



Ngurupai

Kaurareg Aboriginal Land Trust

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Woer Au Kara Nis

03 March 2014

Dr Bill Pender

Inquiry Secretary

Joint Select Committee on Northern Australia

PO Box 6021

Canberra ACT 2600

By email: jscna@aph.gov.au

Dear Dr Pender

Re: the developmental platform of Kaurareg Aboriginal peoples

On behalf of the senior Kaurareg Elders and Committee members of the Kaurareg Aboriginal Land Trust (the Land Trust), the development aspirations of Kaurareg Aboriginal peoples on economic social and cultural developments follows in their submission attached to this letter.

The submission defines development aspirations of which some are still in their conceptual stage, some lined up in the strategic planning queue, while others are in advanced stages of discussions leading to implementation. All contain the following strategic elements.

Three strategic elements underpinning Kaurareg's development

1. The Kaurareg territory, an archipelago of lands and seas, recognized under Australian native title law as belonging to Kaurareg Aboriginal peoples
2. Reviving Indigenous trade and commerce, where Kaurareg were the first merchants of trade between Aboriginal, Papuan, and other Melanesian peoples
3. Border protection of the Kaurareg archipelago by all Kaurareg peoples, now defended by other decision makers, will best succeed with full Kaurareg involvement

Each of these three strategic elements are embedded in our development platform and are given due elaboration in our submission. And, where deemed relevant, they are linked to and/or associated with the terms of reference for the Joint Select Committee on the Inquiry into the Development of Northern Australia.

Senior Kaurareg Elders and Committee members of the Land Trust recognize the strategic geographic and demographic nature of their homelands and seas to the wider South East Asian Melanesian and Polynesian regions, shared occupancy with its existing populations, and the emergence of shared decision making. They also recognize strategic partnerships.

Changing the exclusion paradigm of Kaurareg Aboriginal peoples

As Australia's national government increasingly recognizes the legitimacy and validity of the region's traditional owners, it is hoped that the long-standing exclusion of Kaurareg peoples from decision making will change. Especially where the decisions affect the quality of their lifestyles and their environment.

Despite legitimate occupancy not always translating on the ground to legitimate making of shared decisions, Kaurareg place their hopes and aspirations on full spectrum development of their peoples and community plus all inhabitants who reside in and share their territory.

Senior Kaurareg Elders and Committee members of the Land Trust are pleased to broadcast their development aspirations on the Australian Parliament House website, and of making known their intentions for meaningful collaboration, participation, contribution and access, to development by all stakeholders.

Yours faithfully

.....
Allen G Reid
Chief Executive Officer

Signed for, and on behalf of, the Kaurareg senior Elders and Committee members of the Kaurareg Aboriginal Land Trust.



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**SUBMISSION TO THE JOINT SELECT COMMITTEE ON NORTHERN AUSTRALIA
for the
INQUIRY INTO THE DEVELOPMENT OF NORTHERN AUSTRALIA**

**Tendered by senior Kaurareg Elders and Committee members of
the Kaurareg Aboriginal Land Trust**

03 March 2014

Summary

The Kaurareg archipelago is today recognized under Australian native title laws as territory belonging to Kaurareg Aboriginal peoples, before the claim of sovereignty by the Crown. It is host to Indigenous and non-Indigenous peoples, to a wealth of resources and strategic assets in its natural and built environment. The traditional owners of the archipelago are the Kaurareg, who embrace full spectrum development aspirations for Kaiwalagal (known as the Torres Strait) region for the benefit of all its inhabitants.

Picture the region with an imaginary latitude (horizontal) line dividing the region into two areas at Warral (Hawkesbury) Island. The lower area comprises Kaurareg territory from Hawkesbury to the tip of cap York. The top half comprises the tribal groups inhabiting the islands to Papua New Guinea. This development submission speaks for Kaurareg peoples and their traditional lands, to the lower half described above, where resultant benefits from Kaurareg development efforts and activities apply to all inhabitants of the region.

This approach of inclusivity emanates from a long-practiced Kaurareg Kergne law, customs and traditions, practiced by all Kaurareg *prior to and at the time of the claim of sovereignty made on behalf of the English Crown in 1770 by Captain Cook and thereafter* (Justice Drummond 2001). In essence Kaurareg peoples were merchants for mainland Australia and Papua, who protected their borders and engaged in economic trade and social activities with their neighbours. Kaurareg aspire to return to their historic merchant status.

Recommendations for the Development of Northern Australia

Recommendation 1: that the Joint Select Standing Committee make provision in their final report of recommendations for short term but adequate trade incubation options for TO2TO business activities that meet objectives of sustainable development, but modified and tweaked for their application to Indigenous populations.

Recommendation 2: that the Joint Select Standing Committee make provision in their final report, of recommendations to change the present system of over-governed zones and regions to a streamlined governance system inclusive of Kaurareg, for the creation of an affordable quality of life environment underpinned by a conducive regulatory, taxation and economic environment compatible with business development.

Recommendation 3: that the fundamental adjustments for representation arrangements in current electoral systems be effected as critical adjunct to present population management efforts by both national and sub-national jurisdictions, such that the present exclusion of traditional owners in the territory known as the Kaurareg archipelago is changed to taking their rightful place at the decision making table for the Kaiwalagal (Torres Strait) region.

Recommendation 4: that the Joint Select Standing Committee make provision in their final report, of recommendations to upgrade the region's present communications system from radio-broadcast 3G into secure 4G to the region. And to measure the viability and cost effectiveness of such upgrade not by the present \$-unit-costing parameters of remote area telecommunications, but by the \$-unit-costing for loss of development potential that are pertinent to economic social and cultural quality of life costs for a remote area region, particularly in light of the Inquiry's terms of reference for Northern Australia and especially pursuant to its border protection and the national interest.

Recommendation 5: that the Joint Select Standing Committee make provision in their final report, of recommendations to ensure that both intra and inter RPT (regular passenger transport) services to the region are compatible with its developmental needs.

Recommendation 6: that the Joint Select Standing Committee make provision in their final report, of recommendations for development of trade policies that deploy in horizontal and vertical integrations, conducive to sustainable development for Indigenous populations who possess ESL (English as a Second Language) and CALD (Culturally and Linguistically Diverse) backgrounds.

And that, local Indigenous peoples who are affected the most by trade policies participate in real-time and meaningful input to co-development of said trade policies, through their own representatives and persons who they choose to represent their interests.

Recommendation 7: that the Joint Select Standing Committee make recommendations for first-person and real-time input by Kaurareg Aboriginal peoples to quantify their values in their own economic and social construct, and then resource the implementation of those values to plug into the broader regional interests for economic and social infrastructure.

The recognized origin, and legitimacy, of Kaurareg Aboriginal peoples

The Kaurareg people are recognized as the traditional owners of Ngurupai (Horn Island); Muralag (Prince of Wales Island); Zuna (Entrance Island); Tarilag (Packe Island); Yeta (Port Lihou Island); Damaralag (Dumuralug Islet); Mipa (Pipa Islet also known as Turtle Island) (the Kaurareg Archipelago) and adjoining waters. In *Kaurareg People v Queensland* [2001] FCA 657 (the Kaurareg Proceedings) the Federal Court of Australia recognized that the Kaurareg people hold native title over the above islands.

The Kaurareg people are also widely acknowledged as the traditional owners and native title holders of Kiriri (Hammond Island). While there is yet to be a formal determination in respect of Hammond Island, the Kaurareg people have a registered native title claim over the island, surrounding seas and remaining islands in the Kaurareg archipelago, in proceedings QUD 362/10 the Federal Court. Accordingly, they have procedural rights under the *Native title Act* 1991 (Cwth) to be consulted in respect of future land use decisions that will affect those native title rights.

Those native title rights exist now at common law.

In the Kaurareg Proceedings, the Federal Court of Australia recognised that the Kaurareg people hold certain native title rights including the rights to take and hunt fish, and gather and conserve natural resources in their area for the purposes allowed by and under their traditional laws and customs. Rights to access and to preserve sites of spiritual or religious significance in the land and waters within their respective traditional territory for the purposes of ritual or ceremony were also recognized.

Under their own laws and customs, it is necessary to seek and obtain the permission of the Kaurareg people before entering upon, and exploiting the resources in their country. In the Kaurareg proceedings, Justice Drummond noted that:

"the Kaurareg were the original inhabitants of the islands of the Kaurareg Archipelago prior to and at the time of the claim of sovereignty made on behalf of the English Crown in 1770 by Captain Cook and thereafter.

Accordingly, the Federal Court acknowledged that the Kaurareg people have traditional rights that require people entering their country to respect their traditional laws and customs. While the recognition of native title under Commonwealth law is one element of Kaurareg territory, another element is recognition of land holdings under Queensland law. The most important element is Kaurareg culture and tradition exercised through Kergne law, held to be as relevant as Crown law of national and subnational jurisdictions.

Under Queensland legislation, the Land Trust holds approximately 75% of land on Ngurupai (Horn Island) in trust, under Aboriginal freehold title. The remaining 25% of the island is held to freehold title, lease, reserve, and other tenures by public and private entities and interests. The island hosts a wealth of land-based resources in its natural environment including mineral deposits, sand and rock. The island also hosts strategic assets in its built environment including an airstrip, quarry, water catchment, mineralization, shipping logistics, and multiple-zoned industrial areas and activities.

TOR 1: Examine the potential for development of the region's mineral, energy, agricultural, tourism, defence and other industries.

The Land Trust currently holds in trust, approximately 75% (3,200ha) of land holdings on Ngurupai (Horn Island) in Aboriginal freehold title. These terms of reference (TOR) for the potential development of the region are pertinent. For Kaurareg they include:

1. Mineral: on 20 December 2013 the Minister for Natural Resources and Mines (DNRM) repealed the restriction on Horn Island, Restricted Area 295 by Government Gazette Notice (Vol. 364, No. 96), that had been in place since 24 August 1995 for the purpose of the island's rehabilitation. Lifting the restriction was the result of Kaurareg's joint venture request to explore the abandoned mine and adjacent areas for mineralization.

Kaurareg's joint venture (Kauraru Gold Pty Ltd) holds environmental authority to the exploration permit for lands designated EPM 25418, which are the remaining lands of the Kaurareg archipelago. Now holding that authority, Kauraru enjoys full control over the exploration of mineralization in its territory.

2. Energy: the Kaiwalagal (Torres Strait) region is renowned for its fast flowing currents that flow past its many islands. The Land Trust is examining energy-generation modes of delivery from devices such as buoyant actuators (e.g. from Carnegie Wave Energy), hybrid devices for wind/solar energy, and next generation solar cell panels.

With the expected trade and commerce activities running parallel to social and cultural focus, the energy needs of Kaurareg will rapidly increase as its human resources are increasingly educated in the trades and professions. This is a long term project whose most important assets are its educated populations. As noted elsewhere, the entire Kaiwalagal region and all inhabitants who populate it are expected to benefit from its planned energy supply.

3. Agricultural: the Land Trust currently holds 75% of Ngurupai (Horn Island) in trust and has lodged EOIs for remaining State Unallocated Lands (SULs) in the archipelago. But starting with its existing land holdings, and with respect to aspirations of being the food bowl for the region, the Land Trust is currently investigating vertical farming (hydroponics) and sea farming (e.g. juvenile lobster exports).

The Land Trust is in contact with onshore and offshore entities for joint ventures in these two industries, including bio-fuel produced from prolific coconut palms within the archipelago and the region, and from next generation algae-bio-fuel production.

4. Tourism: the Torres Strait holds the enviable description of "the last frontier" as far as pristine natural environments are concerned, as uttered by Sir David Attenborough. The Land Trust is investigating tourism ventures to attract the growth of cruise ships touring the Asia-Pacific region, adventure tourism including fishing and hiking, and in tourism targeting the domestic market who are largely unaware of the region.

Missing in this development is the infrastructure required to host visiting populations to the region. Remedies for that absence are mentioned throughout this submission.

5. Defence: the Land Trust notes the strategic location of Kaiwalagal (Torres Strait) in the Asia-Pacific region between three international countries of Australia, Papua New Guinea, and Indonesia (West Papua). The US pivot to Asia has seen a movement of 60% of the US Sixth Fleet into the Asia-Pacific region and the siting of US marines on Australian soil, along with Australia's focus on defence of its northern borders and airspace, and protecting its vital shipping routes for trade.

With the potential of PNGs defence system estimated to last four days in the event of invasion, the retreat of Australia's neighbours and allies will route through Kaiwalagal and Kaurareg, presenting allied forces a ten minute window of opportunity. Kaurareg peoples have long defended their borders, before the claim of sovereignty by the Crown, but over the intervening years have been overlooked as the most appropriate human resources on the ground to defend against hostilities.

Whether the siting of assets on Kaurareg traditional land, the hosting of allied forces as part of Australia's northern defences, or training Indigenous locals to defend their lands and seas, Kaurareg holds a development potential in land and human resources pursuant to defence of their own lands and seas that it firmly believes should not be overlooked again as it has been many times in the past.

All of the above public arena information, as troubling as it appears, does not deter the urgency that Kaurareg has of taking their rightful place with all Australia to defend its own and Australia's interests. Rather, this spurs them on. Their enthusiasm and positive energy to help defend Australia's northern borders should not be overlooked.

6. Health: Kaurareg are entering negotiations with relevant decision makers for siting of a major health initiative on their traditional land. This health initiative, which is an integral part of a vast global health network, will enhance the critical connection that all inhabitants of Kaiwalagal (Torres Strait) have with their natural environment.

World-standard research is expected to yield advances in medical treatments through a focus on the knowledge of local bush medicine and treatments to isolate their active ingredient, as well as advancing existing allopathic and pharmacopeia modalities.

7. Earth materials: a large part of Ngurupai (Horn Island) has sand across its surface and bedrock in ample supply, and the Land Trust will exploit this resource to supply construction needs in the region. Especially the manufacture of concrete blocks for sea-wall construction to prevent tidal inundation on low-lying islands in Kaiwalagal. Material for the concrete blocks will also be sourced from overburden and crushed rock from the gold mining joint venture on Ngurupai (refer sub-item 1).

8. Fisheries: this industry is well suited to the marine environment of Kaiwalagal where the Land Trust is currently investigating the coordination of local fishermen of the region. Their present ad hoc supply from their community licences could benefit their families and the region if better coordinated. It is no coincidence that control of local fisheries is an abiding point of interest for all, and the coordination of local fishermen as an industry is long overdue.

9. Shipping: in the region comprises two operators in Seaswift (long-standing shipping to inner and outer islands) and TOLL. The recent introduction of TOLL has brought a lowering of the cost of sea-freight, yet it is still exorbitant and needs to be changed. Produce to the region, sourced out of Cairns to Thursday Island, literally has multiple journeys by land and air from its source to Cairns. The result? Produce that is not fresh, advanced stages of maturity and cellular breakdown, and nutrient deficiencies.

TOR 2 (1): Provide recommendations to enhance trade and other investment links with the Asia-Pacific.

The greatest asset that Kaurareg has with regard to Indigenous trade, in light of increasing difficulties mining companies have for problem-free operations, is the status-by-birth they carry as the traditional owners of land where mining or land-usage interests are concerned. This status in democratic countries like Australia and Papua New Guinea means traditional owners of the land have legitimate bargaining power, and are given recognition that often translates to their prior-consent-to-mine and of shared profits on a more equitable basis.

Kaurareg wish to make best practice use of that status by conducting traditional owner to traditional owner (TO2TO)¹ business activities. Best practice here obviously means a real appreciation of the lore of the traditional owners, and compliance with such rule of law as is pursuant to the country of origin plus the country hosting the business interest focus.

Land Trust representatives have made initial exploratory discussions with trade officers of PNGs Department Trade Commerce & Industry to ascertain the willingness to countenance trade at the TO2TO level, involving their nationals with nationals of Australia (Kaurareg). Exploratory discussions were fruitful with an offer to Kaurareg making further contact with trade officers, for entry level discussions on the matter of TO2TO business activity meeting their compliance requirements.

Recommendation 1: that the Joint Select Standing Committee make provision in their final report of recommendations for short term but adequate trade incubation options for TO2TO business activities that meet objectives of sustainable development, but modified and tweaked for their application to Indigenous populations.

TOR 2 (2): Provide recommendations to establish a conducive regulatory, taxation and economic environment.

The tyranny of distance is one mantra commonly heard by apologists for the high cost of living in Kaiwalagal (Torres Strait). A high cost where families pay about \$9.00 for a three litre container of milk that costs \$3.00 for the same container in the closest regional city of Cairns. Where land values are artificially high, construction costs are astronomical, quality of life for the average citizen does not compare with citizens on mainland Australia, and the region's isolation is its own disincentive through no fault of its own.

¹ TO2TO is an acronym where land is concerned that means "traditional-owners-to-traditional-owners", where business conducted on said land is effected under the primary authority and decision making by the traditional owners concerned.

Most businesses on the island are owned and operated by non-Indigenous peoples, as are most land holdings by non-Indigenous peoples, with many local Indigenous people working in government departments and in non-managerial positions. Secondary education is not available on all islands in the region and its access requires children to be separated from their families in order to pursue higher education. Those few brave individuals who leave home to make a success of it often find learnt skills are better paid and more appreciated in the city. Many do not return.

With a population of approximately 8,000 inhabitants, most of them Indigenous, no mantra is given nor explanations made for the reasons why Waibene (Thursday Island), an island about 1.5kms long and 1km wide, is host for between 30 to 40 national and subnational government departments (local government included). Ad hoc comments that the strategic nature of the region warrants that saturation level of governance comes close to answering the question of "why?"

To address this problem the Land Trust has approached individuals of note with the offer of trialling federalism in the microcosm of Kaiwalagal, because the dynamics of the region lends itself to the forced collaboration of all agents at the intra-departmental level, and forced collaboration by all agents at the inter-departmental level. Federalism, as said by the previous Chair of the COAG Reform Council, is not working and is failing.

The Land Trust believes its archipelago and the entire region is the ideal microcosm and place in which to model federalism. That offer still stands and those agents who have the experience of "forced-collaboration" leave the region with enhanced skill-sets.

The region's key decision makers are the Commonwealth's Torres Strait Regional Authority (TSRA), Queensland's Torres Strait Island Regional Council (TSIRC), and Queensland's Torres Shire Council (TSC). Management of these three is majority Indigenous, who make decisions within the governance framework of their respective legislatures on the quality of lifestyle of the people and their environment. There is much unhappiness with many locals about these Indigenous decision makers and management of the three bodies.

Indigenous decision makers and management of the three bodies bear the brunt of local unhappiness when infrastructure needs and life circumstances needs of the locals are not adequately met. Increasingly seen as puppets for legislators and policy makers located in distant capitals, this new wave of decision makers continues the population management control techniques of their former bosses on Indigenous peoples. Lateral violence is the obvious result, whose impact is often borne by the health and welfare sectors.

Recommendation 2: that the Joint Select Standing Committee make provision in their final report, of recommendations to change the present system of over-governed zones and regions to a streamlined governance system inclusive of Kaurareg, for the creation of an affordable quality of life environment underpinned by a conducive regulatory, taxation and economic environment compatible with business development.

TOR 2 (3): Provide recommendations to address impediments to growth.

The Land Trust identifies four major impediments to growth and its development spectrum in Kaiwalagal (Torres Strait). Each of the impediments are quite complex in the make-up of their governance and administrative systems that feed off, and to, the other. They are:

1. Integrated service delivery by three levels of government: Federal, State, and Local
2. The international system of integration with an independent State
3. Communications and information technology
4. Regular, and affordable, passenger transport

Impediment 1: three tiers of national and subnational government

From the client's perspective, the three tiers of government in Kaiwalagal maintain their jurisdictions in the region with some collaboration at the inter-governmental level, and by senior management within tiers and across tiers. With so many government departments representing their jurisdictions in the region, one would think that their presence translates to a thriving and contented population.

Sadly, this is not the case. Instead, there is unhappiness amongst the locals because basic needs are not being adequately met in the housing, health, education and most sectors in spite of magnificent efforts expended by skilled and semi-skilled workers in those sectors. As we speak, changes to ISD (integrated service delivery) are being implemented because of failure by the present ISD model, which translates to costs-on-the-ground beyond the means of the region or the willingness of decision makers who manage government grants.

At the end of this food chain are Kaurareg Aboriginal peoples who, in spite of recognition by the Federal Court as traditional owners and holders of native title of their territory, do not have discrete representation on the centripetal systems of the TSRA, TSIRC, and TSC electorates. Kaurareg recognizes the need to articulate their own unique circumstances and for having their voices heard and counted in the electoral system, through their own chosen representatives in dedicated electorates.

It seems their wishes for electoral recognition have so far not been considered as being relevant, or worthy of being, in the "regional interest". Kaurareg disagrees.

Indigenous peoples appointed to represent the electorates are not traditional owners. That is, they are not of Kaurareg descent, but they routinely make decisions on the quality of lifestyles and environment of Kaurareg peoples. Protests about the relevance and rigor of the decisions are politely acknowledged but with no discrete representation, they are not resolved. The three tiers of decision makers are the "offspring" of population management policies designed to implement Australia's decision to integrate its colonized peoples.

Impediment 2: integration policies

As signatory to United Nations conventions, and pursuant to international law, Australia's implementation of integration of its colonized populations track closely to the measures in place for Principles VIII and IX of the Annex to GA/RES/1541 (XV) *Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 e of the Charter* (the Annex is attached), to achieve their "integration with an independent State".

But the statistics from Indigenous population management policies and programs, seen for example in the current Closing the Gap initiative, reveal alarming trends that do not follow nor do they adequately reflect the intent of the Annex to GA/RES/1541 (XV). The policies around the integration of Indigenous populations, to date, have simply not worked. And in fact their many overlaps, and gaps, revealed over time, testify to their failure.

Indigenous populations, particularly the Kaurareg nation of Aboriginal peoples, are more inclined to work with all Australians if the playing field is genuinely based on the principle of equality. Especially where decision making control applies, and the common objectives of (1) developing the region on the basis of participation, contribution, access and benefit, and (2) protecting the region's strategic borders are genuinely pursued, as they are. Kaurareg Aboriginal peoples, at base level, are not unlike all populations who seek quality of life and protection of their environment through direct and meaningful participation.

Recommendation 3: that the fundamental adjustments for representation arrangements in current electoral systems be effected as critical adjunct to present population management efforts by both national and sub-national jurisdictions, such that the present exclusion of traditional owners in the territory known as the Kaurareg archipelago is changed to taking their rightful place at the decision making table for the Kaiwalagal (Torres Strait) region.

Impediment 3: Communications and information technology

The Kaiwalagal (Torres Strait) region currently receives 3G mobile-phone tower broadcasts from mainland Australia into Waibene (Thursday Island) and from there, broadcasts into the Kaiwalagal region. But 3G broadcast integrity is vulnerable to inclement weather, to extraordinary solar-particle-burst energy, and other atmospheric variables of natural and contrived means. Due to these variables, communications data and telephony are known to regularly drop out mid-stream, causing disruptions to communications coherence.

Recommendation 4: that the Joint Select Standing Committee make provision in their final report, of recommendations to upgrade the region's present communications system from radio-broadcast 3G into secure 4G to the region. And to measure the viability and cost effectiveness of such upgrade not by the present \$-unit-costing parameters of remote area telecommunications, but by the \$-unit-costing for loss of development potential that are pertinent to economic social and cultural quality of life costs for a remote area region, particularly in light of the Inquiry's terms of reference for Northern Australia and especially pursuant to its border protection and the national interest.

Impediment 4: Regular, and affordable, passenger transport

Passenger air-flight services from mainland Australia to Ngurupai (Horn Island) have been monopolized by a sole carrier, Qantas, while international flights from Papua New Guinea have long been discontinued. This isolation leaves the region bereft in real-time for the “life-blood” of trade input from traditional owners, in the case of Kaurareg traditional owners, and their aspirations for TO2TO trade relations. Consequently, residents in the region bear the inflated cost of passenger travel to and from mainland Australia and Papua New Guinea for family, recreation, and business interests.

Recommendation 5: that the Joint Select Standing Committee make provision in their final report, of recommendations to ensure that both intra and inter RPT (regular passenger transport) services to the region are compatible with its developmental needs.

TOR 2 (4): Provide recommendations to set conditions for private investment and innovation.

Kaurareg Aboriginal peoples, like other Indigenous peoples, live in a 24/7 bi-cultural world. Their culture and traditions, customs and practices, are not the same as non-Indigenous peoples who are not autochthonous. Their Kergne lore has many parallels to Westminster law but their values at source differ widely in terms of what in their natural environment is worthy of being subject to exploitation, for the practices of trade and barter.

While these values are basic in terms of accessing and obtaining food supply and shelter, and are special in terms of social values for the extended family and community, Kaurareg are also amenable to adapting to change. That is, adapting to change where trade and barter is concerned, especially where exploitation applies to their own natural environment to extract the means for trade and barter practices.

Recommendation 6: that the Joint Select Standing Committee make provision in their final report, of recommendations for development of trade policies that deploy in horizontal and vertical integrations, conducive to sustainable development for Indigenous populations who possess ESL (English as a Second Language) and CALD (Culturally and Linguistically Diverse) backgrounds.

And that, local Indigenous peoples who are affected the most by trade policies participate in real-time and meaningful input to co-development of said trade policies, through their own representatives and persons who they choose to represent their interests.

TOR 3: Identify the critical economic and social infrastructure needed to support the long term growth of the region, and ways to support planning and investment in that infrastructure.

It is not always possible to shape populations into socio-economic moulds that suit the preconceived ideas of western world commodification and democratization, if the target population is not first quantified. Kaurareg Aboriginal peoples are autochthonous peoples and this reason alone, along with their overarching Kergne lore, has far greater influence on their perceptions and consciousness than do the socio-economic moulds of "the North".

While it might be tempting to consider assimilating Kaurareg into the dominant society, such that their autochthonous at-source-values are replaced by western world experiences and standards, attempts since colonization at such assimilation followed by integration are known to have miserably and consistently failed. It is by far the better strategic goal that quantifies the target population first, then includes the population in all decision making that affects their lands and seas.

Kaurareg were arms dealers long before colonization, moderating the supply and trade of weapons between what we know of today as Papua New Guinea and Aboriginal Australia, as well as moderating the supply of goods and produce. Kaurareg are known to fiercely protect their territory, comprising lands and seas in the region recognized by the Federal Court as the Kaurareg archipelago, long before the claim of sovereignty by the Crown.

The practices of their autochthonous technology can be compared to what we would call the geosciences: the movements of air through the atmosphere, the currents of the sea, the seasonal changes of land and marine based flora, and the passage of living creatures that inhabit these places. Kaurareg's knowledge of cosmology is known to cross over the boundary between the seen and the unseen worlds, and their knowledge of anthropology inextricably linked to their environment is unparalleled including the practices of regularly crossing the boundary between the seen and unseen.

Since colonization this knowledge and its practices, once common to then community and society has long been withheld, only passed on from initiate father to initiate son. Making use of this technology, to ensure critical economic and social infrastructure is in place for long term growth, means including Kaurareg in all decision making that affects the quality of their lifestyles and their environment. Marginalization and exclusion does not work.

Population management techniques that ticked the boxes of the past policy objectives for northern Australia will not today address the border protection needs of the coming years of geopolitical upheavals and change. Kaurareg Aboriginal peoples are a relatively unused resource that has been constantly overlooked by successive governments. But the recent emergence of native title and land reform, together with growing focus on the wider South East Asian region, means Australia cannot continue to ignore their Indigenous assets.

Recommendation 7: that the Joint Select Standing Committee make recommendations for first-person and real-time input by Kaurareg Aboriginal peoples to quantify their values in their own economic and social construct, and then resource the implementation of those values to plug into the broader regional interests for economic and social infrastructure.

1. *Takes note* of the report of the Secretary-General on offers of study and training facilities under General Assembly resolutions 845 (IX);

2. *Reaffirms* its resolution 1471 (XIV) of 12 December 1959;

3. *Invites once again* the Administering Members concerned to take all necessary measures to ensure that scholarships and training facilities offered by Member States are utilized by the inhabitants of the Non-Self-Governing Territories, and to render every assistance to those persons who have applied for, or have been granted, scholarships or fellowships, particularly with regard to facilitating their travel formalities;

4. *Requests* all Administering Members which have not already done so to give the fullest publicity in the Territories under their administration to all offers of study and training facilities made by Member States;

5. *Urges* Member States to increase the number of scholarships offered;

6. *Requests* the Member States offering scholarships to take into account the necessity of furnishing complete information about the scholarships offered, and, whenever possible, the need to provide travel funds to prospective students;

7. *Requests* the Secretary-General and the specialized agencies to give such assistance as is possible and as may be sought by the Member States concerned and by the applicants;

8. *Further requests* the Secretary-General to prepare for the sixteenth session of the General Assembly a report on the actual use of scholarships and training facilities offered by Member States to students from the Non-Self-Governing Territories.

*948th plenary meeting,
15 December 1960.*

1541 (XV). Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 e of the Charter

The General Assembly,

Considering the objectives set forth in Chapter XI of the Charter of the United Nations,

Bearing in mind the list of factors annexed to General Assembly resolution 742 (VIII) of 27 November 1953,

Having examined the report of the Special Committee of Six on the Transmission of Information under Article 73 e of the Charter,¹² appointed under General Assembly resolution 1467 (XIV) of 12 December 1959 to study the principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73 e of the Charter and to report on the results of its study to the Assembly at its fifteenth session,

1. *Expresses its appreciation* of the work of the Special Committee of Six on the Transmission of Information under Article 73 e of the Charter;

2. *Approves* the principles set out in section V, part B, of the report of the Committee, as amended and as they appear in the annex to the present resolution;

3. *Decides* that these principles should be applied in the light of the facts and the circumstances of each

case to determine whether or not an obligation exists to transmit information under Article 73 e of the Charter.

*948th plenary meeting,
15 December 1960.*

ANNEX

PRINCIPLES WHICH SHOULD GUIDE MEMBERS IN DETERMINING WHETHER OR NOT AN OBLIGATION EXISTS TO TRANSMIT THE INFORMATION CALLED FOR IN ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS

Principle I

The authors of the Charter of the United Nations had in mind that Chapter XI should be applicable to territories which were then known to be of the colonial type. An obligation exists to transmit information under Article 73 e of the Charter in respect of such territories whose peoples have not yet attained a full measure of self-government.

Principle II

Chapter XI of the Charter embodies the concept of Non-Self-Governing Territories in a dynamic state of evolution and progress towards a "full measure of self-government". As soon as a territory and its peoples attain a full measure of self-government, the obligation ceases. Until this comes about, the obligation to transmit information under Article 73 e continues.

Principle III

The obligation to transmit information under Article 73 e of the Charter constitutes an international obligation and should be carried out with due regard to the fulfilment of international law.

Principle IV

Prima facie there is an obligation to transmit information in respect of a territory which is geographically separate and is distinct ethnically and/or culturally from the country administering it.

Principle V

Once it has been established that such a *prima facie* case of geographical and ethnical or cultural distinctness of a territory exists, other elements may then be brought into consideration. These additional elements may be, *inter alia*, of an administrative, political, juridical, economic or historical nature. If they affect the relationship between the metropolitan State and the territory concerned in a manner which arbitrarily places the latter in a position or status of subordination, they support the presumption that there is an obligation to transmit information under Article 73 e of the Charter.

Principle VI

A Non-Self-Governing Territory can be said to have reached a full measure of self-government by:

- (a) Emergence as a sovereign independent State;
- (b) Free association with an independent State; or
- (c) Integration with an independent State.

Principle VII

(a) Free association should be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes. It should be one which respects the individuality and the cultural characteristics of the territory and its peoples, and retains for the peoples of the territory which is associated with an independent State the freedom to modify the status of that territory through the expression of their will by democratic means and through constitutional processes.

(b) The associated territory should have the right to determine its internal constitution without outside interference, in accordance with due constitutional processes and the freely

¹² *Ibid.*, agenda item 38, document A/4526.

expressed wishes of the people. This does not preclude consultations as appropriate or necessary under the terms of the free association agreed upon.

Principle VIII

Integration with an independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenship and equal guarantees of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.

Principle IX

Integration should have come about in the following circumstances:

(a) The integrating territory should have attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes;

(b) The integration should be the result of the freely expressed wishes of the territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage. The United Nations could, when it deems it necessary, supervise these processes.

Principle X

The transmission of information in respect of Non-Self-Governing Territories under Article 73 e of the Charter is subject to such limitation as security and constitutional considerations may require. This means that the extent of the information may be limited in certain circumstances, but the limitation in Article 73 e cannot relieve a Member State of the obligations of Chapter XI. The "limitation" can relate only to the quantum of information of economic, social and educational nature to be transmitted.

Principle XI

The only constitutional considerations to which Article 73 e of the Charter refers are those arising from constitutional relations of the territory with the Administering Member. They refer to a situation in which the constitution of the territory gives it self-government in economic, social and educational matters through freely elected institutions. Nevertheless, the responsibility for transmitting information under Article 73 e continues, unless these constitutional relations preclude the Government or parliament of the Administering Member from receiving statistical and other information of a technical nature relating to economic, social and educational conditions in the territory.

Principle XII

Security considerations have not been invoked in the past. Only in very exceptional circumstances can information on economic, social and educational conditions have any security aspect. In other circumstances, therefore, there should be no necessity to limit the transmission of information on security grounds.

1542 (XV). Transmission of information under Article 73 e of the Charter

The General Assembly,

Recalling that, by resolution 742 (VIII) of 27 November 1953, the General Assembly approved a list of factors to be used as a guide in determining whether a Territory is or is no longer within the scope of Chapter XI of the Charter of the United Nations,

Recalling also that differences of views arose among Member States concerning the status of certain territories under the administrations of Portugal and Spain and described by these two States as "overseas provinces" of the metropolitan State concerned, and that with a view to resolving those differences the General Assembly, by resolution 1467 (XIV) of 12 December 1959, appointed the Special Committee of Six on the Transmission of Information under Article 73 e of the Charter to study the principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73 e,

Recognizing that the desire for independence is the rightful aspiration of peoples under colonial subjugation and that the denial of their right to self-determination constitutes a threat to the well-being of humanity and to international peace,

Recalling with satisfaction the statement of the representative of Spain at the 1048th meeting of the Fourth Committee that his Government agrees to transmit information to the Secretary-General in accordance with the provisions of Chapter XI of the Charter,

Mindful of its responsibilities under Article 14 of the Charter,

Being aware that the Government of Portugal has not transmitted information on the territories under its administration which are enumerated in operative paragraph 1 below and has not expressed any intention of doing so, and because such information as is otherwise available in regard to the conditions in these territories gives cause for concern,

1. *Considers* that, in the light of the provisions of Chapter XI of the Charter, General Assembly resolution 742 (VIII) and the principles approved by the Assembly in resolution 1541 (XV) of 15 December 1960, the territories under the administration of Portugal listed hereunder are Non-Self-Governing Territories within the meaning of Chapter XI of the Charter:

- (a) The Cape Verde Archipelago;
- (b) Guinea, called Portuguese Guinea;
- (c) São Tomé and Príncipe, and their dependencies;
- (d) São João Batista de Ajudá;
- (e) Angola, including the enclave of Cabinda;
- (f) Mozambique;
- (g) Goa and dependencies, called the State of India;
- (h) Macau and dependencies;
- (i) Timor and dependencies;

2. *Declares* that an obligation exists on the part of the Government of Portugal to transmit information under Chapter XI of the Charter concerning these territories and that it should be discharged without further delay;

3. *Requests* the Government of Portugal to transmit to the Secretary-General information in accordance with the provisions of Chapter XI of the Charter on the conditions prevailing in the territories under its administration enumerated in paragraph 1 above;

4. *Requests* the Secretary-General to take the necessary steps in pursuance of the declaration of the Government of Spain that it is ready to act in accordance with the provisions of Chapter XI of the Charter;

5. *Invites* the Governments of Portugal and Spain to participate in the work of the Committee on Information from Non-Self-Governing Territories in accordance