

SUBMISSION

TO THE

AUSTRALIAN PARLIAMENT
HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON
ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS

INQUIRY
INTO THE RECOMMENDATIONS OF
BUILDING IN LAND RIGHTS FOR THE NEXT GENERATION
THE REVIEW OF THE LAND RIGHTS (NORTHERN TERRITORY) ACT 1976
BY JOHN REEVES, Q.C

PRESENTED BY

DESART
THE ASSOCIATION OF
CENTRAL AUSTRALIAN ABORIGINAL ART AND CRAFT CENTRES

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WHO WE ARE

DESART is an aboriginal arts resource liaison, advocacy and lobbying unit that represents the interests of 27 arts and crafts centres in central Australia. The membership spans the Northern Territory, Western Australia, and South Australia.

See ATTACHMENT A. (1) DESART MEMBER ORGANISATIONS,
(2) MAP,
(3) CONSTITUTION

DESART is an A.T.S.I.C.-funded organisation, initiated and controlled by the Aboriginal-owned art and craft centres of Central Australia. These Centres, in turn, support approximately four thousand Aboriginal artists and crafts people, most of whom live on remote communities and homelands dotted around a vast area. Prior to incorporation in April 1992, DESART was known as the Central Australian Aboriginal Arts Industry Support Unit.

The primary role of the association is to provide industry-specific information, advice and practical assistance to Aboriginal art centres in the region. DESART acts as an important reference point for government departments and agencies, arts

organisations and agents as well as those with an interest in cultural tourism. By disseminating information as widely as possible and offering advice and guidance to those with an academic or commercial interest in Central Australian Aboriginal art and craft, DESART aims to promote and facilitate sustainable growth in the industry in the future

This response is that of the Executive who are all elected and empowered to speak on behalf of the organisation. All members of the Executive are Aboriginal , as specified in the Desart Constitution.

RECORD OF DESART EXECUTIVE MEETING

PLACE: Desart offices, Shop 4, Colacag Arcade, Alice Springs

DATE: 14 May 1999

PRESENT: Andrea Nungurrayi Martin: Chairperson, Warlukurlangu Artists' Association
Audrey Napanangka: Chairperson Janangpa Artists
Bessie Liddle: Chairperson, Jukurrpa Artists
Clara Inkamala: Chairperson, Hermannsburg Potters Corporation Aboriginal
Carol Rontji (observer.) Member Hermannsburg Potters Corporation Aboriginal
Inuwintji Williamson: Chairperson, Kaltjiti Crafts
Ron Brien: Executive Officer, Desart
Alison French Freelance Curator. Arts Management Consultant

TOPIC : DESART SUBMISSION TO THE AUSTRALIAN PARLIAMENT INQUIRY INTO THE THE REVIEW OF THE LAND RIGHTS ACT 1976 BY JOHN REEVES, Q.C, (NORTHERN TERRITORY)

Items tabled for the Meeting :

John Reeves Q.C.1998
Building on Land Rights for the Next Generation.
The Review of the Aboriginal Land Rights (Northern Territory) Act 1976
COMMONWEALTH OF AUSTRALIA 1998
ISBN 064258803

John A Guide to the Report Building on Land Rights for the Next Generation by Reeves 1998.
Prepared by the Native Title and Land Rights Branch, A.T.S.I.C., March 1999

Discussion:

the history of the Reeves Report and the Australian Parliament House of Representatives' Inquiry into the Report.

an outline of the key issues of the Reeves Report as summarised in the A.T.S.I.C. Guide to the Report.

the lack of evidence in the Reeves Report of consultation with the Aboriginal Arts industry

the lack of consideration in the Reeves Report of the impact of its Recommendations on Aboriginal artists in the Northern Territory.

Alison French left the room.

The Executive further discussed the issues with Ron Brien and agreed that DESART should present a submission to the Australian Parliament House of Representatives's Inquiry into the Reeves Report. Alison French was authorised to prepare documentation for ratification by the Executive Officer on behalf of the Committee.

Alison French rejoined the Meeting to be briefed on the Executives' views as follows:
DO YOU WANT THE PERMIT SYSTEM TO BE REMOVED AND REPLACED WITH THE TRESPASS ACT ?

Alison French briefly outlined the Trespass Act.

The meeting discussed at length how the Trespass Act might work for specific instances of unwanted visitors. In all cases the Desert Executive could not see that the Act would provide the protection of the permit system. Problems envisaged included :- disproving false claims " that approval to visit had been given by Aboriginal people located elsewhere", difficulties in finding interpreters without prior notice, and difficulties in relation to eviction. The meeting discussed the practical application of the Permit System and the benefits it provides.

The Executive's concerns were summarised and dictated as follows:

We want to keep the permit system. We don't want tourists and other people coming onto our land and damaging our sacred sites.

Our stories and our culture are all out there. We don't want what has happened to that urban mob. Anyone can walk all over their land. They have lost their culture. Our culture is still really strong.

There are a lot of old people who were buried there a long time ago without cemeteries. Today people are being brought back to be buried on their land. We don't want tourists to trample over the places where they are buried.

DO YOU THINK IT IS A GOOD IDEA TO GET RID OF THE CENTRAL COUNCIL AND NORTHERN LAND COUNCILS AND REPLACE THEM WITH A LOT OF SMALLER REGIONAL COUNCILS ?

The meeting considered the points raised in the A.T.S.I.C. Guide to the Report, in particular the sections entitled “Problems with the large land councils” and “A new administrative structure” .

The Executive’s concerns were summarised and dictated as follows:

That is not right. We want the Central Land Council and the Northern Land Council, not lots of little ones all over the place.

The Central Land Council are the ones that do everything for you. They are the ones that pick us up and take us to meetings. They look after us, for “Women’s Business” (it. women’s sacred ceremonies on traditional land). They take you out and bring you back when its over. If they are removed how are we going to get to the sites.

When confirming these notes as an accurate record of the views expressed at the meeting, the Executive stressed that these points were very important and should be expressed extremely forcefully.

OUR ARGUMENTS

THE ABORIGINAL ARTS INDUSTRY MUST NOT BE IGNORED

DESART is extremely concerned to learn that The Review of the Aboriginal Land Rights (Northern Territory) Act 1976 by Mr John Reeves Q.C. is recommending major changes to the “Aboriginal Land Rights (Northern Territory) Act” without consultation with us and other representatives of the Aboriginal Arts Industry.

During the period of his review Mr Reeves did not consult with DESART or any of its member organisations. There is no evidence in his Report that he consulted with any peak industry bodies , such as A.N.K.A.A.A. (Association of Northern Kimberley and Arnhem Aboriginal Artists), N.I.A.A.A. (National Indigenous Arts Advocacy Association Inc., or N.I.A.C.A. (National Indigenous Arts and Culture Alliance). Nor is there any evidence in the Report that he consulted extensively with individual Aboriginal artists, gallery owners, art dealers, museum personnel

We note in Chapter 25 “Social, Cultural and Economic Costs and Benefits” that Mr Reeves considers the costs and benefits of the Land Rights Act for the following industries:- pastoral, mining and tourism. The only industries he considers under the heading “Other Industries” are:- harvesting of “bush tucker” and wildlife, and aqua culture.”

The omission of the arts industry points to a major flaw in his Findings and Recommendations. On page VII he makes three incorrect statements, namely :-

“The main other industries that might be able to provide jobs and incomes for Aboriginal Territorians living on Aboriginal land in rural areas appear to be the harvesting of “bush tucker” and wildlife, and aqua culture.”

It is not easy to know how to assess the potential jobs and incomes that might be generated for Aboriginal Territorians from these other industries. But it would not seem wise to assess the prospects as providing more than a marginal contribution to job generation.

“The benefits of the Land Rights Act for these other industries appear to have marginally exceeded the costs.”

Extensive independent research has already demonstrated the jobs and incomes currently generated by the Aboriginal Arts Industry for Central Australian Aboriginal Territorians, and their future prospects, to be far from marginal.

See ATTACHMENT B. ECONOMIC RETURNS FOR THE ABORIGINAL ARTS INDUSTRY INVOLVING COMMUNITY BASED ARTS AND CRAFTS CENTRES, WITH PARTICULAR REFERENCE TO THE NORTHERN TERRITORY AND CENTRAL AUSTRALIA

CHANGES RECOMMENDED BY REEVES THREATEN THE ABORIGINAL ARTS INDUSTRY

We believe that the changes recommended by Mr Reeves - in particular the removal of the protection provided by the Permit system and substitution of the Trespass Act, will have a profound negative effect regionally on the cultural, social, and economic, welfare of all Aboriginal Territorians, and Aboriginal artists in particular.

The Permit System provides security for traditional Aboriginal landowners under Aboriginal law to protect our law and sacred sites. This is essential for the well-being of our land and our people and is the basis of our art. We want to keep the permit system. We don't want tourists and other people coming onto our land and damaging our sacred sites. Our stories and our culture are all out there. We don't want what has happened to that urban mob. Anyone can walk all over their land. They have lost their culture. Our culture is still really strong. There are a lot of old people who were buried there a long time ago without cemeteries. Today people are being brought back to be buried on their land. We don't want tourists to trample over the places where they are buried

The permit system works to protect Aboriginal artists in remote communities. Even Desert staff need permits to visit its Members community lands.

The Permit system allows individual artists and Aboriginal Arts Organisations to check the credentials of dealers, and journalists, and arrange for interpreters and professional advice in regard to the subject of the proposed visit. Specialist counsel can be obtained in regard to contracts and intellectual property issues. The Permit system can ensure a cost-effective visit being - in effect - a formal system for issuing

invitations and tracking visitors in remote regions covering vast distances. It does not restrict fair trading.

The Trespass Act in its current form is not able to ensure that unwanted visitors do not arrive, and it cannot ensure that if they do, they can be immediately evicted. This opens the way for exploitation of Aboriginal artists. The removal of the protection provided by the Permit System could undermine Aboriginal owned and managed art enterprises and facilitate a black market in Aboriginal art and craft. It will jeopardise current initiatives by Aboriginal arts bodies, such as A.N.K.A.A.A. (Association of Northern Kimberley and Arnhem Aboriginal Artists), N.I.A.A.A. (National Indigenous Arts Advocacy Association Inc.) and DESART, to work with individual artists and their community organisations to progress “authenticity label” and “quality assurance” strategies.

We believe that, in the long term, the removal of the protection from exploitation provided to artists through the Permit System - and the lack of market confidence generated as a result of this exploitation - will impact negatively on economic returns in the national arena, for those sectors of the arts, culture, and leisure industries which are concerned with exhibiting, marketing, selling, interpreting and publishing NT Aboriginal art, craft and design and associated products, such as books, videos and posters.

Recent national media coverage exposing unscrupulous practices by Aboriginal art traders have highlighted some of the problems faced by urban Central Australian artists. DESART does not want to see these practices spread to the bush. Ironically the level of potential unwanted visitors (unscrupulous dealers and carpet baggers , etc.) is likely to increase, especially in light of recent marketing initiatives by community organisations and others. The permit system allows vetting up front and resolves problems before they arise.

We do not believe the Northern Territory legal and justice system currently has adequate resources, (it. policemen and interpreters) to implement the Trespass Act in a manner that would protect the interests of Aboriginal artists living on remote communities and out stations. Nor do we believe that it would be possible to allocate such resources in light of the vast distances and areas involved. The substitution of the Trespass Act for the Permit System is not workable from a grass roots perspective. Problems envisaged included :- disproving false claims “ that approval to visit had been given by Aboriginal people located elsewhere”, difficulties in finding interpreters without prior notice, and difficulties in relation to eviction.

We believe that, if there are of any problems in the operation of the current system, the advantages outweigh the disadvantages.

We believe that any problems in the current operation of the permit system should be resolved within the current system.

THE REEVES REPORT IS A FLAWED DOCUMENT

The omission in the Report of consideration of a major source of economic return for Aboriginal Territorians - namely the Aboriginal arts industry - points to serious flaws in the Reports Findings and Recommendations.

We have been told by other Aboriginal organisations that Mr Reeves consulted initially with them, but did not present his Findings and Recommendations back for comment. If Mr Reeves had followed this accepted procedure, these organisations would have seen the implications for the Aboriginal arts Industry and drawn them to the attention of both Mr Reeves and ourselves. DESART did not know what was on his on Mr Reeves' agenda. It would appear that he has expanded upon his original brief to address the Northern Territory Land Rights Act. We were only made aware that his Recommendations had implications for Northern Territory Aboriginal artists during the course of this Standing Committee's Public Enquiry.

The failure to follow accepted procedure means that the Recommendations of the Report are not derived from proper consideration of all relevant matters. If the Australian Parliament were to endorse these Recommendations they would be denying natural justice to Aboriginal Territorians

There is no evidence in the Report that Mr Reeves assessed whether the NT legal and justice system currently has adequate resources, (ie. sufficient policemen, interpreters, professional advice) to implement the Trespass Act in a manner that would protect the interests of Aboriginal artists living on remote communities and out stations. There are no Recommendations in the Report in regard to this matter, and no evidence that Mr Reeves has an understanding of the reality of the problem, especially in light of extreme distances and areas involved.

Another major flaw in the methodology of the Report is the failure to consider whether the individual problems with the Permit system cited in the Report could be resolved by administrative reform, rather than abolition.

While we acknowledge Mr Reeves commitment to the principles of Aboriginal governance and self determination, we are convinced that these principles will be undermined by his Recommendations. If he really believes what he says in Chapter 26 then he would have consulted with us, and believe what we say.

We want the Central Land Council and the Northern Land Council. We don't want the Central Land Council replaced with lots of smaller regional councils. The Central Land Council provides an invaluable and effective service " They are the ones that do everything for you. They are the ones that pick us up and take us to meetings. They look after us, for "Women's Business" (it. women's sacred ceremonies on traditional land). They take you out and bring you back when its over".

ATTACHMENT B.

ECONOMIC RETURNS FOR COMMUNITY BASED ARTS AND CRAFTS CENTRES, WITH PARTICULAR REFERENCE TO THE NORTHERN TERRITORY AND CENTRAL AUSTRALIA

Extracts from ' Money Talk '. The Survey of Audited Financial Statements of Aboriginal Art and Craft Centres, written and researched by Andrew Hedley for inclusion in the Desart publication The Art and Craft Centre Story (forthcoming)

In the six years covered by this research, and on the figures available, the results show that the Aboriginal arts and craft industry involving arts centres is considerable in dollar terms. This is a significant contribution from a relatively small number of people. Over the six years art centres have generated sales of over 26 million dollars. If the mark-up of commercial galleries of around 50% is taken into account, then the contribution is quite sizable.

“ Art Centres contribute significantly to the economy of communities in several ways.Art Centres provide an important source of employment for artists, crafts people and screen printers as well as office staff....For many communities Art Centres provide additional income for the community, through providing an alternative cash income for artists....centres also provide additional income for community councils in maintenance, services and capital works ”

“ The injection of artist’s income generated by their centres often provide the largest proportion of non-government income for their communities. Only mining royalties may contribute more, but not many communities have mining on their traditional lands.”

Some of the Findings by Colin Mercer in Creative Country. Review of the A.T.S.I.C .Arts and Crafts Industry Support Strategy (A.C.I.S.S)., ATSIC, Canberra, June 1997

The Mercer Report documented a “ Sales to Grant Ratio ” of 3:1 for the \$4 million sales from 16 art centres in 1995-96

The Report also found that 17% of the population serviced by remote area art and craft centres are involved , regularly or occasionally, in art and craft production., and that there are an estimated 5000-6000 practising indigenous artists and crafts people involved in exchanging products for money. These figures was extrapolated from the results of the ATSIC National Aboriginal and Torres Strait Islander Cultural Industry Strategy Report (1996).

Future projections

The Report also found that the sales from the sixteen A.C.I.S.S. funded art and craft centres had increased over the past full triennium (1993-96) at an average of 15% per annum.

The Report anticipated that the \$4 million of A.C.I.S.S. funding allocated for 1997-98 would generate \$12 million in sales and \$6 million in return to artists. Eleven of the 16 centres were based in the Northern Territory.

It should be noted that, as at May 1999, there were 21 Aboriginal owned and managed community based arts and craft centres located in the Northern Territory.

DESART’S membership consisted of 24 members - 19 organisations based in the Northern Territory, 4 based in South Australia, and 1 based in Western Australia. A further three communities have recently been endorsed by the DESART Executive to become members.

A.N.K.A.A.A., (the Association of Kimberley and Arnhem
Aboriginal Artists) has 25 members - 18 based in the
Northern Territory.

Current statistics for sales and artist returns have not yet been collated and statistics relating to the large number of independent Aboriginal artists working in the Northern Territory are not available

The wider arts industry

The Mercer Report also anticipated that the outputs arising from \$4 million of ACISS funding allocated for 1997-98 (namely \$12 million in sales and \$6 million in return to artists) would stimulate a wider indigenous arts and crafts industry with an estimated value of more than \$100 million.

The Report noted that, of the total amount that international visitors spend annually on art and craft purchases, more than 50 % is spent on indigenous arts and crafts (\$34 of the \$66 per visitor on all art and craft purchases).These figures were extrapolated from the results of the Bureau of Tourism Research Report, Cultural Tourism in Australia: Visual Art and Craft Shopping by International Visitors, Canberra ,1996

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