

24 April 2013

Ian Holland  
Secretary, Standing Committee on Community Affairs  
PO Box 6100  
Parliament House Canberra ACT 2600



Dear Mr Holland

### **Inquiry into Aboriginal Land Rights and Other Legislation Amendment Bill 2013**

Thank you for advising me of the above matter and inviting the Local Government Association of the Northern Territory (LGANT) to make this submission.

LGANT supports the general thrust of the legislation in terms of Jabiru town land, namely:

- the granting of it as Aboriginal land to the Kakadu Aboriginal Land Trust
- the extension of leases for more than 40 years
- the protection of certain categories of rights, titles or interests in relation to it.

Since 1986 local government (previously the Jabiru Town Council and more recently since 2008, the West Arnhem Shire) has played a pivotal role in the both the development of the town and the upgrading, renewal and replacement of facilities and infrastructure within it, including its water and sewerage infrastructure (which elsewhere in the Northern Territory is a Northern Territory Government function). Apart from facilities and infrastructure provision local government has provided a range of services in the town over the above period, including sport and recreation, public library, animal control, waste management, childcare and parks and gardens.

Given the:

- significant role that the West Arnhem Shire has in respect of the town, and
- the inevitable reduced role that the Jabiru Town Development Authority will have following the passage of this legislation,

amendments to the legislation that should be considered are to:

- insert within subsection 3(1) a definition clause for the West Arnhem Shire (or its future equivalent established under the *Local Government Act*) and
- change Section 3AC so that it ensures that the council is consulted as part of the legislative instruments that will be prepared in the future for the area.

Other reasons for making the above change to the legislation to give recognition to the council are:

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- at the moment the council has carriage of service provision and infrastructure and facility management over the whole of the Jabiru town land
- the proposed change under Clause 3AD of the above amendment bill stipulates that land will be categorised as A, B and C. This will inevitably result in changed responsibilities between the various government and Aboriginal organisations (particularly in respect of Category A Jabiru land which is earmarked to become the responsibility of the Director of National Parks and Category B land which is destined for lease by an Aboriginal corporation).

Care will need to be taken over the delineation of responsibilities in these respective areas. Some obvious questions the legislation raises are:

- Will the Director of National Parks assume all responsibility in Category A land from the council for:
  - the water supply road easement between the town and Park Headquarters
  - walkway between the town and Park Headquarters
  - weed and animal management
  - gravel pits
  - the 'green waste' dump
  - vector control
- Will the Aboriginal corporation in Category B land take over responsibility for roads and street lighting in its lease area or will this remain with the council?
- Will roads therefore, in the Category B land remain vested in the council?

To some, such questions might seem premature, however, there are examples of legacies in urban Aboriginal living areas in the Northern Territory where leases over whole areas have been granted and responsibilities between spheres of government and agencies have never been successfully resolved, largely for reasons of land tenure. Land tenure could change if it is envisaged that the leases in Categories A or B lands encompass whole areas.

The blurring of responsibilities between governments has all the hallmarks of being repeated in Jabiru unless the leases and land tenure arrangements are clearly catered for in the legislative instrument specified for the categories of land.

If the West Arnhem Shire is to continue with some or all of its responsibilities in Category A or B land then it must have land tenure, particularly for roads. Without land tenure a council does not have authority to look after assets. In such circumstances it can only gain such authority by entering into contracts with land owners, which in turn is something it may, or may not, choose to do, that is, it has discretion over its decision. With land tenure, councils have mandatory responsibilities for looking after assets. It would be ludicrous to have more than one agency sharing the same responsibilities (especially for infrastructure) in a small town like Jabiru.

It will be important that the Commonwealth Government does not overlook in the drafting of leases (in compliance with this proposed legislation for the three categories of land) the delineation of responsibilities between governments and other agencies. Ways of guarding against that happening will be to guarantee the West Arnhem Shire:

- is included in the legislation for consultation (as recommended above) and,
- continues to have land tenure over the infrastructure it is responsible for.

Yours faithfully

Tony Tapsell  
**Chief Executive Officer**