Aboriginal Peak Organisations of the NT

Submission on the Review of Regional Governance

June 2013

About APO NT

Aboriginal Peak Organisations of the Northern Territory – APO NT – is an alliance comprising the Central Land Council (CLC), Northern Land Council (NLC), Aboriginal Medical Services Alliance of the NT (AMSANT), North Australian Aboriginal Justice Agency (NAAJA) and Central Australian Aboriginal Legal Aid Service (CAALAS). The alliance was created to provide a more effective response to key issues of joint interest and concern affecting Aboriginal people in the Northern Territory, including through advocating practical policy solutions to government. APO NT is committed to increasing Aboriginal involvement in policy development and implementation, and to expanding opportunities for Aboriginal community control. APO NT also seeks to strengthen networks between peak Aboriginal organisations and smaller regional Aboriginal organisations in the NT.

Background

In the 2012 Social Justice Report the Social Justice Commissioner examined the impact of the amalgamation of Aboriginal Community Councils (Community Councils) into new 'Super Shires' as part of the local government reforms in 2008. He suggested that:

> The impact of the reforms has significantly diminished the capacity of communities to determine and address their specific needs... the establishment of the Shires removed the capacity for discrete Aboriginal communities to prioritise their own issues. Instead, the Shires model has centralised decision-making regarding service delivery across many communities. Completely removing the Community Councils disrupted the balance which had carefully evolved over many years.[1]

The Social Justice Commissioner discussed the important roles formerly played by Community Councils in remote NT communities, including: advocacy and government interface; service delivery including aged care, child care, employment services, night patrols; community Councils often acted as Indigenous Community Housing Associations; and dispute resolution.[2]

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[1] Social Justice Commissioner, 2012, *Social Justice Report 2012*, Australian Human Rights Commission, p. 132
[2] Social Justice Commissioner, 2012, *Social Justice Report 2012*, Australian Human Rights Commission, pp. 134-136

Community Councils had far greater governance and service delivery responsibilities than other local government bodies. The Community Councils faced a number of challenges including varied functionality, effectiveness and capacity; staff turnover; reliance on government funding; and claims of nepotism and dysfunction including administrative and financial mismanagement.[3]

There are a number of concerning features of the new amalgamated Shires introduced in 2008, including lack of legitimacy in community; and centralisation of control of service delivery.

In October to December 2009, the CLC initiated research to gather perspectives and experiences from the community residents on their understandings of the legitimacy, role and functioning of local boards.[4] The research was undertaken in six communities, three in the MacDonnell Shire and three in the Central Desert Shire.

The CLC found that the Local Board system was an inadequate replacement for Community Councils. The report highlighted a number of concerns about the operation of the Local Board system, including:

- the process of selection of members to local boards was not necessarily supported or understood by community members participating;

- questioning of the legitimacy of local boards in the eyes of the community, and describing having 'lost the voice of the community';

- lack of involvement of Aboriginal people in decision-making;

- high level administrative structure, which makes many local board members in all communities report feeling 'ashamed', 'embarrassed', 'uncomfortable' and 'shy' to speak at local board meetings;

- participants felt that communities had less power and authority than with community councils;

- problem of communication including lack of responsiveness of Shires, lack of understanding about purpose of local boards and the matters that they can discuss; and

- the culturally inappropriate ways Local boards worked.[5]

Recommendations for a way forward

1. Community control and service delivery

On 18-19 April 2013 APO NT held a summit in Tennant Creek "*Strong Aboriginal Governance: Our Decisions, Our Action, Our Future*". The purpose of the Summit was:

- To understand the challenges and common barriers to achieving greater governance control for Aboriginal people and to work towards solutions that address these challenges, including understanding skills, resources and capacities that people and their communities, regions, clans, and nations need for greater decision making control.

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[3] Social Justice Commissioner, 2012, *Social Justice Report 2012*, Australian Human Rights Commission, pp. 136-137
[4] Central Land Council (2010) "The governance role of local boards: A scoping study from six communities"
[5] Central Land Council (2010) op cit, pp. 9-10

- To learn from the working examples of effective and strong Aboriginal governance practices in NT and to use these learnings to motivate and achieve greater change for Aboriginal people.
- To develop practical and grounded solutions that give Aboriginal people opportunities to govern now: to make decisions and to implement and take responsibility for these decisions.

There were over two hundred representatives in attendance at the forum from a wide range of organisations and communities. The Summit report will be published on the APO NT website in the near future.

The Summit included a session on local government reform attended by a representative from the Department of Local Government. Participants firmly agreed that they did not support the current models proposed in the Options Paper "Options for Regional Governance in the Northern Territory". In respect of local government reform, the agreed outcomes from the Summit were very clear:

> The consistent, strong message from people who attended this session was that everyone is unhappy with the way communities have been disempowered under the current shire arrangements, and with the poor level of local government service delivery and support. Many people were also unhappy with the current local boards (lack of communication and no real decision-making powers).

> People talked about the old days of community councils as a time when residents had more local say in decisions, local planning and funding. But people didn't want to go back to the past. They talked about wanting strong governance in communities that would work well today, and would help them connect up with other communities and groups.

> There was a lot of interest in the Murdi-Paaki [Regional Assembly] model - especially how communities could keep local control over the things that mattered locally, but at the same time be able to work together and make decisions at a regional level - for example, by creating an alliance or assembly of their representatives. People were keen to hear more about this structure.

> **People at the Summit kept saying that any new local government structures in communities and regions must be based on:**

> 1. **Real decision-making control at the local level**. Aboriginal people must be "on top' in any community governing structure "*so no one can come along and take over". "We got to have ownership in community*".

> 2. **Negotiation, not consultation with communities**. "*Consultation is just all talk from government, and they got their idea already sorted out what they will give to us, and what they won't*".

> 3. **Proper time to consider.** "*We were starting to get things sorted out under that Regional Authority idea before". "A lot of good things happening elsewhere. We want to see what others are doing, get ideas". "So we need our own time and space to think all this through*".

4. **Local solutions, not imposed models.** "*We can walk side-by-side with government, but not to get ideas pushed onto us. We got our own idea".* "*People have to support each other as leaders in our community to make sure there is a united voice about what the community wants*".

5. **Aboriginal cultural foundations**. The very strong message from the group was that Aboriginal culture has to be the foundation for any new governance. Culture, Law, values, relationships and connections should be the basis for local government structures. Culture is seen as a solution not a problem, and the way to give real local credibility, authority, and support to local government.   (Summit Report, 2013)

The outcome of the Summit is consistent with long-held Aboriginal aspirations seeking governance solutions based on our own culture and priorities. Importantly, Aboriginal people are not talking about going back to the past, but want to negotiate governance solutions that are appropriate, effective and strong.

Both APO NT and Summit participants agree that in order to get the model for local government right there needs to be broader conversation and involvement of Aboriginal peoples in determining potential models.

Recommendation
That a further process of negotiation, rather than consultation, is required to allow Aboriginal people at either the regional or local level, to participate in the design of their own governance arrangements.

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2. Negotiation and Partnership

Obtaining support from Aboriginal people must not be something that happens only at the beginning or end of a policy process. Nor can it be understood to be satisfied by the holding of public meetings at which a community is 'consulted'. This is particularly so where issues of governance are being considered.

The Social Justice Commissioner criticised the previous NT Government's approach in introducing the Shires:

> The Northern Territory Government undertook a series of consultations and dialogues from 2002-2006 about the potential to reform local government arrangements under the reform agenda of the *Building Stronger Regions, Stronger Futures* policy. The policy aimed to have flexible timeframes and flexible structures to allow for the development of 'culturally-based representative and electoral relationships'. However in 2006 the policy and community planning was scrapped and replaced by the one-size-fits-all Shire structures, which were rushed into existence and remain in place today.[6]

It is hoped that the current government does not want to repeat the same mistakes by conducting a rushed and inadequate "consultation" process. APO NT recommends that the Government listen to regional and remote Aboriginal communities, and allow them to have substantive involvement in

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[6] Social Justice Commissioner, 2012, *Social Justice Report 2012*, Australian Human Rights Commission, p. 138

developing any potential future models for delivering local government services, including the land council operational areas, to communities in the NT through a staged negotiation process.

International and national evidence highlights that **local involvement, ownership and control are critical to effective development** for Indigenous people and communities. There is strong evidence to show that Aboriginal governance and control is fundamental to improving Aboriginal wellbeing and achieving sustainable socioeconomic development of communities.[7] 'Indigenous governance' was the focus of the Aboriginal and Torres Strait Islander Social Justice Commissioner's 2012 Social Justice Report, which identified:

> To be effective, Aboriginal and Torres Strait Islander organisations have to be both legitimate within the communities in which they operate, and fulfil the requirements of the broader governance environment, including legislation and funding requirements.

> Effective Indigenous governance involves ensuring that our governance structures are relevant and legitimate to the people they are designed to govern, and can operate effectively within the broader governance environment. [8]

The Social Justice Commissioner further summarised key features of good governance:

- are legitimate (and representative if necessary) in the eyes of the community;

- have transparent and efficient decision-making and dispute resolution procedures that encompass cultural values and community governance;

- are accountable to the people they represent and service as well as to any external, partners, stakeholders and funding providers;

- have the capacity to meet the requirements of the law and its funding providers; and

- facilitate, not obstruct, productive relationships with government and other external stakeholders.[9]

There is also strong evidence that **control and empowerment** are critical determinants of **health and wellbeing**. Importantly, empowerment strategies have been shown to produce improved outcomes at psychological, organisational, community and population levels, and in relation to socially excluded populations.[10]

Recommendation:
That the NT Government adopt a genuinely new partnership approach with Aboriginal peoples and communities. Policy approaches to local government need to ensure local involvement, ownership, control and legitimacy, which are critical to effective development for Indigenous people and communities.

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[7] Hunt, J. Garling, S and Sanders, W (eds) (2008). *Contested Governance: Culture, Power and Institutions in Indigenous Australia*, CAEPR Research Monograph No. 29, ANU E Press, Canberra; The Harvard Project on American Indian Economic Development, http://hpaied.org/.
[8] Social Justice Commissioner, 2012, *Social Justice Report 2012*, Australian Human Rights Commission, 111-2 and 91
[9] Social Justice Commissioner, 2012, *Social Justice Report 2012*, Australian Human Rights Commission, 113
[10] Wallerstein 2006. *What is the evidence on effectiveness of empowerment to improve health?* Copenhagen, WHO Regional Office for Europe, Health Evidence Network report; http://www.euro.who.int/Document/E88086.pdf

3. Financial evidence

The Social Justice Commissioner discussed the issues of financial sustainability of the Shires. He noted that the amalgamation of Community Councils was supposed to allow for a better, more consistent delivery of services and cost less to operate. However, several reports have now examined the financial state of the newly created Shires and found that the reforms have not resulted in the anticipated economies of scale or financial sustainability. The Department of Housing, Local Government and Regional Services commissioned a report by Deloitte of the financial sustainability of Shire Councils.[11] The report found that none of the Shire Councils was financially sustainable with the current levels of revenue and expenditure. [12]

The findings of Deloitte cited by the Social Justice Commissioner were supported by the Australian Centre of Excellence for Local Government's review of local government service delivery to remote Indigenous communities. The review also questioned the assumption that creating bigger councils would result in cost savings. This review rejected the basis of the reforms – that economies of scale could be created by amalgamating Community Councils.[13]

Given that the Shires are not currently financially sustainable, APO NT believes it is important for the NT Government to consider and weigh up the financial evidence before deciding on any new model to adopt. APO NT recommends that there be a report commissioned consolidating existing financial evidence, and comparing the running costs of the Shires with the cost of any new proposed model.

Recommendation:

That the NT Government commission an independent financial report to compare comparative financial sustainability of the existing and any new model.

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[11] Deloitte, *Review of Councils' Financial Sustainability*, Consultancy for the Department of Housing, Local Government and Regional Services (May 2012). At
http://www.localgovernment.nt.gov.au/home/local_government_reviews/review_of_councils_financial_sustainability
(viewed 11 October 2012) as cited in Social Justice Commissioner, 2012, *Social Justice Report 2012*, Australian Human Rights Commission, p. 146

[12] It should be noted that Deloitte included the following disclaimer: 'This report is intended solely for the information and internal use of the DHLGRS in accordance with our letter of proposal of October 2011, and is not intended to be and should not be used by any other person or entity. No other person or entity is entitled to rely, in any manner, or for any purpose, on this report. We do not accept or assume responsibility to anyone other than the DHLGRS for our work, for this report, or for any reliance which may be placed on this report by any party other than the DHLGRS.' We realise that the report was released with concerns regarding the data available. The lack of robust data is itself concerning.

[13] Social Justice Commissioner, 2012, *Social Justice Report 2012*, Australian Human Rights Commission, p. 146