraged that the question of the Voice should go as a priority to Referendum. This is an issue we will continue to work through in the months ahead.

Our Interim Report also considers the *Uluru Statement from the Heart's* call for the establishment of a Makarrata Commission to oversee truth-telling and agreement making. Such a proposal also has a long history.

In 1983 the Senate Standing Committee on Legal and Constitutional Affairs delivered the report "Two Hundred Years Later ..." which looked into a compact or Makarrata between the Commonwealth Government and Aboriginal Australians. I gave evidence to that Committee. Forty five years on, we are still trying to achieve this goal.

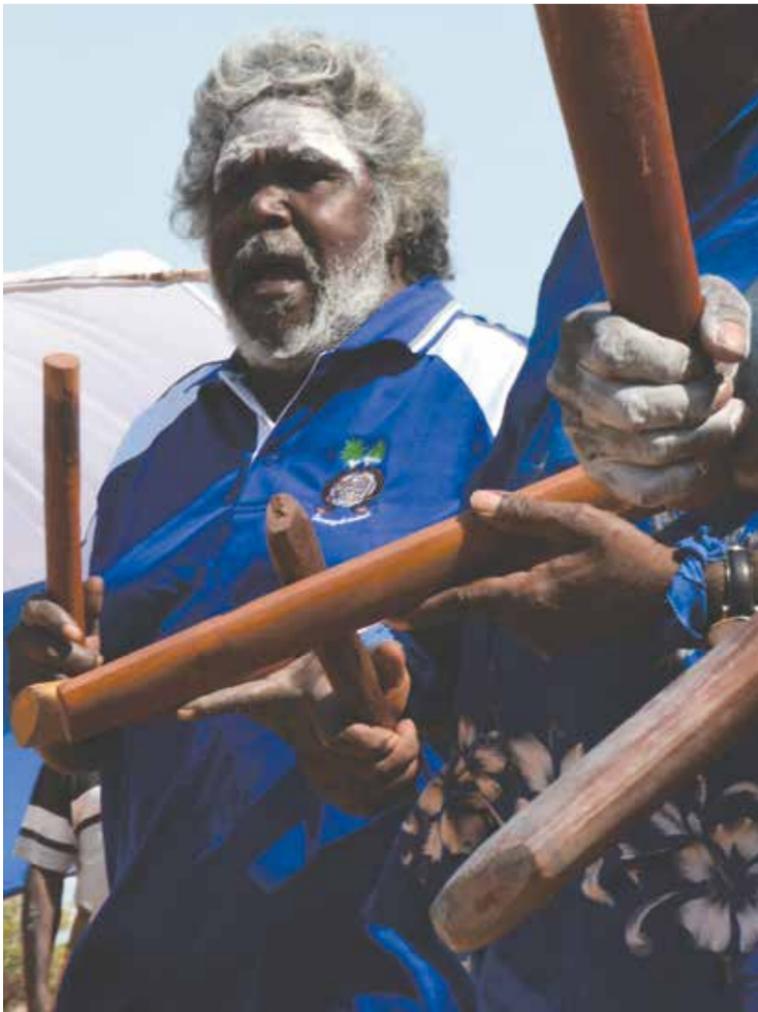
We cannot honestly celebrate our shared national history without also acknowledging the depths of our often tragic and bitterly contested past and work together to resolve those issues.

The committee has more work to do over the next few months. We will be undertaking further consultations, traveling to other parts of Australia to speak with both First Nations and non-First Nations people.

In the Kimberley region, where I am from, we met with Neil Carter from Kimberley Aboriginal Law and Culture Centre. In Neil's words:

"To move forward, we need to heal past wrongs that have been done to our people, and to have a voice in Canberra at the federal level so we can deal with those past wrongs. That's what our elders are looking at. If you're going to have constitutional recognition of our voice in Parliament, that's the sort of thing that can make us all a stronger people, white and black."

CELEBRATIONS MARK 10 YEARS SINCE



Djambawa Marawili AM.

On 30 July 2018, the Bäniyala community in eastern Arnhem Land celebrated the 10th anniversary (to the day) of the High Court's Blue Mud Bay decision which recognised Aboriginal ownership of the Northern Territory intertidal zone.

A sand sculpture (Yingapungapu) and two poles with sacred designs were presented to the Australian people as a monument to sea rights and the cornerstone for continued Yolngu efforts towards greater self-determination.

During the ceremony, the NLC was also presented with a request for Bäniyala to receive a delegation of leasing and land management powers under s.28 of the *Aboriginal Land Rights (Northern Territory) Act 1976* to manage the development of their land and seas.

Djambawa Marawili AM, leader of the Madarrpa and elder of the Djalkiripungu, told those attending the ceremony:

"Today we celebrate our sea rights. Our connection to the land and the sea is powerful and lives in us – in our names, our songs, our patterns and designs.

"Ten years ago the Australian High Court recognised our sea rights. Our lives, the lives of our ancestors and the lives of our children were strengthened by this landmark decision.

"We want to strengthen our management of our coastal resources. We want to encourage responsible businesses to work with us, to make a strong and prosperous future for people living in our homelands.

"Through our sea rights monument we want to share with all Australia the strength of our connections across country, across clans, across generations. The sand sculpture must be continuously shaped and the poles repainted with the patterns and designs from our land and sea. This monument will remain as long as our people live in our homelands."



Community members gather around a sand sculpture (Yingapungapu) and two poles with sacred designs during the ceremony.

NCE BLUE MUD BAY RECOGNITION

Distinguished anthropologists Professor Howard Morphy and Associate Professor Frances Morphy (both Australian National University) have had a long association with the community at Bäniyala, and attended the ceremony on 30 July which marked the 10th anniversary of the High Court's Blue Mud Bay decision.

Howard Morphy delivered a speech at the ceremony, which he has reworked for *Land Rights News*.



Frances Morphy and I have been working closely with the Djalkiripuyngu and other Yolngu people for 45 years. My research has been on Yolngu art and religion and Frances's on Yolngu language and demography. But Yolngu society is a whole that cannot be divided, and at its heart lies the relationship between *gurrutu* (kinspeople), Wangarr (ancestral beings), and *wänga* (place).

The first paper that I wrote, in 1977, was for the *Joint Select Standing Committee of Aboriginal Land Rights in the Northern Territory*. It was titled 'On the ownership of the sea in north-east Arnhem Land'.¹ So we were well prepared to work with the Djalkiripuyngu people and the Northern Land Council (NLC) when it came to test the legal status of rights in the sea under both the *Native Title Act* and the *Aboriginal Land Rights (Northern Territory) Act* (ALRA). Yolngu people had assumed that since achieving ownership of their land following the passage of ALRA in 1976, they would have gained control over access to their coastal resources. Under the Act, 'land' was defined as extending to the low water mark and the intertidal zone is central to the Yolngu marine economy. However that definition proved contentious as it was argued by some that when the tide was in, the land in question was sea. There was a legal ambiguity which enabled non-Yolngu people to exploit the resources of the intertidal zone. This was beginning to cause concern and the danger of conflict arose. In 1996 a severed crocodile's head was found by traditional owners at an illegal fishing camp hidden in the mangroves near Garrangali in Blue Mud Bay – a place sacred to Bäru, the Wangarr Crocodile. The Yolngu response was to

produce a series of paintings that represented their spiritual links to the land and sea across the intertidal zone and that demarcated the clan ownership of their land. The NLC prepared to take action under their instructions through the Federal Court.

"Yolngu have a long history of challenging the colonial process that brought British sovereignty into the Yolngu domain through the medium of the Australian legal system."

The background research for the Blue Mud Bay case began in 2000. Working with the NLC we applied for Linkage Partner funding from the Australian Research Council. The project was a collaborative one, involving anthropological, archaeological, linguistic, archival and ecological research into the history of the region. One of the key things that needs to be established under both the *Native Title Act* and ALRA is continuity of occupation and customary practice since the sovereignty was asserted over the region by the British Crown. This was not a difficult task. In 1803 Matthew Flinders, surveying the coast of Australia on his ship the *Investigator*, passed several weeks in Blue Mud Bay and Caledon Bay. When anchored in Caledon Bay the expedition held a Yolngu man temporary hostage after the 'theft' of a rifle. The botanist on the ship, Robert Brown, took advantage of his presence by recording quite an extensive vocabulary. The vocabulary is in the Yolngu language as spoken in the region today, and the name of the Yolngu man was recorded as Wäka. Wäka Mununggurr, who was the master of ceremonies—*djunggayi*—at Bäniyala, at the 10th anniversary celebration, shares his name. Yolngu pass names down the generations following

lines of descent (*gurrutu*) — continuity was almost proven in a single piece of evidence.

The research that we undertook for the claim and subsequently has extended the continuity of naming practices back in time to reflect the Yolngu sense of their enduring presence in the land. Some of the place names, names ending in *-tjpi*, such as Gunmurrutjpi, Malitjpi and Dilmitjpi, can be shown to have been in place for at least 3,000 years. Research for the court case required the mapping of the land to establish the relationship between clans (*bäpurru*), Wangarr beings and estates, and historical and archaeological data to show continuity. Early on when talking to Yolngu at Bäniyala, including Wäka and Djambawa Marawili, the archaeologists Patrick Faulkner and Annie Clarke described the kind of evidence they were looking for to find the location of the Holocene sea level high stand coastline – the coastline that was established after the Gulf of Carpentaria was flooded and before the coastline prograded out to its present position. 'We will take you there tomorrow'. The following day we went 12 kilometres inland to the edge of the wetlands to the place called Dilmitjpi, where ancient shell middens are piled up high far away from the present coastline. To cut a long story short, those names ending in *-tjpi* all occur along the coastline of 3,000 years ago and linguistic research by Frances Morphy shows that the names are likely to date from the same time. Yolngu have been living in eastern Arnhem Land for a very long time—from long before the British Crown—and indeed the English language—came into being.

The Yolngu victory in the High Court case was important not only because of the result but because it validates their long history of engagement with the Australian legal system. Yolngu have a long history of challenging the colonial process that brought British sovereignty into the Yolngu domain through the medium of the Australian legal system. They have developed the concepts of 'both ways' and 'two laws', as a framework for engaging with structures of the Australian state and maintaining their distinctive identity. The *Native*

Title Act and ALRA are engaged with as part of the struggle to enable two laws to work together. The High Court decision, which recognised the continuing ownership of the intertidal zone as the sea moves in and out, accorded with Yolngu understanding of both laws.

The celebration at Bäniyala marking the anniversary of the High Court decision is a sign of the hoped-for coming together in the mutual recognition of rights. This remains a work in progress. Having worked closely with Yolngu for much of their recent history it is important to acknowledge that a lot still needs to be done to enable Yolngu to develop a regional economy in their own lands. The aesthetic power of the ceremonial performances we have just seen is just one manifestation of the rich body of knowledge that Yolngu have maintained living in their country over countless generations. It is important for the nation that the value created through the renown of Indigenous artists, dancers, singers, educators, religious leaders, environmental managers is built on in the regions and in the homelands for the benefit of future generations.

¹ Morphy, H. 1977. Hansard of the Joint Select Committee of Aboriginal Land Rights in the Northern Territory, 3rd May. Pp. 1100–1103.



Aboriginal people protest against McArthur River Mine, Borroloola, October 2014.

CONDEMNATION FOR MCARTHUR RIVER MINE APPROVAL

The Northern Land Council has condemned the decision of the Northern Territory Environment Protection Authority to approve the waste rock dump (also called Overburden Emplacement Facility) at the McArthur River Mine, and has urged government ministers not to allow the project to proceed.

On 10 August, the day the EPA announced that the project could be managed to avoid unacceptable environmental impacts and risks, NLC CEO Joe Morrison said the EPA's conclusion was not supported by its own report.

"The sorry history of frequent environmental incidents at the mine and poor regulation mean that both the operator and regulator cannot be trusted," Mr Morrison said.

"The report represents an unacceptable approach to environmental risk. It is merely hoping against hope and goes against the weight of evidence presented to the EPA.

"This proposal to allow an expansion of a troubled operation in order to solve some of its problems is an extremely short-term solution that will result in a costly perpetual legacy for Traditional Owners and Territorians," Mr Morrison said.

The NLC has written to the NT Minister for Environment and Natural Resources, Ms Eva Lawler, urging her to advise against the EPA's approval.

The NLC wrote separately to the NT Minister for Primary Industry and Resources, Mr Ken Vowles, and to the Federal Minister for the Environment, Mr Josh Frydenberg, urging them not to approve the project. The Federal Government has the ultimate approval: the project has triggered Commonwealth legislation, *the Environment Protection and Biodiversity Conservation Act 1999*, because it impacts on vulnerable species,

like the Largetooth Sawfish (*Pristis pristis*).

The NLC told Mr Frydenberg that the EIS process provides no confidence that the project will be carried out in a manner that will not have a significant detrimental impact on Matters of National Environmental Significance, specifically listed threatened species and ecological communities. "(The) EIS process or the recommendations made in the Report do not deal with the very real risk posed by catastrophic events or post closure management," Mr Frydenberg was told.

To Mr Vowles, the NLC wrote that the EPA report itself highlights significant environmental risk and uncertainty.

"The project should not continue whilst such risk and uncertainty remains. MRM should be directed to submit an EIS that accurately identifies risks and provides a best practice approach whereby these risks are eliminated or mitigated.

"(The) report is far from supportive of MRM's proposal, merely that the plan has 'good prospects' of ameliorating an environmental problem and is somehow better than business as usual. This is an unacceptable approach to environmental risk, it is merely hoping against hope, and goes against the weight of evidence presented to the NTEPA. The conclusion, that the project will not have an unacceptable environmental impact if the recommendations of the Report are implemented, is in fact unfathomable when seen in the historical context of continual environmental incidents at the MRM site and an attitude of ignorance by the operators.

"The report makes recommendations for independent monitoring and an adaptive approach to environmental management at the site. In making such recommendations the NTEPA is demonstrating a complete lack of faith in the existing regulatory regime in the Northern Territory. As Minister, by

taking a strong stance on this project, and insisting that MRM submit a proposal based on best practice environmental management you would go a long way towards restoring community faith in the regulator.

"The recommendations...highlight that the company has not outlined a plan for amelioration of environmental risk. The history of MRM demonstrates a failure of this approach, with combusting waste rock, continued erosion and failure to establish vegetation in the re-channel, seepage and concern around the stability and integrity of both the waste rock dump and the tailings storage facility and cattle contaminated with lead being a few of the significant environmental issues associated with MRM to date.

"(The) report does not provide any confidence that the closure plan will not result in unacceptable environmental outcomes. The recommendation for approval is based on a hope that over the next 20 years, whilst the volume of waste rock and tailings accumulates, some technological solution will prevail. This is far from a best practice approach to environmental management which dictates that decisions be based on detailed characterisation of risk and prevention through elimination or mitigation.

"Given this post-closure uncertainty, how can it be determined with any confidence that the project will not have a significant perpetual impact on the Northern Territory Environment? The NLC's view is that the Project should not continue whilst such risk and uncertainty remains. The NLC recommends that the Northern Territory Government direct MRM to submit an EIS that accurately identifies risks and provides a best practice approach whereby these risks are eliminated or mitigated. The proposal should include a realistic, technically feasible and costed plan for closure."

THE FAILURE OF PUBLIC POLICY

An Anecdote about Borrooloola

By Brian Stacey*

This is a story about Borrooloola, a place I first visited in 1984 as a field officer in the Commonwealth's former Department of Aboriginal Affairs (DAA). I decided to write it for the Northern Edition of *Land Rights News* after I had an unexpected opportunity to become involved again with the affairs of this Aboriginal town in 2018, some 34 years later. In the past six months, at the invitation of Tony Jack from Robinson River, I have travelled to Borrooloola to support the Board of Gulf Health Service Inc to get their organisation back on its feet.

Gulf Health Service Inc, while continuing to be solvent for many years, has fallen behind in holding AGMs and submitting its annual audits to Licensing NT, the regulator of incorporated associations for the Northern Territory Government. Mistakenly Gulf Health Service Inc was abolished by Licensing NT, which has now reinstated it but has started an investigation. In the meantime, outstanding audits are slowly being submitted and good progress is being made to have an AGM. The objective is that ultimately the Aboriginal members of Gulf Health Service Inc can make a decision about its future rather than anyone else.

However, it is not the issues around Gulf Health Service Inc that I wish to focus on in this article. They are hardly unusual for an Aboriginal organisation in a remote Aboriginal community although in this case, unlike others, there is no evidence of misconduct. Importantly, what has happened to Gulf Health Service Inc is related to the shift in how the Commonwealth engages with remote communities since the demise of the Aboriginal and Torres Strait Islander Commission (ATSIC) in 2004 and it is that which is of more interest.

In fact, I hope that this article serves to be much more than an anecdote about Borrooloola. With some humility I hope that it can serve as a narrative that in a small way can help shift public policy in Indigenous Affairs back to a community development approach. That community development approach underpinned the practice of DAA and ATSIC. It trained staff like Brian Kimmings, the late Ted Tonkin and even me to apply it in places like Borrooloola. It was practical rather than policy-led and focussed on working with Aboriginal people to enable them to solve their problems. To the extent there has been progress for Aboriginal people in Borrooloola, I believe it is because of that community development approach, and its legacy was evident when I have been in Borrooloola this year.

Borrooloola's tragic and cruel history

At the conclusion of the recent Garma Festival, Senator Malarndirri McCarthy was reported as saying that Australia must confront the brutal truths of its history. This proud Aboriginal woman and outstanding achiever should know. She grew up with her mother's family in Borrooloola which saw violence and dispossession against Aboriginal people that may have been some of the worst ever in Australia. That we know this is not just because of the oral histories of Aboriginal people in the Gulf Region of the Northern Territory but also because of Tony Roberts's monumental study, *Frontier Justice: A History of the Gulf Country to 1900* (Roberts, 2005).

I don't expect Tony Roberts will be known to readers of this article or to policy makers in Indigenous Affairs. In fact, he was my first ever manager when I joined DAA in 1983 and he was in charge of the Territories Section in its Canberra office. Tony managed a small team of people who administered the Commonwealth's land rights legislation including the *Aboriginal Land Rights (Northern Territory) Act 1976* (the Land Rights Act).

I quickly learned that resolving land claims in the Northern Territory was not just a job for Tony Roberts. In fact it was a passion which he fortunately passed onto me. It was Tony Roberts who was responsible for advising the

Federal Minister to make a grant of the land that had been successfully claimed in the Borrooloola land claim, the first ever made under the Land Rights Act. The land successfully claimed, to be expected, excluded land needed by miners and the Territory Government. It was also insignificant compared with what Aboriginal people in the Gulf had lost; but it was a start by the Northern Land Council to achieving land rights for Aboriginal people in the Gulf.

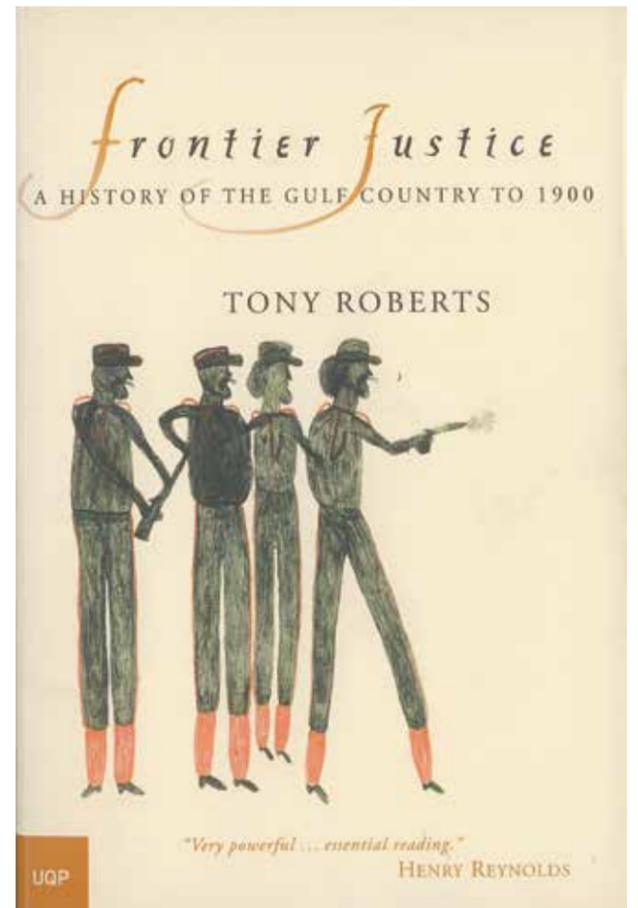
However, it's Tony Roberts' painstaking research and writing of his book over 30 years which needs the most recognition. Whatever Tony's motives were, and they included his discovery that one of his ancestors had lived in Borrooloola, his book describes the enormity of the dispossession and destruction that overwhelmed Aboriginal people in the short space of three decades. On the back of a pastoral boom engineered by the South Australian colony, more than 600 Aboriginal men, women, children and babies, or about one-sixth of the population, were killed in the Gulf Country. By contrast, Tony Roberts tells us there were 20 white deaths over the same period, and not a single white woman or child was harmed in any way. No-one was charged with mass murder.

On the back of a pastoral boom engineered by the South Australian colony, more than 600 Aboriginal men, women, children and babies, or about one-sixth of the population, were killed in the Gulf Country.

Tony Roberts' forensic account confirms there was no regard for the legal and human rights of the Aboriginal owners of the land: no explanations, no consultations. In just four years, he estimates that the Aboriginal population of at least 4000, composed of 15 tribes or language groups, was dispossessed of every inch of land. This was terra nullius applied in a savage, illegal and secret way in Australia's last frontier by South Australia's colonial politicians. The evidence is there were dozens of massacres in the Gulf Country which South Australia's Attorneys-General and Premiers were alert to but refused to prevent, or to prosecute those responsible. They ignored a detailed report tabled in the South Australian parliament that warned Aboriginal people in the Gulf region were facing extinction.

It is worth remembering that these massacres occurred more than 100 years after the First Fleet arrived in Sydney, at the time of Federation, and that the descendants of the people subject to this cruelty remain on their traditional lands in Borrooloola or surrounding homelands. The massacres, which included throwing crying babies into camp fires, were as illegal then as they would be now. The damage inflicted on the Aboriginal people of the Gulf region, mostly intentional and with callous disregard, is captured in the words of the title to Tony Roberts' book, "Frontier Justice". That is a title full of irony, which becomes obvious once the story of destruction is told. There was and has never been any real justice. The violent dispossession of the Aboriginal people of the Gulf is a brutal truth that most of us are not aware of and needs to be confronted, as Senator McCarthy says.

It is also important to remember that while the massacres ended, the mistreatment of Aboriginal people did not, including taking their land. In fact, it continued for much if not all of the 20th century. The events surrounding the establishment and operation of the McArthur River Mine epitomise this. Unlike the massacres afflicted on the Aboriginal people of the Gulf region, most readers



The cover of Tony Roberts's monumental study, *Frontier Justice: A History of the Gulf Country to 1900*.

will be aware of the national controversy surrounding the environmental impact of this mine, which is situated about 70 kilometres southwest of Borrooloola on traditional lands of Aboriginal people who have native title.

Tony Young, a solicitor of the Northern Land Council from 1991 to 1994, now a Federal Circuit Court judge, has explained how the traditional owners were dispossessed of their rights in order for the mine to go ahead (Young, 2015). When Mt Isa Mines announced in 1992 that it was finally going ahead with the mine, the Northern Land Council wrote to the Northern Territory and Federal Governments asking to be heard in relation to aspects of the proposal, particularly social impacts on the Aboriginal people at Borrooloola and environmental impacts on the McArthur River. Neither government replied to the letters which Tony drafted. It was only when the Northern Land Council threatened to challenge the validity of the mine approvals process in proceedings based on a claim of native title (which had been recognised by the High Court shortly before in the Mabo decision) did the Federal Government respond.

The Keating Government was concerned about perceptions of an unfriendly investment environment following the decision not to mine Guratba/Coronation Hill. The new McArthur River mine was to be "fast tracked" and a team of senior officials from the Department of Prime Minister and Cabinet were appointed for the purpose. Aboriginal people, however, were divided over whether to continue to oppose the project. According to Tony Young, at consultation meetings held by the Northern Land Council in late 1992 and early 1993, the majority of people remained resolutely opposed to it. However, one senior influential leader, in particular, believed the mine offered potential benefits to Aboriginal people. Ultimately, at a meeting held in Borrooloola between Aboriginal people, government and miners, the Aboriginal people agreed to accept or, perhaps more accurately, to quote Tony Young, "not oppose the Commonwealth's proposals".

My impression, as a public servant in ATSIC at the time, involved in the administration of the Land Rights Act, was that Aboriginal people were bullied into accepting the McArthur River Mine. I also thought it was a grave injustice



Brian Kimmings, Brian Stacey and Tony Jack in Borroloola in August 2018

to the Aboriginal people of the Gulf who were denied the Right to Negotiate under the Native Title Act 1993. For accepting the mine, the Commonwealth purchased Bauhinia Downs pastoral lease (the subject of a later successful land claim under the Land Rights Act) for traditional owners of the mine site. In addition, a 25% interest in the zinc ore trucking/barging operation originally run by Burns Philp was purchased for the benefit of the Aboriginal community at Borroloola with funds borrowed through the Aboriginal and Torres Strait Islander Commercial Development Corporation (now IBA). Finally, some Aboriginal employment guarantees were given.

That was in return for allowing one of the world's largest zinc, lead and silver deposits to be mined that many have argued has resulted in an environmental catastrophe. In the meantime, the benefits that have flowed to other Aboriginal groups from mining on their land, such as the Yolngu and Anindilyakwa for the mines at East Arnhem and Groote Eylandt, have not flowed to the Gulf's Aboriginal traditional owners. Another tragic chapter was how Mt Isa Mines was able to purchase the pastoral lease on which the mine is located in the 1950s, and use it as a way to control events, including preventing any claims under the Land Rights Act. Consequently, Mt Isa Mines did not have to negotiate an agreement under the Land Rights Act and the Commonwealth did not have to pay mining royalty equivalents. The traditional owners of McArthur River mine have no say in the running of the mine and continue to be impoverished bystanders, a situation vastly different from that faced by the Yolngu and Anindilyakwa who were never dispossessed.

We are not makers of history. We are made by history: Martin Luther King Jr.

History has determined the course for the Aboriginal people of Borroloola and the surrounding homelands as much as it has for anyone else. Suffering violent dispossession and forced off their lands into living in decrepit camps in a lawless town controlled by white people, Aboriginal people were exploited by the alcohol industry as much as anything else. When I came back to the Northern Territory in 2004, to be the Commonwealth's senior officer for Indigenous

Affairs, what upset me more than anything else was how a company called Cash Cow Investments Pty Ltd owned and operated the Borroloola pub. The pub was the subject of regular complaints to me and others for exploiting Aboriginal people in Borroloola including continuing to serve intoxicated people and selling single cigarettes with a glass of beer. Senior public servants in the Northern Territory Government responsible for licensing hotels became very irritated with me for frequently complaining about the situation to them and making embarrassing comments in front of Territory and Federal politicians. In any event, I believe that ultimately the Territory Government resumed the liquor licence but enormous damage had been done to Aboriginal people in the meantime.

Needless to say, the socio-economic position of Aboriginal people in the Gulf remains very poor as indicated in the 2016 census and it is impossible to separate this from their history. What has struck me most when I have visited this year is the appalling housing in the town camps, some of which was built as emergency housing following a cyclone in 1984. I know that funding was originally allocated in the SIHIP program in 2009 of approximately \$14.4 million to improve housing in the Borroloola town camps. However, I believe those funds were never spent because the traditional owners have not been prepared to agree to housing leases to NT Housing. This may seem foolish on their behalf but for traditional owners who have been dispossessed of so much land, it is understandable.

More importantly, I think the absence of a community development approach to underpin the way governments engage with Aboriginal groups like those at Borroloola has contributed to this poor outcome. I am certain that those DAA officers who started the process of building a future for Aboriginal people at Borroloola in the 1980s would never have allowed this to happen.

Community development in Indigenous Affairs

Many of the Commonwealth officers who led this community development approach, such as Ted Tonkin or Neil Westbury, were trained in the Australian School of Pacific Administration (ASOPA) which was a tertiary institution

originally established to train administrators and later school teachers to work in Papua New Guinea. It became the International Training Institute (ITI) in 1973 and provided management training for professionals from developing countries in the Pacific, Asia, Africa and the Caribbean. Or, like Brian Kimmings, they were professionals – in his case, an accountant who migrated to Australia to look for adventure and started a 40 year career in Indigenous Affairs from 1975 in Darwin with the Commonwealth's former Aboriginal Loans Commission.

The Commonwealth's Indigenous Affairs policy since DAA was set up in 1972 and which existed, at least in theory, until the end of ATSIC in 2004, was built on self-determination. This was not some misguided notion that Aboriginal people were outside the nation of Australia and had a right to decide if they wanted to be part of it or even to pursue separate development. Instead it was based on the evidence that Aboriginal people had a different history and culture which did not include capitalism or formal democracy, that a colonisation process had mostly dispossessed and discriminated against them and it was vital if social and economic outcomes were to improve that they needed to be able to be full participants in their own development. It was not that different from the development challenge facing the Indigenous peoples of Papua New Guinea and there was a recognition in the bureaucracy that international tools for development were very relevant to policy and programs for Aboriginal people of Australia.

When I joined DAA in 1983, after being trained as a social anthropologist, these international development tools were a strong part of the Department's practice, particularly in the network of area offices across Australia. In the Katherine Area office in 1984, I was expected to travel to remote communities, and over a period of time develop with them a profile of their needs and aspirations. Forming enduring relationships with residents and their leaders was vital to achieving this and allowing them to make decisions about what priorities were to be pursued. Developing projects on a "P3 form" was essential to achieving funding from Canberra and we had to demonstrate how the project would contribute to community development, including supporting Aboriginal people to establish their own outstations on their traditional lands.

We played a pivotal role in establishing and supporting

Aboriginal community organisations to deliver services which included making sure that audited financial statements were completed and AGMs were held. We often served as public officers of organisations. If and when funding arrived from Canberra, field officers like me would visit the communities and reach agreement with the boards of local organisations on how the funds were to be distributed, particularly in the case of homelands.

What did community development produce for Borroloola?

Officers like the late Ted Tonkin and Brian Kimmings made an enormous contribution to building a future for the Aboriginal people of the Gulf after a tragic history. They were trained in community development and they built strong relationships with locals, in Ted's case marrying a local woman. When I met him in 1984, after starting in the DAA Area office in Katherine, he and others were always travelling to Borroloola.

The region's most successful Aboriginal organisation, Mabunji Aboriginal Resource Indigenous Organisation, was already operating with a strong Aboriginal board made up of leaders of all the groups with homelands. With grants that would be considered to be trifling by today's standards, DAA officers developed and worked with a leadership to recruit managers for their organisations, to develop budgets to build basic infrastructure on homelands and then to establish Community Development Employment Projects (CDEP). After extensive consultations across all groups within the community, agreement was reached to CDEP grants replacing unemployment benefits and being used to employ people on a part time basis to avoid the social harm caused by passive welfare.

It wasn't just building Aboriginal organisations to provide services to their own communities. In those times, DAA officers played a major role in seeking the return of land. Officers in Katherine were instrumental in the purchase of Robinson River Station in 1980 which provided a home for many Aboriginal people homeless in the region. They also were directly involved in the complex negotiations to settle the first Borroloola land claim including identifying boundaries for the settlement. When I was still a graduate clerk, and asked to be rotated to Alice Springs in May 1983, my primary task was to help identify traditional owners for so called excisions being sought by Aboriginal people from pastoral leases for new living areas.

Brian Kimmings came later, particularly as a consultant after leaving the Aboriginal and Torres Strait Islander Commercial Development Corporation, the forerunner to Indigenous Business Australia. Brian still worked as a community developer building relationships with local people to help solve their problems, but in this case he supported people to become involved in the local economy. He was instrumental in establishing successful organisations such as Mawa Aboriginal Corporation which has made a success of the barge operation for the McArthur River mine. Brian also worked with Mabunji and the Aboriginals Benefit Account to secure funding so that Aboriginal people bought and upgraded the local supermarket, pivotal to local businesses. The supermarket has been an enormous success and one that I know local people are proud of and work for and run themselves.

It is these things that I saw again when I returned to Borroloola this year: Mabunji, Mawa and the Malandari supermarket. They were products of a community development approach that the late Ted Tonkin and others applied. It wasn't very theoretical and was much more practically orientated rather than policy engineered. It wasn't easy and there were many frustrations on both sides, arguments and failures. Nor did it solve the big problems, including the consequences of the violent dispossession of Aboriginal people in the Gulf. But it was built around Aboriginal people in Borroloola and allowing them to make decisions and take responsibility. It is what has endured and which Aboriginal people have some ownership over. I know that if the community development approach had continued after the demise of ATSIC, staff in the regional office would have worked with the Aboriginal board of Gulf Health Services to ensure it met its statutory obligations and achieved its objectives.

What happened after ATSIC?

In short, with the demise of ATSIC, a group of well-

intentioned public servants who did not have a background in Indigenous Affairs were given responsibility for developing a new approach. That approach was built around a notion of "mainstreaming", rather than community development. One important idea was that if outcomes were going to be improved for Indigenous people, we needed to ramp up mainstream service delivery to make sure that Aboriginal people had the support that all of us did.

with Aboriginal people, were committed to building up their capacity, sustaining their organisations to achieve this and making decisions together about government investment. The last 10 years in the public service, before I left in 2014, this was not the case. I did not see any young Aboriginal leaders in Borroloola when I visited this year and those I engaged with I had met in the DAA/ATSIC phase and I thought this was more telling than anything else.



Borroloola Police Station circa 1910: Northern Territory Library (John Roberts Johns Collection)

Intentional or not, this led to the approach that had been adopted by DAA and ATSIC fading out. There was no Indigenous representative structure that ATSIC provided to guide public servants or facilitate joint decision making between governments and communities. Decisions increasingly were made by SES officers in Canberra, as was already the case for mainstream service delivery. The centralisation of decision making and the loss of any meaningful role for those working in the network of offices across Australia, like me in Darwin, was palpable and frustrating. Working with Aboriginal people in remote communities to develop solutions to their problems using their own organisations was no longer valued and instead service delivery was increasingly decided on a national basis using the Commonwealth's contracting rules with many more non-Indigenous providers entering the scene.

The public service for Indigenous Affairs changed dramatically with many more professional public servants being engaged who did not have any training or experience in Indigenous Affairs. That included the network outside Canberra, and even Indigenous Co-ordination Centres in time fell over in favour of regional offices of the Indigenous Affairs agency in the Commonwealth. Misguided initiatives like the Northern Territory Emergency Response were another result.

What did it mean for Borroloola?

It would be unfair to judge this massive shift that occurred in Indigenous Affairs after ATSIC as a failure. I am certain though that what has endured in Borroloola comes from what was built in the community development phase where Aboriginal people had a much greater role in decision making. I suspect this goes for many remote communities in the Northern Territory. It is not that the priorities of the Federal Government such as getting kids to school, getting people into jobs and making communities safe are wrong. After 30 years working in Indigenous Affairs I think these are reasonable priorities. It is how the Government is achieving them which is my issue.

For the first 20 years of my career we had a strong network with people who had built up relationships and empathy

I am not the only one who sees benefits in a community development approach and both the Northern and Central Land Councils have re-organised their operations to implement this approach in making decisions about community income streams. The independent evaluation of the Central Land Council's community development program shows that they are moving in the right direction. Policy makers in Indigenous Affairs do need to pay more attention to what has happened before them, not just in the administration of Indigenous Affairs but also in knowing the history of the communities they are meant to support and not always throw the baby out with the bathwater.



*Brian Stacey is a former public servant who worked in Indigenous affairs for the Australian Government for more than 30 years. For much of that time he was based in the Northern Territory. He now works as a policy consultant and serves on the boards of the Centre for Appropriate Technology Ltd and the Aboriginal Carbon Fund.

“OUR BABIES AREN’T SAFE, WE GOT LEAD IN OUR DRINKING WATER”

*By Seán Kerins

On 19 April 2018, the Northern Territory Government slapped up notices around Borroloola telling the residents of Garawa 1 and Garawa 2 town camps not to drink, cook, or brush their teeth with the camps’ drinking water.

The notices said the contamination was a “short-term problem” and babies, young children and pregnant woman were “most likely to be affected by drinking water with lead in it”.

The NT Government-owned Power and Water Corporation (PWC) advised it was investigating the problem and would carry out tests and advise when the water was safe to drink again.

On 15 June 2018, the NT Government again posted notices around Borroloola, revoking the initial safety advice, telling residents of the Garawa 2 camp that “the water is now safe to drink”. And, that water samples tested on 12 June 2018, by the NT Government, found that “the lead and manganese levels are below the health values of the Australian Drinking Water Guidelines”.

An additional community update was issued by the NT Department of Health on 15 June confirming, “Water at Garawa 2 no longer contains elevated levels of manganese and lead and is safe to drink”.

Despite the cancellation of the safety advice not to drink the water in the Garawa 1 and 2 town camps, many people who live in the town camps and in the nearby homelands at Police Lagoon and beyond still don’t feel safe.

Residents say that despite calling for blood tests back in April nothing has happened. One resident who asked not to be named said, “I worry about what’s in the bodies of these here kids and babies. I don’t think we really been told what’s going on”.

The community notice from the NT Department of Health says “Power and Water worked hard over many weeks to fix the problem, which was more complicated than originally thought”.

The notice doesn’t tell the residents why or how the problem was more

complicated than originally thought, other than saying, “A range of actions were undertaken including flushing out the water pipes and replacing metal fixtures and pipe work” and “sections of the water supply system that were not often used have been disconnected to stop stagnant water contaminating the lines.”

The NT Department of Health notice also advised people who have been away for a period of time that if the water in the house had not been used “you should always let the taps run for a few minutes to flush out the pipes, as water stagnation can affect the quality of drinking water.”

Australian building standards still allow 4.5% of lead in particular fittings (particularly brass) that go into reticulation systems although it is unknown if parts that have been replaced in Garawa 2 contained 4.5% lead. This has not been made public.

It can also be revealed that the NT Government has no precautionary advice plan for chemical contamination. Chemicals like lead and manganese can be deadly but often have a slow build-up. This means that when there is an emergency like in the Garawa town camps the government is on the back foot, making ad hoc decisions on the hop.

Lead poisoning occurs when lead builds up in the body, often over months or years. Even very small amounts of lead can cause serious health problems, especially for children younger than 6 years of age. These health problems can severely affect mental and physical development of children, but may not be obvious immediately. Lead poisoning is also linked to kidney disease, infertility and miscarriages in adults.

To know if communities have health problems as a result of lead consumption the NT Department of Health talks with local authorities to see whether any people have presented themselves at local clinics with symptoms that may indicate elevated levels of lead in the body.

This passive approach alarms

the residents of Garawa 1 and 2 town camps. Lead poisoning can be hard to detect. Even people who seem healthy can have high blood levels of lead. The only way to detect lead poisoning is by blood tests or x-rays. Signs and symptoms usually don’t appear until dangerous amounts have accumulated and this may be too late to avoid long-term health consequences. There is no way to reverse the effects of lead poisoning on the body after it has occurred.

Residents from Borroloola’s neighbouring homeland communities are also fearful because their water supplies have not been tested. Residents say the homelands were built at a similar time to Garawa 1 and 2 and it’s likely the same materials have been used in the reticulation systems.

Added to people’s fears is the upstream McArthur River lead, silver and zinc mine. The mine holds an NT Government approved water discharge licence to dump waters that flood the massive open cut pit into the nearby McArthur River.

There have been many environmental issues associated with the mine since the diversion of the river, including fish in the river testing positive for lead and 400 cattle shot on a nearby station because they too tested positive for lead.

Although the NT Government testing found low levels of lead in the bore that provides water to the Garawa 1 and 2 town camps, residents say that when the river is in flood the flood waters surround the bore, with some flooded parts stagnating directly over the

underground water source.

“Common sense has to be that the flood water sitting for weeks has to seep down into the underground system,” says Gadrian Hoosan, a resident of Garawa 1.

Many other residents make mention of Glencore’s lead, zinc and silver mine when talking about safe drinking water, with many expressing concern that they are not advised when the mine is discharging water into the river system that was once a primary source of their food.

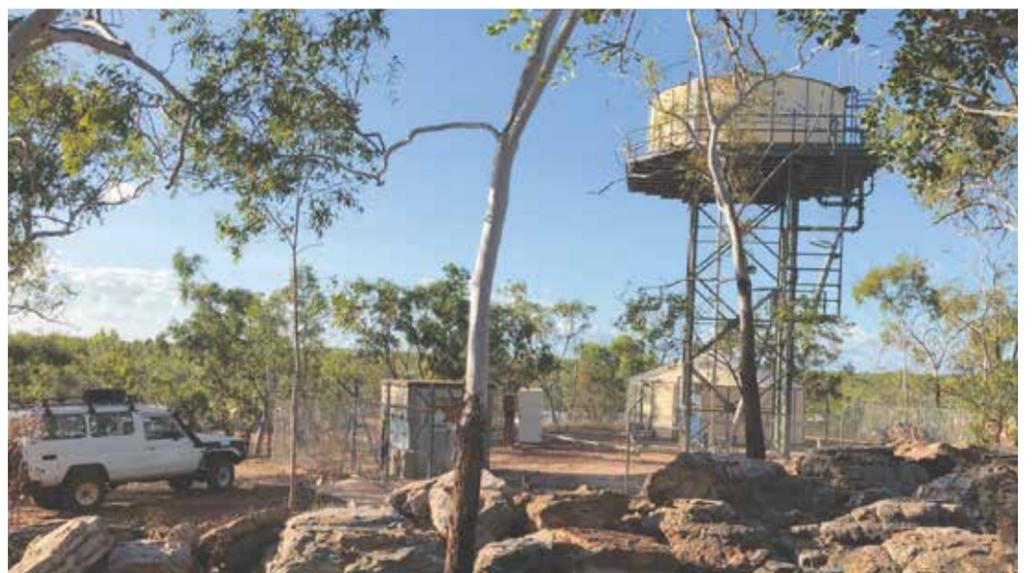
The greatest concern for residents in the town camps is the lack of information about what is going on.

“Why can’t government come and sit down with all of us in the town camps, tell us what they found. Tell us what parts of the water system they took out and why they took them out. Let us see these things so we know what’s happening,” said Angus Kidd, a Garawa 1 resident.

“What use are those notices to us when many people can’t read,” says Jack Green, whose many grandchildren live in the town camps.

“Government wants a treaty with us but they can’t even come and sit down with us and talk about safe drinking water. What kind of treaty partner is that?” says Green.

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Water tank for Garawa 1 and 2 town camps

Debunking myths and assumptions about Homelands



Muckatya Homelands, June 2014

By Robyn Grey-Gardner*

Aboriginal people living in homelands and outstations in the NT and across Australia are facing stark choices. These small discrete communities established during the past 30 years, remote from regional centres and mainstream services, are at a crossroads. This group of Aboriginal people are among the most disadvantaged in the nation; governments exercise heavy handed control over their livelihood, their finances, their future. Homelands and outstations are seen by Aboriginal people as a refuge for distinct cultural expression and agency, a product of the policy of self-determination. These places continue to provide meaning and amenity to Aboriginal peoples, but it is a pattern of settlement that does not fit comfortably with national service delivery models.

Homelands were romanticised well before they were realised. In Aboriginal minds they signalled a return to country. In governments' eyes the critical determinant of a homeland was the availability of water. The original ATSIC homelands policy required the existence or possibility of water as a basis for any funding to an outstation or homeland. As time has evolved an ever-increasing burden of regulation and expectation has conspired against the simple purpose envisaged by the early homelands movement.

For 20 years, I have lived in Alice Springs and worked in remote communities across Australia alongside Aboriginal people to manage their small drinking water supplies. The issues of sustainability for these small remote communities has exercised my mind and I have endeavoured to respond to a myriad of water supply issues site by site, family by family, in my approach. I have constantly discussed the issues and engaged with researchers, contractors, professionals new to this field, or entrepreneurs hoping to profit from the great opportunity that is the vast remote Australia. Most people question the service levels and human rights issues. All struggle to understand the tension between mainstream services and the social stresses apparent in Aboriginal

communities. Here I will share some thoughts, experiences and ideas that may help with sorting through the myths and the realities.

Does size really matter?

According to the definition of a homeland it is a place with a permanent population of fewer than 50-100 people with a potable water supply. Homelands were founded on the principle that they are places of cultural significance with a lesser number positioned to provide close oversight of non-Aboriginal activity in a particular area.

There are approximately 630 outstations and homelands recognised in the NT. Currently 382 are funded under the Australian and Northern Territory funding agreements. The funding is a mix of grants that are managed through a service provider, such as a resource agency or a Regional Council. Funding covers capital items, municipal and essential services and housing maintenance. In addition, the 'Homeland Extra Allowance', is available for upgrades and other infrastructure needs that fall outside the other funding areas. The additional allowance is allocated depending on application and fulfilment of several criteria. Over the period of the homelands movement funding has shifted from the Commonwealth to the States and Territories.

The funding of homelands and outstations affects the purpose and ability for Aboriginal people to use the facilities and to live or stay on Country. Indirectly, policy and funding ultimately determine size of population on a homeland. Many places are not funded because they either do not have a permanent population or the place is considered abandoned. The withdrawal of services to small homelands and outstations deprives people of even seasonal occupation. The size of a homeland or outstation implies people need to leave for work, school, to access health services and buy the necessities for life like shopping

for groceries and putting fuel in the car. The question of permanency is therefore always in tension with the realistic needs of people and reliance on population size as a defining criteria creates conditions susceptible to subjective judgement about viability.

The "permanent" homeland populations are often dominated by young children and older adults since those of school age or working age are necessarily in larger regional towns or farther afield ostensibly pursuing work and education opportunities. Government intervention through intrusive forms of workfare and welfare alongside the repetitive disruption of failed reforms and broken promises has amplified the uncertainty experienced by people striving to secure their cultural, social and economic futures on their country. The impact on precarious lives is increasingly being felt in the larger communities and regional centres as tension is displaced through movement.

The emphasis of the funding of these settlements has altered in recent years and now it is considered a contribution only. The funding does not cover all costs for services and it is expected that residents contribute to the costs of running and maintaining homelands. The homelands and outstations funding is allocated in the NT for the next 10 years. New homeland developments are discouraged because they will reduce the amount of funds available for the other homelands. This model is simply a continuation of the status quo despite the backdrop of increasing uncertainty and population movement. What is the vision for the 10 years of funding currently allocated? How do current funding practices bolster the vision of the future beyond the 10 years? Should we be contemplating homelands as part of a regional settlement or population ecosystem rather than a community of a certain size that has a certain level of servicing? In such a model, judgements would be made about the availability of services at different points of the ecosystem rather than at every point.



Connells Lagoon, Barkley Region, 2012

Outstations and homelands are uneconomic?

Since the moratorium on homelands and outstations established by ATSIC, there has been declining support for small remote homelands and outstations largely due to the service delivery model becoming increasingly uneconomic. The uncertainty of ongoing funding for homelands and outstations is a constant concern for Aboriginal people.

Since 2015, there has been heightened concern across Australia when the proposal to axe funding and subsequently close 150 remote homelands in West Australia was tabled. At the time, Tony Abbott commented that it was justified “if the cost outweighs the benefits”. This statement begged the question of what all the costs were and whose benefits were at risk.

The proposal was partially justified by the findings of a report into remote community services by the Office of the Auditor General in 2015. The report exposed essential services that did not meet the contract obligations and in particular water services did not meet the Australian Drinking Water Guidelines. The report outlined some of the challenges in providing services to remote areas by agencies based at great distance to the community, but the most obvious failure was in the expectations and management of the services.

At the time, the response from the Department of Housing noted the significant and unaffordable investment required to apply a permanent solution to the water quality risks raised in the OAG report. This could only have meant a technical solution that used external contractors and a continuity of the top down service delivery model. Furthermore, the infrastructure to be supported and the service level agreed was not based on any consideration of long term sustainability. In this instance risk has been pre-determined by externally normalised service levels, not the realities of local water management in remote homelands.

Key to the issue is the reliance on government funding. As funder, government sets the performance requirements and it is generally unable to make or concede outcomes that are at variance from what the largely urban coastal population of the country would expect. There is little room for local Aboriginal benefit to be weighed up in the status quo funding model. In fairness, there is also a vocal group of people who support Aboriginal rights and interests but are less aware of the consequence of the outcomes of their advocacy on the ground.

Whilst closure was not fully realised in WA, the threat lingers. What was evident in the dialogue, responses and political manoeuvrings around closure was the absence of meaningful engagement with the people living in remote communities perpetuating the failure to align the purpose

of homelands across all who were involved. Given the opportunity, Aboriginal people would be able to articulate their aspirations, make trade-offs and contribute to the solutions. In my experience these solutions may well be very different from mainstream notions of viability.

In 2016, I was project manager for the Northern Territory Homelands and Outstations Asset and Access Review (HOAAR). The review surveyed 401 homelands and outstations. It found that the people living in homelands and outstations are contributing to the maintenance and upkeep of their settlements. They remove rubbish, fix taps, mend fences, operate water supplies, create fire breaks etc. These are activities that contribute to their community’s maintenance and management but is also unrecognised and constitutes unpaid work.

Those homelands and outstations where only a few people live, usually are the places where old people are living quiet, simple and peaceful lives. These are the people who as young adults worked for rations and weren’t granted citizenship in Australia. Living in their homeland they can maintain their traditional authority and exercise a greater sense of control of their lives. In their own way, they contribute to the narrative that brings tourists to the NT. But that contribution is not costed in the benefit model.

The simplistic view of a community’s viability expressed by Tony Abbott and others, uses a deterministic model that uses population size and the economic cost of delivering services biased towards mainstream uniformity. Stafford Smith and Cribb critique the issue of viability in their book *Dry Times*: a blueprint for a red land and suggest that it is wrong to apply the simplistic population threshold model to assess viability. Viability is a balance between the aspirations for services and the cost of obtaining them. Each homeland will have very different aspirations than their urban or mainstream counterparts, but this is excluded from the equation.

Who services whom?

In a recent discussion with a young engineer about water services in remote communities, it was evident that community development in remote communities rarely uses participatory approaches. Moreover, it became clear just how little corporate knowledge remains after nearly 40 years since homelands and remote communities were established and nearly 15 years after the abolition of ATSIC.

A key question the engineer raised was “Do we need to incorporate ‘culture’ when working in remote communities on a drinking water supply?” I responded with, “What is the water supply going to be used for?”

My response highlighted that the purpose of the supply has to be the starting point and can only be understood through engagement with the people living at the settlement. Engagement with the users of the supply then informs the requirements of the supply, the quality and quantity,

the management of the supply, how the costs will be met and all other questions. It’s up to the custodians to decide whether there are any cultural concerns that an outsider needs to know. Often cultural concerns are managed while non-Aboriginal people remain oblivious to them. Culture is not something an engineer or technician needs to design in. However, the process of design and the engagement of Aboriginal people have to be such that they enable Aboriginal people to interpret and input their cultural understanding in the solution.

Water supplies in remote communities are the key factor for peoples’ access to a place and their ability to remain at that place. There is an assumption that normalised services or the highest quality water and the maximum amount of water will enable universal choices. This assumption puts the sustainability of many small homelands in marginal country at risk and drives narratives around closure because maintaining them would be uneconomic.

Reliance on externally-derived standards or service guidelines in preference to deep engagement and dialogue with Aboriginal people is the easiest way to ensure that Aboriginal homelands aspirations are thwarted.

For a water supply to be sustainable in a remote location, it needs to be designed to manage the risks, to meet local needs and match local capacities. If the supply is set up to require external contractors to regularly service it and make repairs, it will not be cost effective and ultimately effective only where local people can support it. Aboriginal people are usually highly knowledgeable about their water resource and should be the first point of contact.

As the bulk of water supply breakdowns I have encountered are mechanical rather than chemical or biological in nature, the relevance of local Aboriginal people to the solution – their skills, knowledge, and capacity – is essential to an appropriate solution. I have found Aboriginal people eager to be involved in the planning and management of their water supplies. They are keen to discuss issues, understand the evidence and make their own plans. I have been heartened to see water supplies fixed, fences built, young people trained (by family, not by experts flown in from urban centres), concrete poured and efforts to improve their lives at their own expense. The speed and willingness of Aboriginal people to address their own issues of sustainability, when given the opportunity to lead and with appropriate information to hand, have been a reward for me as a practitioner.

We cannot afford the future for homelands?

The emphasis on Aboriginal people obtaining ‘real’ jobs has had the consequence of Aboriginal people moving from homelands and outstations to participate in mandatory work for the dole programs or migrating to regional centres simply to access basic income support and services. Such policy-driven mobility underscores the suite of downstream issues that emanate from poverty and precarity, such as mental health issues, drug and alcohol abuse, violence and petty crime. The very policy set that generates this survival mobility works to undermine the viability of the homeland.

Aboriginal people becoming fringe dwellers condemned to a future of poverty and social exclusion in regional towns is not new and is still apparently viewed as being more beneficial than living in a homeland or outstation. How can this possibly be in the best interests of all Australians and for the greater good?

We know that Aboriginal people are already doing much unpaid work in many homelands and outstations – they are collecting and removing rubbish, looking after sick and elderly people, as well as looking after Country. However, there are also opportunities for Aboriginal people to engage in the market economy. The investment in the carbon economy and Indigenous Rangers have provided economic benefit for Aboriginal people living in remote areas. Further investment based on principles of long term environmental and social outcomes could support some Aboriginal people to stay on their Country, obtain an income and maximise the outcomes from the infrastructure investments made in remote communities.

The data collected during the HOAAR showed that the homelands and outstations, particularly around regional centres, could be better utilised. The funded homelands and outstations surrounding Tennant Creek, for example,



Bawaka, East Arnhem Land

are places where the physical assets were overall of a high standard. This means that in general the housing, water and energy infrastructure were in good operational condition. The lack of social services, however, was a main reason why people were having to stay in Tennant Creek.

There are approximately 70 houses in the homelands and outstations around Tennant Creek. At the time of the HOAAR survey there were just over 50 people sleeping at homelands the night each one was surveyed. Most houses have three bedrooms and there are more than 140 bedrooms in the region.

There are at least 21 houses containing 40 bedrooms at the five homelands and outstations located within 30 minutes travel time of Tennant Creek. On the night these five homelands were surveyed, a total of four people slept in the houses. These data provide only a snapshot. However, when there is much concern about overcrowding in poor quality housing in Tennant Creek, these relatively unused assets need to be part of the solution. What is needed to assist access to these places and assets?

The tension and disruption caused by Aboriginal people being drawn to larger towns is often overlooked. The future of Aboriginal people as fringe dwellers in larger regional towns is apparently better as a sunk cost than addressing how to enable people to live in remote areas. The homelands and outstations surrounding Tennant Creek had very low occupation levels and high rates of infrastructure strength. In this example, a regional ecosystem population model might provide a better flexible solution to both mobility and housing stress. This situation presents opportunities too, as such a mode provides employment opportunities at different points of the ecosystem. For instance, none of the homelands had a water management plan. A water management plan is necessary to keep a water supply safe and to meet water quality guidelines. It is best conducted by trained local people who can monitor on site and respond quickly to emergencies. There are opportunities to keep homelands operating effectively, empowering local people and applying research evidence from the desert. In essence, can we afford to not afford the future of homelands?

The future - opportunities and constraints

The response from Government around issues in remote communities is a repetitive mantra about social dysfunction, the need for bureaucracies to work together and to listen to Aboriginal people. Despite the Territory and Australian Governments' co-option of the rhetoric applicable to community development approaches, there is still no comprehensive policy framework for Aboriginal people to make their own decisions.

There are funds available to enable an authentic planning process for the future of homelands and outstations. For example, \$40 million from the Aboriginals Benefit Account (ABA) is now available for Aboriginal people living on homelands and outstations. However, the funds will be granted only for the capital costs of infrastructure on homelands and outstations, such as buildings. The ABA funds cannot be used for the ongoing maintenance of the structures that may be built. It also cannot be used to address issues of access (roads) or sustainability (water supply upgrades, water management planning, climate change adaptation or community development plans incorporating leadership/governance training). This approach effectively means that all new ABA funded infrastructure will inevitably fail, and Aboriginal people are being ostracised from making informed decisions about their lives, amenities and activities on their Country.

It is timely to give urgent consideration to the next phase of investment in homelands as infrastructure installed 30 years ago is at the end of its design life and there is a significant capital cost envisaged in its replacement. Under current program guidelines, that capital impost will work against homelands aspirations unless a new financial model can be developed.

At the 30 year junction, the policy framework needs to be reconsidered. This has implications for the funding model. Myths continue to drive both the framework and the model and yet they are assumptions derived from an urban sensibility. The funding model needs to be reconsidered

– for example, instead of directing the ABA funds to capital projects, an emphasis on longer term development principles could enable ongoing access to and livelihoods on country. An effective process-based approach, rather than project-based, would help Aboriginal people articulate an overarching vision that homelands need to play in a regional settlement ecosystem. Additionally, the ABA funds could further assist people with information gathering and evidence to make long-term plans for their homeland future. If there is to be an enduring legacy for the ABA funds, an investment needs to be in people.

This is the kind of long term view and engagement Aboriginal people want from Government as well as the ability to drive and lead their own futures on Country.



*Robyn Grey-Gardner is an environmental and social scientist with 20 years experience working with Aboriginal and Torres Strait Islander peoples to improve the access and safety to drinking water supplies. She has worked with Aboriginal organisations, governments, service providers and as a consultant, and is currently the lead author in the development of the World Health Organisation's *Small Water Supplies Field Guide*. She was also lead author of Australia's field guide for the risk management of small water supplies in Aboriginal and Torres Strait Islander communities.

ABA HOMELANDS PROJECT

The long awaited Aboriginals Benefit Account (ABA) Homelands Project has started. The project has been allocated a total of \$40 million; \$35.5 million will be allocated for the delivery of activities in homelands across the four Aboriginal land council regions in the NT.

The budget break down across the NT land council regions is as follows:

- Northern Land Council - \$15.75 million;
- Central Land Council - \$15.75 million;
- Tiwi Land Council - \$2 million; and
- Andiliyakwa Land Council - \$2 million.

An amount of \$4.5 million will be kept as a contingency and for the engagement of technical specialists, as required. Any remaining funds are to be re-invested in this project.



Connells Lagoon, Barkley Region, 2012

Key Facts

- There are around 630 homeland (outstations) communities;
- Approximately 400 homelands are regularly occupied on a permanent or semi-permanent basis;
- There are up to 10,000 Aboriginal people living in homelands. Populations in homelands can fluctuate depending on the season, cultural issues and access;
- Approximately 200 homelands are regularly occupied in the NLC Region; and
- Overall homeland Infrastructure need is very high.

NLC's role:

- Engaged by the Department of Prime Minister and Cabinet (PM&C) to apply our knowledge and networks to assist homelands to identify and seek assistance for activities under the project;
- Seek advice from key stakeholders prior to undertaking consultation with homelands to assist and identify priority communities;
- Develop a list of priority homelands to be consulted and identifying the anticipated package of assistance to be offered to each homeland;
- Consult with each prioritised homeland community to verify potential activities to be funded; and
- Complete funding submissions from the prioritised homeland communities and forward to PM&C for assessment, prior to being presented to the ABA Advisory Committee for their consideration and to be approved by the Minister for Indigenous Affairs.

Homeland Community Eligibility

- Existing homelands that are regularly used and maintained for residential or cultural purposes will be eligible to apply for funding;
- Homelands will be required to demonstrate involvement with a CDP provider and/or activities, or the potential to become involved in CDP activities;
- Homelands connected to Power and Water Corporation's Indigenous Essential Services

What can be funded

- ✓ Power
- ✓ Water
- ✓ Sewerage services
- ✓ Upgrades and repairs to infrastructure that supports access to a homeland (e.g. roads, bridges, cross-overs, airstrips, barge landings) but do not or are not eligible to receive funding from other sources
- ✓ New or upgraded radio/telephony infrastructure (including mobile phone coverage)
- ✓ New and upgraded community infrastructure to improve the amenity of a homeland such as ablution blocks, meeting facilities and new dump and fencing
- ✓ Vehicles and machinery for municipal activities and owned by an Aboriginal organisations
- ✓ Training and capacity development for Aboriginal organisations and residents to use and maintain infrastructure

What can't be funded

- ✗ Establishment of new homelands
- ✗ No new housing or major house upgrades/repairs
- ✗ No new infrastructure to support access to a homeland
- ✗ No new buildings or building upgrades to support an existing community function or enterprise
- ✗ No vehicles and machinery for personal non-commercial use
- ✗ No direct support for existing local enterprises
- ✗ No ongoing operational costs for newly installed infrastructure, including for repairs and maintenance

network will not be eligible for funding for these services under this project;

- Meeting the above criteria does not automatically guarantee funding for this project. Eligible homelands will be identified by the relevant land council and invited to submit proposals. Proposals to be considered on merit and the available funding.

Consultation Process

- NLC will initially consult Aboriginal homeland service provider boards and related boards servicing homelands as they often have the strongest relationships with homeland communities and are the local experts in understanding need and priority with homeland community infrastructure.
- NLC will engage other community stakeholders on a needs basis, to assist in identifying homeland infrastructure priorities and need. Homeland residents enquiring about the ABA Homelands Project separately will be provided information about the program and will be referred back to their service provider to discuss potential priorities

and need.

- Aboriginal homeland service provider boards and local government regional council boards will provide NLC a prioritised list of homelands to consult with potential projects.
- Once a list of homelands to consult is established PM&C will be advised and will put together an information package to help land councils with their consultations. Packages will detail previous and planned government investment in each homeland;
- NLC will consult the residents of prioritised homeland communities, assisting residents to prepare detailed funding proposals.
- NLC Regional Councils will provide guidance on what activities are funding priorities in their regions.

Homeland Community Consultations

Prioritised community consults will commence in September 2018 and continue up until early next year. NLC estimates that the ABA Homeland Project may benefit 80 to 100 outstations across its region.

Welfare reform and Indigeneity in remote Australia: A toxic mix

By Jon Altman*

In the past month I participated in two workshops. I used what I observed on my latest visit to Arnhem Land and what people were telling me to inform what I presented at the workshops.

The first workshop explored issues around excessive consumption by industrialised societies globally and how this is harming human health and destroying the planet. Workshop participants asked how such 'consumptogenic' systems might be regulated for the global good? My job was to provide a case study from my research on consumption by Indigenous people in remote Australia.

The second workshop looked at welfare reform in the past decade in remote Indigenous Australia. In this workshop I looked at how welfare reform by the Australian state after the NT Intervention was creatively destroying the economy and lifeways of groups in Arnhem Land who are looking to live on their lands and off its natural resources.

Here I want to share some of what I said.

Broadly speaking, Indigenous policy in remote Australia is looking to do two things.

The first is to Close the Gaps so that Indigenous Australians can one future day have the same socio-economic status as other Australians. In remote Australia this goal is linked to the project to Develop the North via opening Aboriginal communities and lands to more market capitalism and extraction, purportedly for the improvement of disadvantaged Indigenous peoples and land owners.

While remote-living Indigenous people have economic and social justice rights to vastly improved wellbeing, in such scenarios of future economic equality based on market capitalism the downsides of what I think of as 'consumptomania' are never mentioned.

The second aim of policy is the extreme regulation of Indigenous people and their behaviour when deemed unacceptable. In a punitive manifestation of neoliberal governmentality, the Australian state, and its nominated agents, are looking to morally restructure Indigenous people to transform them into model citizens: hard-working, individualistic, highly educated, nationally mobile at least in pursuit of work (not alcohol), and materially acquisitive.

This paternalistic project of improvement makes no concessions whatsoever to cultural difference, colonial history of neglect, connection to country, discrimination, and so on.

In the past decade, new race-based instruments have been devised to regulate Indigenous people including their forms of expenditure (via income management), forms of working via the Community Development Programme (CDP) and their places of habitation, where they might access basic citizenship services.

All these measures have implications for consumption of market commodities, including food from shops, and of customary non-market

goods, including food from the bush.

We have all heard the bad news, year after year, report after report, that the government-imposed project of improvement "Closing the Gap" introduced by Kevin Rudd in 2008 is failing.

Using the government's own statistics, after 10 years only one target, year 12 attainment, might be on track. I say "might" because "attainment" is open to multiple interpretations: is attainment just about attendance or about gaining useful life skills?

What national and average Closing the Gap figures do not tell us is just how badly the estimated 170,000 Indigenous people in remote and very remote Australia are faring. This region where I focus my work covers 86 per cent of the Australian continent.

What we are seeing in this massive part of Australia according to the latest census are the very lowest employment/population ratios of about 30 per cent for Indigenous adults (against 80 per cent for non-Indigenous adults) and the deepest poverty, more than 50 per cent of

by metropolitan elites.)

Hence the project of behavioural modification to eradicate Indigenous cultures that exhibit problematic characteristics, like sharing and a focus on kinship and reciprocity, to be replaced by western culture with its high consumption, individualistic and materially acquisitive characteristics.

Connection to country, at least if it involves living on it, is also deemed highly problematic by the Australian state if one wants to produce western educated, home-owning, properly disciplined neoliberal subjects—terra nullius is now to be replaced by terra vacua, empty land.

Such empty land would be ripe for resource extraction and capitalist accumulation by dispossession. Despite all the talk of mining on Aboriginal land, there are currently very few operating mines on the Indigenous estate. This is imagined as one means to Develop the North, but recent history suggests that the long-term benefits to Aboriginal land owners from such development will be limited.

In a punitive manifestation of neoliberal governmentality, the Australian state, and its nominated agents, are looking to morally restructure Indigenous people to transform them into model citizens: hard-working, individualistic, highly educated, nationally mobile at least in pursuit of work (not alcohol), and materially acquisitive.

people in Indigenous households currently live below the poverty line.

This is also paradoxically where Indigenous people have most land and native title rights; a recent estimate suggests that 43 per cent of the continent has some form of indigenous title, and is dotted with maybe 1000 small Indigenous communities with a total population of 100,000 at most.

Native title rights and interests give people an unusual and generally unregulated right to use natural resources for domestic consumption.

This form of consumption might include hunting kangaroos or feral animals like the estimated 100,000 wild buffalo in Arnhem Land. Such hunting is good for health because the meat is lean and fresh; it is also good for the environment because buffalo eat about 30 kg of vegetation a day and are environmentally destructive; and it is good for global cooling because each buffalo emits methane with a carbon equivalent value of about two tonnes per annum.

The legal challenge of gaining native title rights and interests is that claimants must demonstrate continuity of customs and traditions and connection to their claimed country.

But in remote Australia culture and tradition have been identified as a key element of the problem that is exacerbating social dysfunction. (That is unless tradition appears as fine art 'high culture' which is imagined to be unrelated to the everyday culture and is a favourite item for consumption

Much of what I describe above in general terms resonates with what I have observed in Arnhem Land where I have visited regularly since the Intervention; and what I hear from Aboriginal people and colleagues working elsewhere in remote Indigenous Australia.

From 2007 to 2012 all communities in Arnhem Land were prescribed under NT Intervention laws. Since 2012, under Stronger Futures laws legislated in force until 2022, the Aboriginal population has continued to be subject to a new hyper-regulatory regime: income management, government-licensed stores, modern slavery-like compulsory work for welfare, enhanced policing, unimaginable levels of electronic and police surveillance, school attendance programs and so on.

The limited availability of mainstream work in this region as elsewhere means that most adults of working age receive their income from the new Community Development Program introduced in 2015. Weekly income is limited to Newstart (\$260) for which one must meet a work requirement of five hours a day, five days a week if aged 18-49 years and able-bodied.

Of this paltry income, 50 per cent is quarantined for spending at stores where prices are invariably high owing to remoteness.

The main aim of such paternalism is to reduce expenditure on tobacco and alcohol which cannot be purchased with the BasicsCard.

Shop managers that I have interviewed tell me that, despite steep tax-related price rises (a pack of Winfield Blue costs nearly \$30), tobacco demand is inelastic and sales have not declined.

Since 2000, Noel Pearson has popularised his metaphor “welfare poison”. Pearson is referring figuratively to what he sees as the negative impacts of long-term welfare dependence.

In Arnhem Land welfare is literally a form of poison because in the name of “food security” people are forced to purchase foods they can afford with low nutritional value from “licensed” stores.

However, paternalistic licencing to allow stores to operate the government-imposed BasicsCard is not undertaken equitably by officials from the Department of Prime Minister and Cabinet.

So one sees large, long-standing, community-owned and operated and mainly Indigenous-staffed stores being rigorously regulated – managers argue, over-regulated. Such stores are highly visible, as are their accounts.

But small private-sector operators (staffed mainly by temporary visa holders and backpackers) that have been established as the regional economy has been prised open to the free market appear under-regulated, even though they are also “licensed” to operate the BasicsCard.

These private sector operators compete very effectively with community-owned enterprises because they have a focus only on commerce: all the profits they make, and most of the wages they pay non-local staff, leave the region.

Owing to deep poverty, many people can purchase only relatively cheap and unhealthy takeaway foods that are killing them prematurely from non-communicable diseases, like acute heart and kidney disorders, followed by lung cancer from smoking.

With income management Aboriginal people are being coerced to shop at stores according to the government’s rhetoric for their “food security”. Before the introduction of this regime many more people were exercising their “food sovereignty” right to harvest far healthier foods from the bush.

This dramatic transformation has occurred as an unusual form of regional economy that involved a high level of customary activity has been effectively destroyed by the dominant government view that prioritises only engagement in market capitalism—that is largely absent in this region.

On one hand, we now see the most able-bodied hunters required to work for the dole every week day, with their energies directed from what they do best.

On the other hand, the greatly enhanced police presence is resulting simultaneously in people being deprived of their basic equipment for hunting—guns and trucks—regularly impounded because they are unregistered or their users unlicensed.

People are being increasingly isolated from their ancestral lands and their hunting grounds.

Excessive policing, growing poverty, dependency and anomie are seeing criminality escalate, with expensive fines for minor misdemeanours further impoverishing people and reducing their ability to purchase either more expensive healthy foods or the means to acquire bush foods.

A virtuous production cycle that until the Intervention saw much ‘bush food consumption’ has been disastrously reversed. Today, we see

a vicious cycle where people regularly report hunger while living in rich Australia; people’s health status is declining.

Welfare reform and Indigeneity is indeed a toxic mix, poison, in remote regions like Arnhem Land.

I want to end with some more general conclusions.

On the regulation of Indigenous expenditure, we see a perverse policy intervention: the Australian government is committing what are sometimes referred to as Type 1 and Type 2 errors.

The former sees the government looking to regulate Indigenous consumption using the expensive instrument of income management that has cost over \$1.2 billion to date, despite no evidence that it makes a difference.

The latter sees an absence of the proper regulation of supply in licensed stores evident when stores with names like “The Good Food Kitchen” sell cheap unhealthy take-aways.

In my view the racially-targeted and crude attempts to regulate Indigenous expenditure are unacceptable on social justice grounds.

Two principles as articulated by Guy Standing stand out.

“The security difference principle” suggests that a policy is socially just only if it improves the [food] security of the most insecure in society. Income management and work for the dole do not do this.

And “the paternalism test” suggests that a policy like income management would be socially just if only it does not impose controls on some groups that are not imposed on the most-free groups in society.

Paternalistic governmentality in remote Australia is imposing tight regulatory frameworks on some people, even though the justifying ideology suggests that markets should be free and unregulated.

Sociologist Loic Wacquant in *Punishing the Poor* shows how the carceral state in the USA punishes the poor with criminalisation and imprisonment; the poor there happen to be mainly black.

In Australia, punitive neoliberalism punishes those remote living Aboriginal people who happen to be poor and dependent on the state.

Once again there is a perversity in policy implementation.

Hence in Arnhem Land, people maintain strong vestiges of a hunter-gatherer subjectivity that when combined with deep poverty makes them avid consumers of western commodities that are bad for health (like tobacco that is expensive and fatty sugary take away food that is relatively cheap).

At the same time, commodities that might be useful to improve health, like access to guns and trucks essential for modern hunting, are rendered unavailable by a combination of poverty and excessive policing.

Australian democracy that is founded on notions of liberalism needs to be held to account for such travesties.

Long ago in 1859 John Stuart Mill, the doyen of liberals, wrote in *On Liberty*: “despotism is a legitimate form of government in dealing with barbarians, providing the end be their improvement and the means justified by actually effecting that end”.

In illiberal Australia today, authoritarian controls over remote living Indigenous people and their behaviour are again viewed as legitimate by the powerful now neoliberal state, even though there is growing evidence from remote Australia that things are getting worse.

I want to end with some suggested antidotes to the toxic mix that has resulted from welfare reform that is targeting many remote-living Aboriginal people and impoverishing them.

First, in my view despotism for some is never legitimate, so people should be treated equally, irrespective of their ethnicity or structural circumstances.

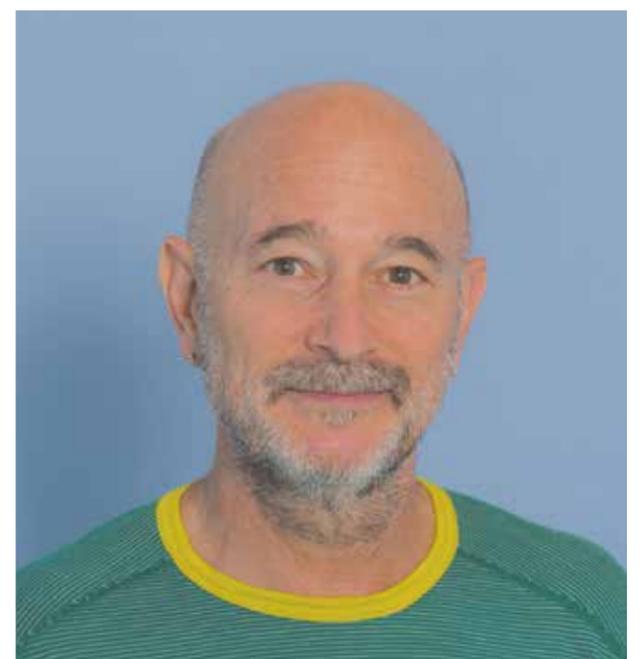
Second, the Community Development Programme is a coercive disaster that is far more effective at breaching and penalising the jobless for not complying with excessive requirements than in creating jobs. CDP is further impoverishing people and should be replaced, especially in places where there are no jobs, with unconditional basic income support.

Third, people need to be empowered to find their own solutions to the complex challenges of appropriate development that accord with their aspirations, norms, values, and lifeways. Devolutionary principles of self-government and community control, not big government and centralised control, are needed.

Fourth, the native title of remote living people should be protected to ensure that they benefit from all their rights and interests. There is no point in legally allocating property rights in natural resources valuable for self-provisioning if people are effectively excluded from access to their ancestral lands and the enjoyment of these resources.

Finally, governments should support what has worked in the past to improve people’s diverse, culturally-informed views about wellbeing and sense of worth.

While such an approach might not close some imposed Closing the Gap targets, like employment as measured by standard western metrics, it will likely improve other important goals like reducing child mortality and enhancing life expectancy and overall quality of life.



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Aboriginal People in the NT Justice System: Powerless and Voiceless

"The standard of justice depends on the equality of power to compel."
– Thucydides, 'The Melian Dialogue' (416 B.C.)

*By John B Lawrence SC

It now seems inevitable that the Gooda/White Royal Commission won't lead to any real improvement to the NT Youth Justice System. The recent spate of incidents within youth justice detention centres reveals that two years after the Royal Commission was established, little if anything has changed as regards the culture and the will of the children's "jailers", Territory Families. This is evidenced by the continuing high number of Aboriginal detainees (still 6-7 times higher than any other jurisdiction, 100% Aboriginal and still 80% of those being held on remand) and the inhumane conditions in which Aboriginal children are jailed. I use the term "jailed" because remarkably the children are still being detained in the old Berrimah men's jail! It also confirms that in 2018 the powerlessness and voicelessness of Aboriginal children and families sucked into the NT's youth justice system continues.

Unbelievably in 2018 the system remains in crisis. The incidents reported are similar to those examined by the Royal Commission: children escaping and attempting to escape; near misses on self-harm and suicide attempts; children climbing on roofs due to their overcrowded and inhumane conditions.

In July 2018, a Youth Justice Court Judge ordered the release on bail of a child awaiting sentence who had pleaded guilty to several serious assaults (including a knifing) because the Judge said the old Berrimah Jail ("Don Dale 2") was "unfit for purpose". Chronic staff shortages persist; youth justice officers are presently receiving their training from prison officers from the adult Jail; rehabilitation programs are ordered but not undertaken; and children are still being detained in lock-down and in isolation. All of this follows in the wake of the Royal Commission, which was established by Prime Minister Turnbull two years ago, and its Final Report being published eight months ago. Now in August 2018, with no little irony, the Northern Territory Legal Aid Commission which represented some of the children tortured and abused during the period examined by the Royal Commission (2006-2016) and who failed to prevent the same, have at least now undertaken civil action on behalf of two clients against Territory Families, calling for the closure of Berrimah Jail/Don Dale 2 and Alice Springs Detention Centre due to numerous continuing alleged breaches of human rights in these past two years.

To illustrate how scandalous this situation is we

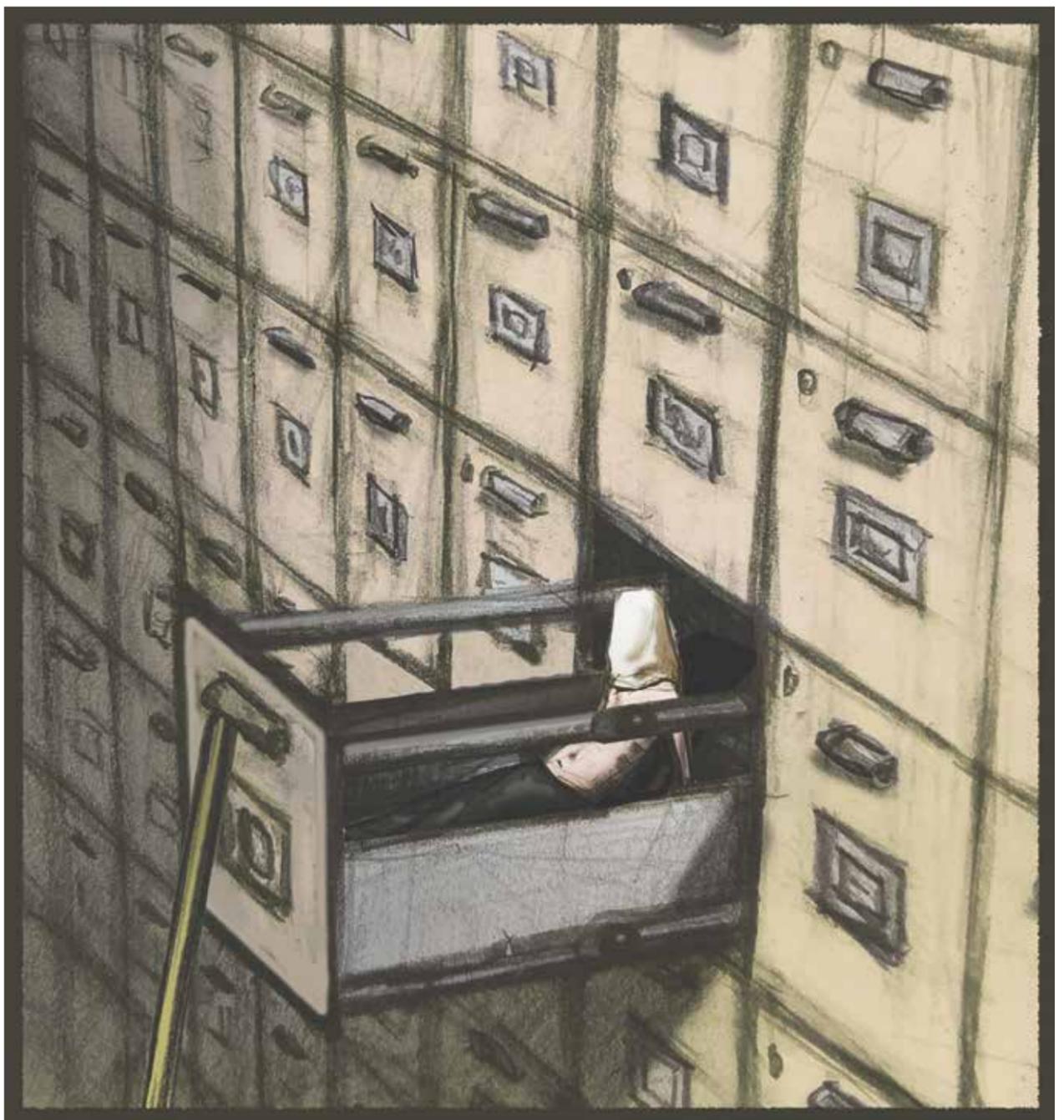


Illustration © Nick Bland

need to remind ourselves that at the very outset of the Royal Commission in October 2016 the Commissioners, through their Counsel Assisting, asserted that this could not be just another Royal Commission like so many previous inquiries. They announced at the outset that there had already been more than 50 reports from various Inquiries and Commissions, and this Commission had to produce action and results. Everyone agreed this report could not be just another document destined for yet another filing cabinet. On the second day of the public hearings, Ms Pat Anderson, chairperson of the Lowitja Institute and author of the Little Children are Sacred report, implored the Commissioners that this one had to be the one that broke through. While thumping the table and holding the entire courtroom spellbound, she asserted this:

"We spend a lot of time talking about Aboriginal issues and the problems and everything, but very little has been done. It's just the nature of these things. And I really fear – our hope is, Commissioners, that this isn't the fate of this Inquiry. In fact, I would go so far as to say the very survival of Aboriginal people in the Northern Territory depends on this Commission making a real impact here, that it not just be- we all feel good about talking about it, and we go away feeling all warm and fuzzy, and its dropped into a filing cabinet somewhere. That cannot happen here today, this – this – this report. Please, I beg you, do not just put it in a filing cabinet. You are morally bound to do something, not just talk about it"

Incredibly, that is effectively what's happening here. In fact, the Gooda/White Report 2018 is heading for the filing cabinet quicker than any other. In many ways that reveals what Australia has become in 2018: a country that, by the day, becomes meaner, less tolerant and more racist. Australia 2018 has Federal Senators calling for a "Final Solution" concerning Muslims and immigration; AFL fans throwing bananas at Eddie Betts and booing Adam Goodes into retirement; and lurching towards the near possibility of "The Lurch" himself, Peter Dutton, becoming the 30th Prime Minister.

It truly beggars belief that after the brutality exposed by the Four Corners program and confirmed and amplified by the Findings of the Royal Commission (restraint chair, torture by isolation, shackles, spit hoods and abusive harassment) there has been little change in the culture and no improvement – merely the usual words and a continuation of the hopeless status quo. This could happen only to Aboriginal children and their families. If these children were not Aboriginal, the horror that befell them in Don Dale would never have occurred; and, if it had, the heads of those responsible would have rolled and the system would have been promptly changed for the better. Not so for Aboriginal families, who are third class citizens, powerless and voiceless.

The first real whiff of this disgraceful continuum was the fact that the senior management and staff from NT Corrections exposed by the Royal Commission as responsible for the torture and abuse were not made to pay for their deeds, despite the demands of Aboriginal people. The families were and still are demanding what is known as Justice. For those Establishment "offenders", there have been no consequences for their actions. The NT establishment's ratlines have worked very effectively to add insult to injury to Aboriginal people. Specifically in that regard there is Ms Salli Cohen, the former Executive Director of Youth Justice, 2012-15: she was directly responsible for and knew about most of the gross abuses against Aboriginal children held in isolation in her notorious Behavioural Management Unit. She presently holds the position of Executive Director of Social Policy Coordination for the Department of the Chief Minister. What an insult above injury to the young, abused Aboriginal detainees, their families and Aboriginal people generally. Likewise Jimmy Sizeland, who was 2IC of Don Dale during this period and the recruiter of "Jimmy's Boys", a cadre of untrained, unqualified gym junky/professional kickboxing youth justice officers who abused and harassed the children. Jimmy Sizeland is still working for Corrections as a Chief Correctional Officer. It can't be stressed enough, this infamy could happen only to and against Aboriginal people.

"Abandon All Hope, Ye Who Enter Here." – Inscription on the Gates of Hell from Dante's Inferno; Canto III, line 9

One of the main reasons why nothing is really going to change is that the Aboriginal children

and families who slide into the chasm of the youth justice system are effectively voiceless. The traditional spokespersons and bodies who in the past spoke out for Aboriginal people's rights and against their abuse (The North Australian Aboriginal Justice Agency [NAAJA], the Northern Territory Legal Aid Commission [NTLAC], the Criminal Lawyers Association of the Northern Territory [CLANT], the Northern Territory Bar Association [NTBA], the Law Society of the NT and others) are now well and truly muted. Over the past decade, such bodies have chosen to become embedded within the establishment which continues to jail Aboriginal people at ever-increasing numbers and now mistreats them, including the children in their custody.

This was seen, in the writer's opinion, as clearly relevant and causative in the Royal Commission's investigation into the abuse between 2012-15 – the restraint chair, unlawful periods of isolation in inhumane conditions, shackles, spit hoods, abuse and harassment by untrained youth justice officers all happened to Aboriginal children, all of whom had lawyers at the time, either from NTLAC, NAAJA, or the then Central Australian Aboriginal Legal Aid Service (CAALAS). As a legal practitioner with more than 30 years' experience in the NT, including a period as Solicitor in Charge of NAAJA's predecessor, the North Australian Aboriginal Legal Aid Service (NAALAS), it's my view that one of the glaring deficiencies in the Gooda/White Royal Commission was that it refused to investigate and examine the role and responsibility of the legal profession concerning the mistreatment and abuse of the Aboriginal children who were their clients. The Royal Commission's claim that it was investigating the subject "systemically" necessitated critical examination of what the lawyers for those children did, and what they failed to do. However the legal profession, including the Magistrates and Judges, conveniently found itself scrutiny free. Efforts were made during the Royal Commission to open it up through questioning, but every attempt was disallowed: shame on Commissioners Gooda and White and their Counsel Assisting. By not critically investigating the performance of the children's lawyers, Commissioners Gooda and White have effectively condoned it.

Nevertheless, there inevitably emerged ample evidence which revealed that the performance and standard of the legal representatives for the children fell well short of the duties and responsibilities of a legal practitioner in such a situation. The evidence of Mr Goldflam, then senior lawyer with the Legal Aid Commission in Alice Springs and president of CLANT, informed the Commission about what the lawyers knew:

"We all knew that there was terrible things going on in the Youth Detention facilities. Although Four Corners hadn't been aired, it wasn't a secret that spit hoods and chairs and all the rest of it were being used. I had written about this myself publicly, over a year before – just on a year before Four Corners was aired. So it was an issue of the most pressing concern".

His further evidence revealed that CLANT's policy had been one of "cooperation" and

"collaboration" with the Government and the Department of Corrections. He considered it to be a "cordial" and "productive" relationship. This was best illustrated by the evidence of Ms Salli Cohen (Executive Director of Youth Justice 2012-15) when she revealed that on 11 August 2014, NAAJA senior staff (including CEO Priscilla Atkins and then Principal Legal Officer Jonathon Hunyor) were given a tour of Don Dale's now-infamous Behavioural Management Unit (BMU) in order to show them the six Aboriginal children banged up in their dark, hot, putrid dungeons where they were being kept 23 out of 24 hours per day in solitary confinement. Ms Cohen's purpose in showing them really speaks volumes about the relationship between Corrections and NAAJA: it was to persuade NAAJA to stop criticising the government's proposal to shut down Don Dale and re-open the Berrimah adult jail, turning it into Don Dale 2.

A Borroloola boy, Jake Roper, was one of the dungeon dwellers, and he gave uncontradicted evidence to the Royal Commission. He was subjected to a horrendous period of indefinite isolation in a cell 3m x 2m, with no fan, no air conditioning and no hygiene. The only furniture was a lid-less steel toilet and a pillow and mattress. He couldn't wash his hands after using the toilet. He had to eat his three meals in the same cell. He was there 23 out of 24 hours a day for 16 consecutive days, until he broke out and effectively freed the others. He was 14 years of age. This was barbarism and cruelty, the likes of which had never occurred in the Northern Territory or any other Australian justice system in living memory.

And so it was on Jake's fifth day of that isolation that the NAAJA CEO and Principal Lawyer were shown the dungeons, with Jake and the five other Aboriginal boys cooped up therein. The evidence reveals that NAAJA did very little in response. They wrote a letter expressing their concerns to the CEO of Corrections, which was answered, and then they laid a complaint with the NT Children's Commissioner, whose inquiry into the matter took more than a year to complete. Other than that, they did nothing. The children remained in those cells another 10 days until 21 August, when Jake Roper managed to get out of his cell, which had been left unlocked, and run amok. The authorities responded by tear-gassing him and the other five children, before dragging them out, hosing them down, shackling, spit-hooding and moving them to the adult jail. Thankfully, that was the end of the BMU.

Remarkably, the policy of collaboration and "working with Government", which arguably contributed to the mistreatment and abuse committed against their clients, remains the policy of NAAJA and others post-Royal Commission findings and recommendations.

In a prescient observation explaining Australia's continuing moral descent, which applies here, Australian author Richard Flanagan stated: "We have all agreed with too much that was wrong for too long" (Alan Missen Oration).

On 28 February 2018 the NT Government published its official response to the Royal Commission. It agreed with about half of the recommendations, "in principle", which history tells us means little to no action. More platitudes emerged. The

Chief Minister of course offered an apology, which in 2018, thanks to years of cynical overuse and exploitation by politicians, means nothing. Further words included, “the recommendations align with the Government’s reform policy”: blah blah blah. Meanwhile, Aboriginal children still remain, mostly on remand, in gross numbers and gross conditions, in an unfit-for-purpose adult prison. The reality is that the status quo has clearly continued; there is little evidence of any cultural change. The staffing shortfalls are still there, if not worse, which really confirms a lack of will. Aboriginal people are shown to be, yet again, third class citizens and voiceless.

The embedded organisations (NAAJA, NTLAC and CLANT) have offered little opposition to the continuing crisis. If anything, they are on the record uttering limited support for the nothingness that continues. Even the NT Children’s Commissioner with her recent statements to the media concerning the lack of change has sounded more like an official government apologist rather than an independent representative of the children inside the detention centres.

NAAJA, CLANT and the others now just keep their heads down and say nothing, demonstrating yet another example of Professor Stanner’s “Great Silence”. This includes Stanner’s concept of “sightlessness”, which he defined as “the aversion of our eyes from the facts”. The Don Dale shame and its situation is being steered towards the same “Great Silence” filing cabinet as the massacres, the Stolen Generation and the other truths in Australia’s history concerning its dreadful treatment of Aboriginal people.

The NT youth justice system, like much of the NT legal system, has become unsustainable.

Australia in 2018 is a far lesser country than it was 10-20 years ago. Our professional and moral standards continue to descend to the bottom of the barrel. The Banking Royal Commission reveals that Australia’s major banks have been deliberately charging dead people for financial advice, and for services to living people which are never in fact delivered: in other words, stealing. The NT’s former Police Commissioner, John McRoberts is now in jail for attempting to pervert the course of justice. Federal politicians are vandalising our democratic system with their self-interest and blood feuds.

These are dark times, and so the struggle to obtain justice for

Aboriginal people grows harder by the day. These times, more than ever, do not lend to achieving that, by again continuing to collaborate and “work with government”. Regular round tables, minuted meetings, coffee and fruit platters continue to avoid real action and change. The Royal Commission proved beyond reasonable doubt that such a policy achieves nothing – just ask Jake Roper, the other Don Dale kids and their families. I can’t stress enough that the writer’s criticisms here do not apply to the daily heroics performed by the grossly under-resourced administrative staff and lawyers who work for Aboriginal people in the front line within the court system. These criticisms apply only to the people in senior management and above who are making and pursuing this policy for these organisations. Whether they’re motivated by self-interest or genuinely held beliefs really doesn’t matter. The point is that in 2018, not only will it not achieve justice for Aboriginal people, it actually perpetuates the growing injustice towards them.

Change is needed. The only way to achieve that in 2018 Australia is through opposition, dissent and direct struggle. Talking and working with Government is both stale and ineffective: “Those who don’t learn from history are destined to repeat it” (George Santayana). This year is the 100th anniversary of victory for the British suffragette movement. Having campaigned unsuccessfully for years, which included “talking, talking” and working with the male governments of the day, Emily Pankhurst and other women, mostly educated, middle class ladies, realised that the right to vote for women would not be achieved by a continuation of “talking, talking” and negotiation. Their motto was “Deeds, not Words”, and so they pursued a strategic policy of civil disobedience, which eventually led to suffrage for women under the Representation of People Act 1918. Ron Castan QC, counsel for Eddie Mabo in the historic High Court case which erased terra nullius (at least in law, if not in mind), famously said, “a belief in justice is empty unless it is expressed in action”.

What is happening right now in the youth justice system is that the only ones actually acting, trying to obtain justice and resist injustice are the children themselves. Just like Jake Roper’s heroics managed to terminate the horror of the BMU in 2014, these Aboriginal children, locked up in Alice Springs Detention Centre and Berrimah Prison, are the

only ones who are protesting against the injustices they suffer under. Remarkably, they do so alone and without support.

For various reasons, Professor Stanner’s “sightlessness” has greater application to Australia in 2018 than it ever has. Too many people who should know better fail to appreciate the turbulent and fastly-changing times in which we now live. The policies and approaches from 10 or more years ago of negotiating and working with government are now stale, and have proven to be ineffective.

Dr Martin Luther King (Jnr) was a law-abiding minister of the church in the 1950s when he took up the cause of the injustice of American Negroes. He realised, in many respects like the suffragette movement, that the circumstances of the day required direct action if there was to be any real prospect of obtaining justice. From his jail cell in Birmingham in 1963, he wrote the famous words which have as much application in the NT today as they did in Alabama then: “We know through painful experience that freedom is never voluntarily given by the oppressor; it

must be demanded by the oppressed. For years now I have heard the word “Wait!”. It rings in the ear of every Negro with piercing familiarity. This “Wait” has almost always meant “Never!” (Letter from a Birmingham City Jail, 16 April 1963).



*John B. Lawrence SC is a Darwin barrister and former president of the NT Bar Association and of the Criminal Lawyers Association of the Northern Territory.

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TACKLING THE HOUSING DEFICIT

The Northern Territory Government provides housing or housing support to approximately 66,000 people - close to 27 per cent of the NT's population.

The Territory Labor Government has committed to tackling the housing deficit in remote communities by investing \$1.1 billion over the next 10 years.

Housing and Community Development Minister Gerry McCarthy outlined the progress of the Government's housing programs in a speech to Parliament on 16 August. Here's an edited transcript:

During 2017/18, we undertook 84 community engagement visits across 46 communities to ensure that residents are involved in the program. As a result we are seeing real interest from remote Territorians and the early results are promising.

So far, 23 communities are programmed to receive works under the HomeBuildNT program and 21 projects have been issued to the Department of Planning Infrastructure and Logistics (DIPL) for 79 new dwellings throughout the Northern Territory.

In contrast to previous programs, the size, location, number and construction of these homes has gone through multiple stages of local decision-making in each community to ensure that when completed, they will suit the communities' needs.

In Galiwin'ku, for example, a need for 33 homes was identified and put on the draft program. Through the local decision making stage however, the community chose to have this program delivered over five years, to create sustainable jobs and allow time for apprenticeships for young, local workers.

In Wurrumiyanga, local decision making led to a change from six three-bedroom homes to a mix of one and two-bedroom homes to better suit the community's needs and provide housing for singles and seniors.

We currently have contracts awarded to construct 14 dwellings under HomeBuildNT. Of these, three dwellings are complete, one in Peppimenarti and two in Minyerri.

With alternative designs now allowed, we are also beginning to see some innovative ideas from the construction industry and a reduction in the cost of building new homes. It is important that we take the time to properly assess innovative proposals and test them through local decision making but I am certain that these will lead to improved housing for remote Territorians.

To support the delivery of new homes, \$44.5 million has been committed up to 2017/18 to develop around 450 housing lots over the next two years. To date, we have commenced planning and new subdivision works across 11 communities for 205 new lots. A further \$24.3 million has been allocated in 18-19 for headworks in remote communities.

While the Territory's remote housing program has been under construction, new homes and upgrades under NPRH & RAS funding continue to be delivered across the Territory.

From 1 September 2016, 209 new remote community housing dwellings have been constructed and 649 upgrades to existing dwellings have been completed with a further 73 new dwellings and 231 upgrades planned for delivery this year.

In total, since coming to government, we have delivered more than 1100 new, or significantly upgraded, remote houses - around 20% of all remote houses.

A key focus for the delivery of the housing program is sustainable employment of local Aboriginal workers. We are targeting the engagement of capable Aboriginal Business Enterprises, with the view of improving capacity and capability of Aboriginal Business Enterprises, and local communities. For 2017/18, we achieved a rate of 52 per cent Aboriginal employment in capital housing works.

The Room to Breathe program is designed to ease the pressure of overcrowding on existing dwellings in communities, making homes more suitable for families' needs, reducing wear and tear and providing opportunity for family based accommodation options for kinship care, aged and high dependency tenants in a culturally appropriate setting.

The Territory Labor Government rolled out an early works component of the Room to Breathe program in 2016/17 to the value of \$10 million commencing in 22 communities. These early works were delivered by Aboriginal businesses and Local Councils and participating communities were part of the decision making process before works commenced.

We have already completed work on 118 homes across Northern Territory communities, with a further 23 homes underway in Areyonga and Weemol.

In 2018/19, works on 268 homes have been targeted which will see a vast and widespread improvement for many Aboriginal Territorians living in remote communities.

Our program also increases the level of repairs and maintenance contribution from the Territory and will see a preventative maintenance program and enhanced in community tenant education. Two significant projects have been issued to DIPL under the Repairs and Maintenance Program. This will improve the condition of 30 and 70 existing dwellings respectively, in Kalkarindji and Lajamanu. A further 21 dwellings will be

investigated by a structural engineer to determine the condition of each dwelling in Kalkarindji.

Now that we have the agreement of the Australian Government to match funding I am pleased to announce that moving forward, starting in June 2019, our program will begin to offer four year contracts for the delivery of repairs and maintenance, with a focus on preventative maintenance, including for Government Employee Housing; tenancy management services; and, Room to Breathe. We expect tenders to be advertised late 2018 and contracts awarded by April 2019.

These contracts will be heavily focussed on local decision making and building the capacity of Aboriginal Business Enterprises. This will be a big step in giving control of housing back to the communities.

GOVERNMENT EMPLOYEE HOUSING

The provision of Government employee housing for locally recruited remote government employees is part of the Territory Labor Government's 10 year, \$1.1 billion remote housing investment program. This initiative will support remote community residents who meet the eligibility guidelines. Eligible government employees in remote locations should have the same access to Government Employee Housing as people recruited from elsewhere who move to the community to work for government.

Since coming to Government, 28 new Government Employee Houses have been built and 94 upgraded. This year, 10 projects have been forwarded to DIPL for the construction of 20 dwellings under the program. Work continues on the Elliott GEH program which will be delivered this financial year.

We are working closely with agencies to assist with the development and implementation of policies to support the new eligibility criteria. Currently many GEH dwellings have 1 or 2 people living in three bedroom homes. We are building more suitable homes to meet the need, freeing up the larger houses for local recruits and public housing which will help reduce the waitlist.

On any given night in the Territory there are empty bedrooms across remote communities in GEH while some local recruits are living in overcrowded public housing; that imbalance will not be allowed to continue moving forward.

HOMELANDS

There are approximately 10,000 Aboriginal Territorians residents in 2500 dwellings on more than 500 homelands across the Northern Territory.

The homelands program provides a contribution to maintain services and infrastructure of homelands and outstations throughout the Northern Territory.

The Northern Territory provides support for homelands on the basis that homeland residents have a shared responsibility for the management and maintenance of their housing and infrastructure.

Funding for homelands housing is provided as grants for the maintenance and improvement of dwellings which are permanently or seasonally occupied and which are also the residents' principal place of residence. Neither the land nor fixtures are owned by the Government or by the service providers on homelands; this is owned by land trusts.

Homelands Services provided by government consists of:

- Municipal and Essential Services,
- Housing Maintenance Services,
- Homelands Jobs funding which is based on the proportionate share of dwellings and homelands serviced, and subject to application by service provider,
- Municipal and Essential Services Special Purpose Grants; and
- Homelands Extra Allowance funding.

TOWN CAMPS

Moving into our urban spaces, the independent and comprehensive town camps review has been released and work is well underway. In response to the review, the Government is immediately investing \$24 million to begin the task of improving conditions for Aboriginal Territorians living in town camps.

The Government provides funding for repairs and maintenance, municipal and essential services to all 43 town camps.

The new Town Camps Futures unit is now in operation and will soon commence working with town camp land owners and residents to improve governance arrangements, coordinate services across government and drive policy reform for town camps.

Our urban housing program is also moving forward. Since coming to Government we have completed 45 new builds in Greater Darwin, Palmerston, Katherine, Tennant Creek and Alice

Springs. Construction will commence on 22 additional new urban public housing dwellings in 2018-19.

Demolition and construction will commence on a further 32 replacement urban public housing dwellings in 2018.

Social housing head leasing is an innovative method of increasing the supply of social housing dwellings available to Territorians. This initiative leases private dwellings for use as public housing and not only makes inroads into reducing our wait lists, but also provides private owners with financial security in a housing market that is characterised by high vacancy rates.

Social housing head leasing caters to the needs of low income Territorians and families, seniors and people living with a disability.

The Territory Labor Government is developing an urban community housing strategy that will aim to grow the urban community housing sector.

We are currently considering the findings and will take into account the economic modelling, interstate learnings and experiences, and will continue to work collaboratively with the sector in developing and finalising the strategy.

This Government also has a suite of affordable rental programs that include affordable rental leasing. Currently we have 328 affordable rental dwellings throughout the Territory. These leases are on new dwellings from private property owners for a 10 year period, with an option to extend for two or five years. The dwellings are then rented to eligible tenants at 70% of market rent.

In total there are 1007 dwellings across the Territory approved for the National Rental Affordability scheme. Work will continue with NGOs to look at ways to move this important program forward.

Over five years, the urban housing upgrade program will see hundreds of existing dwellings upgraded as part of a coordinated program as

tenants conclude their tenancies and properties become vacant.

In the 2016/17 year, 737 vacant properties were upgraded and returned to service.

Numbers are still coming in for 2017/18, which has also seen a huge boost from the \$69 million stimulus program with than 200 local contractors doing work on more than 3000 homes including 270 vacant properties which have been renovated and returned to public housing stock.

HOMELESSNESS

For those Territorians who are homeless or at risk of homelessness, the Territory Government provides just over \$24 million in grant funding for a range of housing and homelessness support services across the Northern Territory, including: accommodation management services, comprising crisis or short term, managed, supported or transitional; support services, comprising outreach, case management and support to sustain a tenancy; and, peak body funding.

For 2018/19, 17 non-government organisations across the Northern Territory, received funding for services that support Territorians who are homeless or at risk of homelessness. These services are funded through a mix of Australian and Northern Territory Government funding, however the majority is a direct investment by the Territory Government.

Currently, the Northern Territory has 12 times the national rate of homelessness in Australia. To address this, we are currently leading the development of an interagency Northern Territory Homelessness Strategy and Five Year Action Plan 2018/23, that will provide a framework to reform the Northern Territory's response to homelessness.

Over the past two years we have improved the living conditions of more than 4,500 Territorians and families so they have better chance of good health and education outcomes, steady jobs and the opportunity to live in safer communities.



Housing and Community Development Minister Gerry McCarthy speaks to residents in Elliott about housing.

RE-CONNECTING WOMEN WITH COUNTRY



Sally Winberr, Tilly Raymond, Naomi Rosas, Samantha Singh, Chantelle Mota, Natasha Raymond, May Rosas, Patsy Brown, Natalie Blitner, and Florrie Smiler at Nimji rock art site during the Wardaman Women's Culture Camp.

The Northern Land Council's Caring for Country Branch has adopted a Women's Employment Strategy in response to the requests from Traditional Owners, community members and women rangers to increase opportunities for women to work as rangers.

Aboriginal women are underrepresented across all NLC ranger groups, making up a 35 per cent (up 10 per cent since January) of rangers employed by the NLC.

"We developed the Women's Employment Strategy in consultation with rangers, community members, and NLC council members," said Penelope Mules, Women and Youth Coordinator for the Caring for Country Branch.

"It identifies the barriers to women working as rangers, sets out the priorities for the future, and sets six key targets to achieve those priorities."

Those targets include ensuring that women make up 50 per cent of all rangers employed by the NLC, that every ranger group has female representation, and that each group has one or more women in leadership roles (e.g., coordinators, assistant coordinators, or senior rangers).

The strategy includes 44 actions for NLC staff to implement over the next three years. These have been included in annual work plans and individual staff positions descriptions.

Re-connecting women with their traditional lands is

part of the NLC's approach to increasing the number of women rangers. Throughout the dry season, the NLC Caring for Country branch has worked with women Traditional Owners to organise women's culture camps and walks.

In the last week of July, 30 women from Numbulwar took part in the Women's Culture Walk, traversing 40 kilometres of coast in the South East Arnhem Land Indigenous Protected Area (IPA).

The walk was an opportunity for young women to learn the country and hear stories from Traditional Owners. They gathered turtle eggs and oysters from the beach, and afternoons were spent fishing and catching crabs. In the evenings, the women gathered around campfires, listening to the old ladies telling stories and cooking the crabs and fish they had caught that day.

"The young women were excited to be visiting places they had heard stories about, and the old ladies were happy to be back on their country, eating bush tucker and teaching the young women," said Ms Mules.

The 21 younger women walked the distance while the older ladies were driven along the coast in a troopy, supported by the Numbulwar Numburindi Rangers and the Yugul Mangi Rangers.

Meanwhile on Wardaman country, south-west of Katherine, NLC's Caring for Country branch took

16 women to Ingaladi waterhole in mid August for a women's culture camp.

Wardaman woman Marie Allen said it was a wonderful opportunity for women to return to country and spend time together.

"I just thought it was a great time for the women because sometimes women tend to be ignored. It was a great for the Wardaman women to get together, exchange stories and talk to the land council about some issues, such as ranger issues."

Sitting around the campfire each night, they discussed culture and law, and learnt how the families are connected. They spoke about ensuring that half the rangers working on the Wardaman IPA are women. There were a number of suggestions for young women who may be interested in working as rangers. And it provided valuable time to sit quietly together for healing and reconnection with each other.

"It gives them an opportunity to talk. It gives them an opportunity to tell stories. Because they don't have an avenue in Katherine, to organise that and for them to meet," said Ms Allen. "I know women in Alice Springs who once a weekend might go out bush together. But we don't have that. This could be the start."

For many, it was the first time being on this part of the country.

“The last time I went out to Ingaladi was 25 years ago, something like that. A lot of people hadn’t been there at all. They were really happy, a lot of them. We’ll try to see if we can have it a bit longer next time.”

Wardaman elder Yidumduma Bill Harney took the group to Nimji, an important rock art site, and explained the creation story of the art there. He taught the group stories about country and who speaks for which country.

“The women went fishing, had a look at the sites. Billy took us to the dreaming sites, and told us stories,” said Marie.

Being able to catch fish was significant for the women, many of whom live in Katherine, where PFAS contamination prevents Traditional Owners from eating fish caught in the waterways. At Ingaladi waterhole they caught black brim and turtle to take back to their families.

“The women are very concerned about PFAS and sad that this has poisoned the local fish and turtles so they are no longer safe to eat,” said Ms Mules. “This made catching enough fish and turtle for their families even more important.”

Ms Allen said she would like to the camp to take place again next year and see more women, particularly young women, come along.

“The only thing I wish is that we could have had more younger women. I think what the older women want is just to pass on some of the cultural stuff, ceremonies, so that they know,” she said. “Maybe it’s something that it could go bigger, it could include other women from different tribes, meeting together and exchanging things.”



Sally Winbirr and Florrie Smiler at Nimji during the Wardaman Women’s Culture Camp. In background is Tilly Raymond, Anna Belford and Karri Butterworth.



Virginia Nundhirribala with turtle eggs from a nest found during the Women’s Culture Walk on the South East Arnhem Land IPA.



(L to R) Margaret Bidingal, Tina Wilfred, Karla-Marie Murrungun, Maritza Roberts, Joy Wilfred (with a northern blue-tongue lizard she caught along the way), Yvonne Nundhirribala and Ammareta Wesan during the Women’s Culture Walk.



Wardaman elder Yidumduma Bill Harney with May Rosas.



At Malgaryungu ready to start another day of walking on the Women’s Culture Walk.

Building a strong future for Native Title Holders: Upgrades to Marralum outstation



Native title holder Marcus Simon removes old fencing at Marralum Outstation.

Native title holders are driving upgrades to Marralum outstation near the Western Australian border using funds generated from a major prawn farm project. Native title holders negotiated \$500,000 in funding for the upgrade of Marralum as part of an Indigenous Land Use Agreement for the development of the prawn farm at Legune Station. They're being supported by the NLC and its Community Planning and Development (CP&D) program.

The upgrades include getting reliable power to houses through a diesel generator and solar power kits with high power battery storage, fixing water access, and building fences to protect the houses from bullocks.

Native title holder Marcus Simon is one of the lead workers on the upgrade, putting his station and fencing skills to use while also gaining new skills in repairs and landscaping. He is one of six local staff working on the project.

"We got an agreement over our country, with some money to fix up our community Marralum," he said. "We've got six people out there working already: three men and three women. We're renovating the houses and fixing the water up so we can have a hot shower and use the toilet. It's working really good now."

After taking the time to plan carefully, native title holders partnered with Tangentyere Constructions, an Aboriginal owned social enterprise, to complete the works.

"There was good planning done. Making decisions was good, we chose the work to be done and picked who to do it with us, and it turned out

good. It happened the way we wanted it to," said Mr Simon.

"Tangentyere Constructions are working with us in a good way. It's really good working with this mob on our own country fixing our houses up. Next we want to start our own business to help the community run. I reckon it will be good for people to run their own community and look after their own place, so our kids can take over and then their kids."

The Indigenous Land Use Agreement also has the potential to deliver major benefits in the future and NLC and its CP&D unit is supporting native title holders to plan long term.

"There is a ladder there for us to climb... and we need to be getting ready for each step," says native title holder Bernadette Simon. "We need to make a strong plan to be ready to go when the time comes."

Upgrading Marralum outstation will support people to live on country, but the location also has the added advantage of being near the prawn farm and the likely base for a future ranger program if the project goes ahead. Fixing up the outstation, which is giving local people jobs, is also about laying the foundation for future employment for native title holders – a major aspiration for the group. Planning in other important areas of life has also begun, like setting up businesses, education support funds for younger people and projects to keep culture strong.

With the upgrade almost finished, native title holders and their families are now spending more time at Marralum, glad to be spending more time back on country.

"This is where our heart is. We've achieved a lot out here, I am proud," said Bernadette Simon. "I don't want to leave."

The NLC CP&D team is currently working with Aboriginal groups in Daly River, Ngukurr, Galiwin'ku, Gapuwiyak, South East Arnhem Land, Wadeye and Palumpa to generate positive outcomes in their communities using their own money. Together they have set aside more than \$5.3 million of Aboriginal land use payments for community development. This shows just how serious Aboriginal people are about driving their own development outcomes in the Top End.



Upgrades are being made to Marralum outstation near the NT/WA border.

Respected lawman Mr Griffiths farewelled

A huge crowd gathered in Kununurra on 7 July 2018 for the funeral of the much respected lawman, Mr Griffiths.

Mr Griffiths was a good friend of the NLC and was an important witness in the Kidman Springs/Jasper Gorge and Timber Creek Aboriginal land claims, and in the Timber Creek native title claim. He was also consulted for the Indigenous land use agreements for the Defence Department's Bradshaw training area, Project Sea Dragon (the proposed prawn farm at Lejune Station, and Ord3A, (the proposal to extend the Ord irrigation scheme into the Northern Territory).

A respected artist, Mr Griffiths was named a (WA) State Living Treasure in 2015.

His works have been exhibited across the country and shown at the Telstra National Aboriginal and Torres Strait Islander Art Awards in 1997, 1999, 2000, 2013 and 2014.

In 2006, Mr Griffiths produced a major body of work for the Darwin Festival and became an artist in residence at Edith Cowan University. The same year, he took up a residency at Charles Darwin University to advance his printmaking skills.

Anthropologist John Laurence, who was a good friend of Mr Griffiths and worked with him across the Victoria River District (VRD), was invited by the family to deliver a eulogy at his funeral in Kununurra. Here is the text of his address:

Mr Griffiths was born at the Blackfella Camp on VRD Station in 1933 to Clara Malaryang (Nangari) and King Brumby Gujungmawuk. He had two sisters, Patricia Jut-Jut and Ida Yardarl.

Being born in the days when Aboriginal women who had half caste babies to gudja men was scary, because government workers would take the children. The mothers would be heartbroken not knowing whether they would see their children again if taken. His father King Brumby Gu-jumok kept a close eye on him.

As a young boy growing up on the station he would spend all his time watching the stockmen at the yards. He was so fascinated with them and knew that one day he would be one of the best stockmen around.

He had a happy childhood growing up with his mothers, Lamparagana, sisters and extended family. There was always so much excitement happening around the station that he couldn't wait to grow up and be a part of it.

All his dreams came to a halt when he was lied to by the head stockman on the station. They asked him to join them on an expedition to find poddy drafters. He was excited about being given a real job with the stockmen so went along with them. His grandfather had a bad feeling and followed them. Lamparagana knew where they were taking his grandson so he took a short cut. He stayed up in the hills and out of sight from the stockmen.

The stockmen arrived late in the afternoon at Jasper Gorge and tied Mr Griffiths to a tree nearby so he couldn't escape. He was scared and lonely as he sat tied to the tree crying. He was confused and didn't know why they had tied him to the tree. His grandfather waited and waited watching his grandson sobbing.



When the sun had gone down and the stars came out Lamparagana sang a song, Pelican Dreaming (about The birds) which would make the stockmen fall into a deep sleep. When he started to sing the stockmen felt very tired and went to sleep. King Brumby crept into the camp site. Mr Griffiths was still tied to the tree asleep with the tracks of his dried tears on his face. His grandfather untied him and woke him up. They took off into the safety of the bush covering their tracks behind them.

When the stockmen woke up in the morning all they could see was the untied ropes – no child and no tracks. They returned to the station without Mr Griffiths. The station manager became very angry and sacked the head stockman.

Mr Griffiths and his grandfather and grandmother were also there living in the bush in their homelands for years. King Brumby taught him a lot about bush tucker and what he could and couldn't eat. He learnt to make and prepare weapons to survive the traditional way and he learnt the knowledge that connects him to his country. When food was hard to get, his grandfather would go back to the station to collect rations and return to him the next day, always covering his tracks on his return.

After being in the bush for many years it was time for them to return to the camp at VRD station as he was older now and would not be taken away. His mother, sisters and extended family were so happy to see him after so many years.

There was a new manager at VRD when they returned. He gave Mr Griffiths a job on the station as a stockman. He continued working there for a few years before moving to Eley Station to work as the head stockman. Over the years he worked on numerous stations across the Northern Territory including Beswick Station, Eley Station, Maninbelli Station, Elizabeth Downs, Delamere Station and Willeroo Station. He loved the station life and was one of the best stockmen around at this time.

During his stockman days he had four children whom he had contact with over the years.

He then moved over to Wyndham to work as a plumber for a while before moving to Newry Station as a stockman/cook. He left Newry Station in 1965 and got a lift to the Argyle turn off. Father Beno was driving out to the station and picked Mr Griffiths up whilst he was walking from the turn off. When arriving at Argyle Station he stayed at the Sunny Camp. After a while he went and asked his promised wife's parents for permission to marry her.

In 1965 Mr Griffiths and Peggy Frank got married at the old Argyle Homestead. In the same year they moved to Ivanhoe Station to work as the cook for the stock camp. This was the last cattle station he worked on before moving to Kununurra in 1966.

They lived behind Mirima Reserve in a tent. During this time Mr Griffiths told his wife about his other children.

In 1966 Mr and Mrs Griffiths welcomed their first son Kenny into the world at the old hospital in Wyndham.

During this time Mr Griffiths worked at the cotton farm planting and collecting cotton. He was taught to drive a cotton picking tractor for Ken Coster.

Their second son, Peter, was born in 1969 at the Kununurra

District Hospital, followed by Dora in 1970, Jan in 1971 and Chris in 1973.

The family lived this side of the Reserve in two caravans and one boughshed. Mr Griffiths was a family man and always took his family out fishing, hunting and camping and to ceremonies. Mr Griffiths also took his family for a long ride to visit his other family members at VRD, Yarralin, Pepperminarti and Timber Creek in the Northern Territory.

Whilst working for the Kimberley Research Station in Kununurra, Mr Griffiths was given a three-bedroom house for him and his family on Barringtonia Avenue. They moved to a few different houses over the years growing up their five children plus extras along the way. They moved from state housing to a brand new house in Garden Area in 1990. At this time he started to spend many hours at the Waringarri Arts Centre painting on a full time basis

After his retirement from farm and station work Mr Griffiths began painting his country, mapping the significant features and cultural stories of the land. His paintings and the ability to map and name country showed his thorough and intimate knowledge of his country as well as documents of traditional stories and corroborees, cattle mustering and camel treks.

Painted in natural ochres and pigments, his traditional stories are done by painting a series of small figures and are presented as playful, joyous celebrations of his life and cultural commitments. His paintings show evidence of his knowledge of country, his authority in cultural and ultimately his ownership of his traditional lands.

Their eldest son had been working on their block, Beasley Knob, near the NT/WA border and building shelters and Mr and Mrs Griffiths spent more and more time back on country during the dry weather.

In 2014 Mr Griffiths, whilst living out at Beasley Knob, had a health scare and was sent to Perth for a heart operation. His wife Peggy and granddaughter Nita followed him down.

Once he got strong again he returned home to Beasley Knob with his wife. His youngest daughter Jan moved back home to be his carer. They spent many hours talking and documenting his life stories during the following three years.

Mr Griffiths was a leading performer at traditional events. Together with his wife Peggy, he was dedicated to teaching traditional dances to his family and his community. He was always very proud of the knowledge he had passed on to his children, grandchildren and great grandchildren and was extremely proud of his young grandson Conway learning the songs.

Mr Griffiths was a respected law and culture man for both his traditional country near Timber Creek and throughout the Northern Territory and Western Australia.

Sadly Mr Griffiths fell ill and passed away with his wife and family by his side at the Kununurra District Hospital on Friday 25 May 2018.

He will be sadly missed by many but his memory will live on through his wife, children, grandchildren and great grandchildren.

We have lost a respected legend. May he rest in peace.

Wagiman elders inspire thermal springs art

The stories of Wagiman women have inspired a new art installation at Tjuwaliyn (Douglas) Hot Springs, 150 kilometres north of Katherine.

A towering stainless steel lily flower and four stainless steel lily pads, which double as watering stations, have been installed at the campground to enhance the infrastructure and natural beauty of the park.

Mona Liddy is a Wagiman Traditional Owner who, alongside her female family members, works with Northern Territory Parks and Wildlife to manage the park.

"The project was designed by female elders. We chose the lily and lily pad because they're found around that area."

The women worked with local artist Hortensio (Techy) Masero over multiple meetings, camping on the site and sharing stories to inform the final design of the installation.

"We sat down and went through it with Techy and came up with an idea. Then we'd look at it how it would be made, the rocks used," said Mona.

Wagiman Traditional Owner and cousin to Mona, Elizabeth Sullivan, said it was

important to use locally sourced resources for the final work.

"We told [Techy] what we'd like to see and how it relates into the environment itself, and how the amenities fit into the natural environment. Lily pads are there. There's a couple of billabongs in the park," Elizabeth said. "We wanted to source everything in our

own region, to use our own resources that's in the park or something very similar."

The final installation is made using locally sourced natural products including granite, iron wood (on the stems of the lily pads), stainless steel and large boulders, all chosen for their durability. A local workforce completed the labour and installation.



One of four lily pad design watering stations at Tjuwaliyn (Douglas) Hot Springs.

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