

Papunya Regional Council
Submission to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs

“Inquiry into the Reeves Review”

On behalf of the Papunya Regional Council, I would like to welcome the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs to the 24th meeting of the Papunya Regional Council.

I have asked our staff to give you copies of our annual report– so that the committee may have an understanding of the region we are speaking for. You will note that a significant portion of our region is held under Aboriginal Freehold title, as a result any changes to the Land Rights Act will have a big impact on the people in our region.

The Papunya Regional Council finds most of the recommendations of the Report of the Review of the Aboriginal Land Rights (Northern Territory) Act 1976 to be unacceptable. We have not dealt with all the recommendations in this statement, and we would like to make it clear that silence does not indicate consent.

During this last week, your Committee has had the opportunity of visiting three communities in our region; Yuendumu, Ti Tree and Mutitjulu. No doubt you have heard very strong sentiments from our people, that they want to keep the Land Rights Act strong and that they do not want small, weak land councils. They told the same story to the Reviewer, John Reeves QC, when he conducted his community meetings at Yuendumu, Papunya, Ti Tree, Mutitjulu and Urapuntja.

“We don’t want any words to be changed. We want to leave those words, the words got to stay as it is, no changes to be made after this Review. We really need Land Council to grow stronger with the support of Aboriginal people on the land, we need that.” (Pintubi Elder, Smithy Zimran)¹

However, the Reviewer did not bother to report what was told to him.

Instead of spelling out that the majority of Aboriginal people were in favour of the current Land Rights Act and organisation, he put in 12 pages of criticisms compared with only three pages of favourable comment. His report does not reflect what Aboriginal people told him, it gives the impression that there were many complaints from Aboriginal people². This is not true. The transcripts of the public meetings, held in our region, record that a total of ninety-one people gave evidence. Of these 84 people (or 92% of people) told the Reviewer that they wanted to keep the Land Rights Act strong. Seven people (or 8%) gave evidence for changes to the Land Rights Act in support of ‘break-away’ Land Councils.

What we find particularly offensive, is that the evidence given by the majority of people in our region was ignored by the Reviewer on the basis that the meetings were organised by the Central Land Council, who briefed people prior to the meeting.

(p.103) We find this offensive because it implies that we do not know what is in our own best interest.

Unfortunately, we have had too much exposure to people who assumed we knew nothing. We are the ones who have had to live with the consequences of the policies they developed. As Elder, Dougie Johnston told Reeves: -

“You know where we were 30 years ago, or 40 years ago? They been put us in a compound like a mob of all that stolen bullocks. Don’t forget that. That was 30 years ago, yard us up, take us down to the communities, settlements, missions. It’s only 20 years ago that we got this Land Rights legislation. The Land Rights legislation give us freedom and justice.”³

We are also concerned that John Reeves QC failed to document why a previous ‘break – away’ land council application, in our region, had not been supported by the Commonwealth Minister. The information was available to the Reviewer⁴, yet he chose not to document that a substantial majority of the people in the region concerned did not support the establishment of a new land council.

Section 21 of the Land Rights Act provides for the Commonwealth Minister to establish new land councils provided he is satisfied that a substantial majority of adult Aboriginals living in the proposed area are in favour of the setting up of a new Land Council. As Morton found in 1994, and the Committee heard at Ti Tree on Wednesday, a substantial majority of people in the proposed Anmatjere region are not in favour of a new land council. The Regional Council’s position is that people should not be forced into new land councils.

“We don’t want a little Land Council everywhere, [Aboriginal language spoken], we want one Land Council in Alice Springs so that they can talk strong for us when they’re talking for the Canberra government. That’s why we having that big Land Council in Alice Springs. We don’t want everywhere-separate land councils, small ones. If we have small ones, today would be getting mixed up and getting lost.”(Marilyn Piltjara)⁵

The major strength of the Aboriginal Land Rights (Northern Territory) Act is that it is a system of Aboriginal land tenure that is in harmony with traditional Aboriginal authority.⁶ The Act formulates Land Council’s functions and duties in a way that is both representative of communities within their region, and protective of the rights of traditional owners and Aboriginal people having traditional affiliation. This is reflected in the relationship created between land trusts, traditional owners, people living on and having traditional affiliations to an area of land, as Richard Minor tried to explain to John Reeves at the Papunya meeting;

“Like mining you know, they still got go through my Land Council. Land Council got to go through the old people. Old people the one holding titles for Aboriginal people, that how we go through my Land Council there ... When they want to do mining, we ring Land Council and they....go through traditional owner.”⁷

John Reeves is proposing to replace our representative organisation with 18 small regional land councils that will be subordinate to an appointed body called NTAC.

Reeves justified his proposal on the basis that “*Aboriginal culture is reproduced and maintained and Aboriginal lands are used and occupied, within regional populations,*”⁸. To make this statement he relied on anthropological theory.⁹ We do not need to call on any theory to substantiate our position, – this is our law, our culture and our lives – we are the experts.

We do not accept the Reeves proposal to establish 18 Regional Land Councils because this means:-

- all the present land trusts will be extinguished,
- all land titles will be held by a regional council, and
- traditional owners will lose their rights and authority.

We cannot accept this, “*it’s against Aboriginal law ... we want traditional owners to look after their things.*”¹⁰

Furthermore, 18 regional land councils will cost much more money than Reeves estimated in his report. We cannot afford the administration cost of the Reeves model. Small land councils will experience considerable difficulty in recruiting professional staff. ‘Outsourcing’ does not solve this problem, as professional staffs need to be highly skilled with the ability to communicate complex information, to Aboriginal people and most of us speak English as a second or third language.

Our communities experience difficulty in recruiting capable and professional staff. For a considerable period of time, the medical service at Kintore was flying a doctor in from Sydney, which they could only afford to do once every six weeks.. Employing capable, honest town clerks, administrator’s etc is also problematic. Government legislation requires that town clerks be qualified, however the majority of our communities have experienced problems with staff including excessive overtime claims, that in one instance blew the annual wage, for a couple, out to approximately \$200,000 per year; rip-offs and most frequently, a lack of skills and knowledge. As Mick Starkey from Mutitjulu explained to John Reeves;

“The people have come to the positions to work here aren’t qualified. They got no home and culture, you know. ... Because too many times I see people come here who aren’t qualified, twelve months, see you later, Mutitjulu. Six months see you later. ... Five people in two years. All pirinpa, no Anangu.”

Given these circumstances the Papunya Regional Council is of the opinion that the proposed regional land councils will be ineffective, and we are worried that perhaps that is the whole point.

We also find the proposal to establish the Northern Territory Aboriginal Council (NTAC) to be unacceptable. This is to be an appointed body that has ultimate control over: -

- Aboriginal land, land use, monies from land use;
- assets of the existing royalty associations
- control of ABR, ATSIC money, earmarked Commonwealth funding;
- authority to intervene in major land use agreements;
- control of regional land council funds and budgets; and
- authority to place a land council under administration.

This structure is the opposite of self-determination and we see it as delivering control of our land rights to the Northern Territory Government. *“NT governments have never hidden their dislike of many of the terms of the Land Rights Act. ... The Land Rights Act was originally designed to help make amends for an earlier history of dispossession, but NT governments have consistently argued that the Act is not working to the advantage of Territorians as a whole. These governments have actively sought ways to both change the Act and influence its application.”*¹¹

One of the ways that this has been done is to portray our land councils as big remote bureaucracies. As Councillor Anderson told the Reviewer *“we’re the CLC, all these people sitting around here. A lot of people seem to be under the impression that CLC is that big building in Alice Springs that employs all these people. The CLC is us mob, people out in the bush sitting down here with flies covering us. We’re the CLC, we give the – our workers instructions to do the things that they do within the CLC.”* (Alison Anderson, Papunya)

We can reform the Land Councils ourselves, if we see a need.

The fact is that of all of the issues we are struggling to deal with,

- the state of our health;
- the lack of education facilities;
- inadequate housing;
- water that is not fit for human consumption;
- ungraded roads;
- high unemployment;
- mandatory sentencing legislation;
- deaths in custody;
- substance abuse, social problems such as youth suicide,

we do not see changes to the Land Rights Act and the operations of the Central Land Council as a priority, rather the reverse. The Central Land Council is one of the most functional and effective organisations in Central Australia.¹²

*“[The] Northern Territory Government know that Aboriginal people live in poverty. We got the highest rate of people dying through alcohol and through diseases such as diabetes. If we haven’t got a proper health service, there’s no investigation into the Northern Territory health Service about lack of public health on Aboriginal communities. And education system, we only got primary school and a couple of our kids go to secondary school through corro. We’ve asked for secondary school to be put out here so our kids can be better educated, so they can combat all these problems. Yet instead of trying to do a review into the departments such as the Health Department and Education Department, they do a review of the only organisation that helps and fights for rights of indigenous people in the Northern Territory. And that’s what’s really, really hard for us, you know. We fight about health and education all the time, the lack of it in our communities. As white people say, the key to knowledge is education. And that’s what they deny us – our rights.”*¹³ (Alison Anderson, Papunya)

The Papunya Regional Council would like to stress to this committee the importance we place on self-determination. We have not achieved self-determination yet.

“What we need to be record as saying that we want to start owning economic enterprise, so that our kids here, these noisy kids in the next ten, forty years, they be running their own affair. That’s why we need self-determination in these Aboriginal Communities. ... so that they’ll have access to facilities like good health, better education etcetera. You know things like that. Maybe better communication, more things. That’s why we need this people, you know, not this law to be changed... If this thing going to happen every five years, every three years down the track, we won’t get anywhere.”¹⁴ (Lindsay Turner, Nyrripi)

The problems that we experience with our health etc are caused by the lack of services in places that we live. Agencies like ATSIC are having to fund activities that are properly the responsibility of the Northern Territory Government. For example, our communities have to fund their own police vehicles, fuel and repairs and maintenance of the vehicles. On communities where there is no police presence this Regional Council funds Night Patrols. There are many more relevant examples from across the range of services. We would like to make it clear to the Committee that Aboriginal communities and their representative organisations have developed multiple papers, community and regional plans and attended many meetings in our efforts to attain basic services, but nothing changes. Little wonder that a large number of Aboriginal people told John Reeves they wanted to see an expansion of the Land Council’s role.

“Like my uncle said, you know, we need the Land Council be a government, turn into the government so the Land Council can look at all our schools, police you know. We battling really hard too. Not only at schools, also the police to you know. We got a lot of problem. The government can’t help us, you know. That’s why we need Land Council to become a proper government for us. So you can look at everything, not only school, he can look at all things, all problems to our communities, like roads, everything, you know.”¹⁵ (Andrew Spencer, Kintore)

In 1998, this Regional Council along with 800 other Central Australians attended the Constitutional Convention at Kalkaringi. The Kalkaringi Statement that arose from our discussions, outline the requirement for a commitment by government to negotiate a framework agreement, by setting out the processes for the mutual recognition of our respective governance structures in the NT, the sharing of power and the development of fiscal autonomy and for direct Commonwealth funding of Aboriginal communities and organisations.

The Kalkaringi Convention (and the ATSIC Combined Joint Zone Meeting held in November 1998), also passed resolutions calling on the Commonwealth Government to establish an independent commission of inquiry into the Northern Territory Self-Government Act 1978. This review needs to cover the financial arrangements for the provision of services to Aboriginal communities and to make recommendations for the future relationship between the Northern Territory Government and Aboriginal peoples. We believe that the referendum results on Statehood demonstrate that a majority of residents in the Northern Territory would welcome an inquiry into governance issues in the NT.

In summary, the Papunya Regional Council finds unacceptable most of the recommendations of the Reeves Review and the way that it was conducted clearly illustrates the need to develop constitutional measures to protect our rights.

We urge your committee to reject the Reeves recommendations because if it is implemented it will cause trouble, as Councillor Turner told John Reeves; *“If we see bad results, the Warlpiri people here said that strongly, we will fight for it. We won’t stop, we’ll keep fighting. Like government, they keep fighting Aboriginal people. The Warlpiri people here said that and Sammy said, we’ll continue fight and fight, what ever, if it takes fifty years, a hundred, we’ll still fight.”* (Lindsay Turner)

Thank you and we are now happy to answer any questions the Committee may wish to put to us.

¹ Transcript of the Papunya Meeting on 2 March, 1998 p.83

² This impression is achieved by the use of phrases such as *“from the level of complaints received during this Review...”* (p.65).

³ Transcript of the Yuendumu Meeting on 2 March, 1998 p.27

⁴ Morton, J., (1994) The Proposed Anmatjere Land Council; its historical antecedents and an estimation of levels of support. Report to the Aboriginal and Torres Strait Islander Commission.

⁵ Transcripts of the Urapuntja Meeting on 23 February, 1998 p.27

⁶ The Land Trust hold title “for the benefit of Aboriginals entitled by Aboriginal tradition to the use or the occupation of the land concerned” S.4(1). The Land Councils must protect the interests of traditional owners S.23(1)(b) by consulting with them S.23(1)(c) and obtaining their consent in any matter in connection with the land held by a land trust S.23(3). The Act also recognises that Aboriginals not being traditional owners maybe living on land held by a land trust or be affected by activities on the land, in which case they must also be consulted by the Land Council S23(1) (a), (b), (c) and 3. It is the consent of the traditional owners, which is ultimate, as they have primary responsibility for the land.

⁷ Transcripts of the Papunya Meeting on 2 March, 1998 p.67

⁸ Reeves

⁹ The Deputy Regional Council Chairperson represented the Papunya Regional Council at the Reeves Workshop held in Canberra by CAEPR, where Reeves was severely criticised by Anthropologists.

¹⁰ Lena Apwerl, Full Central Land Council meeting, Three Bores Outstation, 9 & 10 March, 1999.

¹¹ Morton, J., (1994) The Proposed Anmatjere Land Council; its historical antecedents and an estimation of levels of support. Report to the Aboriginal and Torres Strait Islander Commission. p.18 &19

¹² For example, when this Regional Council discussed land needs in our region with the Indigenous Land Corporation, we passed a resolution requesting the ILC contract this work to the CLC, because we wanted to be sure that the work was done properly and the potential for conflict minimised.

¹³ Transcripts of the Papunya Meeting on 2 March, 1998 p.87

¹⁴ Transcripts of the Yuendumu Meeting on 2 March, 1998 p.39

¹⁵ Transcripts of the Papunya Meeting on 2 March, 1998 p.87