

The ***Alice Springs News*** has been facing a wall of silence about Centrecorp from the Central Land Council (CLC) for more than a decade. At last our persistence, applied in the service of our readers, black (about 30%) and white, is beginning to pay off. So far there were two Estimates hearings, a comprehensive report by the Office of Evaluation and Audit and now the Senate Committee Inquiry into the Relationship between the Central Land Council and Centrecorp Aboriginal Investment Corporation Pty Ltd.

With luck we will soon know the following about the clandestine amassing of assets worth tens of millions of dollars purportedly for the benefit of some of Australia's poorest and most disadvantaged people:-

Where did the seed money come from?

What are the assets worth?

Who controls them?

Who allocates the benefits?

Who makes investment decisions?

On what grounds?

The public interest of these matters cannot be disputed. Over more than 30 years the CLC has failed, deliberately or inadvertently, to bring about improvements to the lives of its clients.

When Prime Minister Kevin Rudd says that nothing in the past has worked in Aboriginal politics, then in The Centre the buck for this stops with the CLC – and the Minister to whom it answers.

When land rights started – I was already in Alice Springs working as a journalist at the time – all hopes were pinned on them. Tragically their implementation has been a cruel failure.

The Senate is well aware of the indices: health, employment, education, housing, crime, alcoholism – and the deleterious welfare dependency that has worsened and become entrenched.

Regrettably, the Senate, and the government as a whole, seem less focussed on the incompetence, or deliberate reluctance, of CLC, their statutory body, to profit from the region's ample opportunities in tourism, horticulture, cattle, camels and construction. A massive amount of arable land is available, ample underground water and a huge idle workforce.

Yet there is an almost total absence of viable Aboriginal enterprises on the half a million or so square kilometres for which the CLC has responsibilities.

Far from encouraging commercial development the CLC has stood in its way.

All this makes its involvement with Centrecorp a prime issue in the public interest, and a matter for our reporting – perhaps the major issue on our editorial patch.

(Please note: In this submission references such as this **p1 13/10/04** relate to the CLC submission – **p** denotes the page number, and the date the edition of the Alice News to which the CLC is referring.)

GENERAL REMARKS:

THE NEWSPAPER: The ***Alice Springs News***, in its 16th year of weekly publication, is the first ever sustained and credible opposition to the overseas owned and controlled Centralian Advocate. We have the region's highest circulation (11,600) and readership (see sources at www.alicespringsnews.com.au)

Our online edition is one of the world's oldest, started in 1997, updated weekly and now containing a story archive of some 4.5 million words.

We have by far the biggest – in most areas exclusive – Aboriginal readership of any mainstream print medium. We deliver papers to the 18 town camps and in Alice Springs and to many of Central Australia's bush communities over an area of about one million square kilometres. Some of our most important tip-offs come from Aboriginal communities. Our continuing interest in the CLC and Centrecorp is driven largely by Aboriginal people's wish to be informed about what they consider to be their assets. These people are incensed that they are being kept in the dark by the organisation supposedly acting in their interest, that they don't know the value of the assets, and that they have no say in the distribution of the dividends – a miniscule amount to date and arranged by unknown people.

THE SENIOR STAFF: Our Chief Reporter, **Kieran Finnane**, has worked as a journalist and arts writer in Central Australia for 20 years. She contributes arts writing as well as poetry and short fiction to national publications and has a background in film and television production.

Managing Editor, **Erwin Chlanda**: I am 64 years old and have been a journalist all my adult life. I worked for radio as well as weekly and daily newspapers in Austria, immigrating to Australia in 1968. Here I worked for TV and a small regional paper in South Australia, and came to Alice Springs in 1974, which makes me the region's longest serving journalist. Here I worked for the Advocate as Chief Reporter, started later a freelance TV news and current affairs production house servicing all Australian and several overseas networks. Between domestic assignments in Austria and Australia I covered armed conflicts in Biafra, Cambodia and Afghanistan, embedded with Mujahideen the during the Soviet occupation.

OUR JOURNALISTIC PRINCIPLES: We adhere strictly to the Journalistic Code of Ethics. We have an outstanding reputation for accurate and independent reporting. We are among the very few journalists, certainly senior ones, who on almost all occasions provide story drafts ahead of publication to participating news sources. That is always on the proviso that it is not an invitation to censor, but an opportunity to point out errors and omissions. That's about as good as it get in terms of the relationship between a journalist and his source. You are welcome to check about our reputation and our news gathering processes with any news source in Central Australia, including Mayor Damien Ryan, chairman of Tourism Central Australia Ren Kelly and former Chairman of the Chamber of Commerce Terry Lillis (the present chairperson has been elected only recently and we've had no significant dealings so far).

MEDIA POLICY OF THE CLC: The CLC simply does not answer questions they don't like. The organisation has two full time media officers, and as a government statutory authority has obligations to be transparent. It completely disregards these obligations.

We have had for years a standing request before the CLC for a full briefing about Centrecorp. None has been given to us.

Until recently, when journalists needed entry permits to Aboriginal land, the CLC used that power to control the flow of news.

Under the land rights act traditional owners, for the service of whom the CLC was established, can issue entry permits in their own right.

One of the absurd provisions of the act allows the land councils to cancel those permits.

Among our news sources are highly knowledgeable people, experts in one field or another, with long standing connections to people in the bush.

Frequently they come back from trips with newsworthy information, but they say they cannot go on the record with us, because they would risk being blackballed by the CLC and refused permits to go out bush.

This power to override traditional owners must be removed from land councils.

The Alice Springs News would inform the CLC media section when we research a story, obtain information and check drafts in the manner described above.

The section prefers not to give on the record responses, but to communicate "background".

What's more, it seems to be of the view that if it tells a journalist, off the record, that he hasn't got his facts right, without in any way corroborating its assertion, then that's the end of the matter and the story will be dropped.

Of course, that's not how it works.

We don't use, as indeed we must not, off the record information. Consequently, it is no better than hearsay and of no value to us.

We've made strenuous efforts to have a professional relationship with the CLC's media section.

I have encouraged having coffee with its staff, and agreed to off the record conversations, provided that this would result in on-the-record statements and responses which we can publish.

The section at first agreed but never kept its undertaking to engage in that process.

Instead the Alice Springs News has become the target for the section's abuse and unsubstantiated allegations.

Please bear in mind that a few minutes judiciously spent by the CLC on answering with simple information, clarifications, denials or confirmations the legitimate questions of the Alice Springs

News would have spared the organisation the many hours devoted, in their submission to the Senate, to trying to willfully damage our professional reputation.

Responding openly and efficiently to our questions would also have had the distinct advantage – as recognised by the Commonwealth's Office of Evaluation and Audit – Indigenous Programs (OEA) – of informing the people of Central Australia, and in particular the CLC's constituents, about matters in their interest.

One sample of the kind of exchange the News has had with the CLC's media section makes it clear there's no pleasing the CLC. We ran its reply in its entirety, in a story about an issue of intense public interest, and also quoting a Senator.

Secondly, the section's response tells us that Centrecorp does make a profit, which is at odds with what the CLC is telling you: "The CLC is a shareholder in Centrecorp. The profits of Centrecorp are distributed according to its charitable trust deed for the benefit of Aboriginal people in the Central Australian region ..."

In contrast, the CLC is telling the Senate (**p12, 9/4/09**) "... Centrecorp is only a trustee, has no income or assets, does not have a bank account and does not trade on its own account ..."

And thirdly, the conclusion seems inescapable that the CLC's obfuscating media policy is in the service of obfuscation about Centrecorp and its relationship to it: The CLC has a majority share in a Pty Ltd company that has no income but controls an entity or entities that have significant shareholdings in a huge car dealership (50%), a shopping centre (60%), a resort (30%) and other businesses, with an undisclosed value but widely estimated at \$100m (neither the CLC nor Centrecorp have disclosed to us the actual value of the assets). Because a Pty Ltd company has only limited reporting obligations, it and its majority shareholder can get away with stonewalling questions.

Another sample:

It's a common procedure for the CLC to keep people in the dark, unreasonably denying them information that is in the public interest, and then pillorying them when they don't know all the facts. Apart from the Alice Springs News, a prominent victim of this strategy is Senator George Brandis.

He pressed CLC director David Ross at the Senate Estimates Hearings on 24/10/08 to explain how the CLC can be the majority shareholder of Centrecorp and not be exposed to "financial liability or enable it to receive financial benefit," which would be in breach of Section 23 of the Land Rights Act.

Mr Ross had the answer but he withheld it from the Parliament and the public, namely – as it was brought to light quite recently – that Centrecorp's trust deeds were altered to preclude those possibilities.

That alteration took place on 31/5/06, in fact less than two months after the Alice Springs News had raised the matter. (I assume this enquiry will form a view as to whether those alterations do in fact put the matter beyond doubt.) Another open question is whether the CLC was been in breach of the Act for the 20 years prior to those alterations.

We reported the CLC claim as soon as our attention was drawn to it (Alice Springs News, 23/7/09 <<http://www.alicespringsnews.com.au/1625.html>>)

Senator Brandis and the News cop it again in connection with what seems an honest mistake about an acronym made by the Senator when he again questioned Mr Ross in February. **p10 5/3/09**

The Senator referred to "royalties owed to it from Newmont Mining diverted to General Motors Acceptance Corporation" (GMAC) whereas he meant the Granites Mine Affected Areas Aboriginal Corporation (GMAAAC). The matter was quickly cleared up at the hearing yet the CLC devotes two paragraphs in its submission to you, ridiculing Senator Brandis. These include: "The CLC has no idea what prompted Senator Brandis to ask these questions ..." Wrong. The CLC's senior lawyer David Avery knows exactly what went on. It was he who clarified the matter at the hearing. (See **ATTACHMENT 6.**)

SPECIFIC RESPONSES: Stripped of bluster and invective the CLC's critical yield from tens of thousands of words published by Alice Springs News about Centrecorp over more than a decade is very poor. Many of the CLC's assertions are false, some are defamatory (and advisedly made under Parliamentary privilege) and some are so pathetic as not to warrant a reply. Here are some replies:-

The "CLC comment / response" section of the CLC submission makes no less than 11 references to articles in the News, over 11 years, saying that mining royalties were used as seed money for Centrecorp: The CLC's assertion that we have been told otherwise is false. If the CLC media section has ever mentioned to us that this information (described by us as an assumption) is not true, then – as almost always – it was speaking off the record.

We don't use off the record statements. The media section, had it been doing its job, could have clarified the matter in a 30 second phone call, more than a decade ago.

We would, of course, have reported such a statement, and our reporting would have reflected it from that point on.

"This is on the record. The seed money did not come from royalties," the section could have said, but it did not at any time.

It's unclear why the CLC describes our reports as allegations. We would take the view that investing mining royalties in businesses would be far more desirable than buying motor cars and grog.

p1 13/10/04

When we say that the CLC is "almost obsessively secretive" we are referring to their unwillingness to expose themselves, as a statutory authority answerable to the Parliament and therefore the people, to the normal scrutiny of a free press in a democracy asking questions in the public interest. Their production of propaganda does not serve that requirement.

p2 2/3/06

<http://www.alicespringsnews.com.au/1309.html>

The CLC is suggesting that we were "peddling gossip, or just making it up": The article quotes two aldermen (prime news sources) and offers the opportunity to comment to a Centrecorp director, Owen Cole, which he does not take advantage of but rather, treats flippantly.

p2 + p3 23/3/06

The CLC suggests that the News "claims" an alderman and an officer of the town council were the sources. False. We quoted two aldermen in the original article as sources and another in this article. We gave right of reply to Centrecorp staffer Bob Kennedy and he exercised it. Mr Cole could have denied the claims when we offered him the right of reply to run with the original story. Mr Cole did not.

This article, which clarifies the situation to the best of our knowledge, was given equal prominence and space to the original article. It is an absolutely fair follow-up. No apology was required.

p3 13/4/06

To the best of my knowledge, there is no other investment company in Alice Springs that has charitable status, is tax exempt, purports to be acting in the interests of Aboriginal people but keeps them in the dark, and has received multi million dollar donations from charities, and \$25m from the Federal Government in gifts and loans.

p3 4/5/06

The CLC does not substantiate its allegation that Mr Abbott was relying on "misinformation published in the Alice Springs News". The CLC is treating one of its constituents with contempt.

p5 30/8/07

<http://www.alicespringsnews.com.au/1430.html>

The CLC is critical of our choice of interviewee. He and other persons quoted in the report are prominent citizens and community leaders and the context in which they make their remarks

about Centrecorp is detailed. They chose to take part in a public debate that the CLC would rather not happen.

p6 15/11/07

The CLC asserts that Mr Avery has no connection with Centrecorp. He is the senior lawyer of Centrecorp's majority shareholder.

p7 19/12/08

ATTACHMENT 4 gives a further example of Mr Ross' prevarication.

p9 5/3/09

The disclosure regarding a payment by Newmont was contained in a statement by Senator Brandis and we sought but were denied clarification from the CLC prior to publication (see **ATTACHMENT6**).

p11 5/3/09

It's the CLC who is fabricating. Mr Ross clearly stated in Estimates that Centrecorp is acting as a trustee for two trusts. What's more, the News sought clarification and offered the right of reply.

The CLC, as almost always, did not act on the request nor the offer.

Following Mr Ross' confused statement quoted by the CLC both he and Senator Brandis continue to refer to two trusts being controlled by Centrecorp, not one.

We quoted from the hearing (see **ATTACHMENT 5**) as follows:

Senator Brandis: If the best of your understanding is that Centrecorp does nothing else than act as a trustee of the two trusts you have named, then that satisfies me. It's a perfectly complete answer and it's a perfectly good explanation of the treatment of Centrecorp in the CLC's books. So, could I have the answer, please?

Mr Ross: It's a trustee only.

Brandis: It's a trustee only. The only thing it does is administer those two trusts. Is that right?

Ross: That's it.

Brandis: Thank you.

p12 19/3/09

We said the report was *partly* damning. One example of this are the references to the pathetically small number of Aboriginal people employed in the companies with which Centrecorp has an investment relationship, notwithstanding that Mr Ross is on all or some of those companies' boards, earning him meeting fees of \$63,000 in one year, according to the OE&A report. I believe Mr Ross is the chairman of the board of the King's Canyon Resort.

The OE&A report says while "Centrecorp is a very successful private organisation" greater openness is required because the company has received more than \$25m (including about \$4m in loans) from the Australian Government, and "because it was established for the benefit of Aboriginal people in Central Australia.

"For this reason it is important that it take steps to significantly improve the transparency of its operations."

p14&15 21/5/09

Answered by various points above.

RE THE ASSERTIONS BY TWO MELBOURNE AGE REPORTERS:

I reject the unfounded speculations by Messr Schneiders and Skelton of the Age, that our coverage is not based on documentary evidence.

Of course it is, where available. As well we were also "speaking to a wide range of local indigenous and business sources in the Northern Territory and elsewhere", as they claim to have done.

ATTACHMENT 4, Hansard, Estimates Hearings 24/10/08

Mr Ross—I think the questions really need to be addressed to Centrecorp itself.

Senator BRANDIS—I am asking you in your capacity as the Director of the Central Land Council, which controls Centrecorp.

Mr Ross—We do not control Centrecorp.

Senator BRANDIS—You do. You have three of the five shares.

Mr Ross—We do not have a controlling interest.

Senator BRANDIS—Yes, you do. You have three of the five shares and they are all ordinary shares of the same class.

Mr Ross—But there is no financial impediment on either side of the Central Land Council. We are not at risk one way or the other. There are three \$1 shareholdings and that is the end of it. There is no more involvement by the Central Land Council in the day-to-day activity of Centrecorp or of Imparja for that matter.

Senator BRANDIS—You are a director of Centrecorp, too. I think we established that. So the public body of which you are the director controls Centrecorp in the sense that it has a controlling interest in Centrecorp, and you are a director of Centrecorp. I point out to you that it is possible for one company or entity to have a controlling interest in another company or entity without, for the purposes of the Audit Office, them being related entities. They are two slightly different concepts. There is no issue that a company that has 60 per cent of the issued capital in another company has a controlling interest as long as the shares are all of the same class. Do not worry about that. You might wish to take the following questions on notice. I do not think you will be in a position to answer them now. I am putting them to you and I ask you to consider them and provide answers to them or, if you want to object to answering the questions, to formulate any objections you have with care. Is it not the case that Centrecorp is the owner of units in the CAAMV unit trust that in turn holds a 50 per cent interest in the Peter Kittle Motor Co. along with a 50 per cent interest owned by another company, Yambah Pty Ltd, which is Mr Peter Kittle's own company? Would you take that question on notice?

Mr Ross—I think the question should be directed to Centrecorp itself, not to the Central Land Council.

Senator BRANDIS—As I said, I am asking you in your capacity as the director of the entity that has a controlling interest in Centrecorp and whose asset is treated as a financial asset in the books of the Central Land Council. I also ask you to take this question on notice: is it true, as has been asserted by credible journalists in the newspaper reports to which I referred earlier, that the aggregate value of the holdings of Centrecorp is in excess of \$100 million? Mr Ross, you have provided a letter to the committee from Mark Maloney, who is a Senior Director of the ANAO. It states: 'I have held discussions with my technical area, and as a result of our discussions last week it has been decided that as a result of no benefit being obtained there is no need for consolidation of entities in which you may have control. Your financial statements can now be finalised on this basis.' That is all the letter says. It seems clear that Mr Maloney shares the view that I just put to you, which I think is uncontroversial—that is, that Centrecorp is controlled by the Central Land Council. I now go back to the questions I want you to take on notice. Is it also not the case that the Central Land Council, through its 60 per cent holding in Centrecorp, has a 50 per cent interest in LJ Hooker Alice Springs, that it owns the Yeperenye Shopping Centre, that it owns the Alice Springs plaza, that it has a 50 per cent interest in Big O Mitre 10 and that it has other real estate property holdings? Will you take that question on notice? You do not have to if you do not want to. If you are prepared to offer the answer now, that would be even better. But if you are not in a position to answer the question now please take it on notice.

Mr Ross—I would be happy to pass those questions on to Centrecorp.

Senator BRANDIS—It has been made very clear by the chair that I am directing these questions to you in your capacity as the director of the Central Land Council. We know, and this is uncontroversial, that the Central Land Council controls Centrecorp. It has 60 per cent of the issued capital in Centrecorp. To your knowledge, has Centrecorp ever made a distribution to the Central Land Council?

Mr Ross—To the Central Land Council?

Senator BRANDIS—Yes.

Mr Ross—To my knowledge, no.

Senator BRANDIS—I refer back to note 6(b) to your financial statements, which states: The profits of Centrecorp will be distributed according to its charitable trust deed for the benefit of Aboriginal people in the Central Australian region ... That is a note to your accounts. That is the explanation of your balance sheet, which is the justification for the treatment of your interest in Centrecorp at nominal value only. Has Centrecorp made any distributions according to its charitable trust deed for the benefit of Aboriginal people in the Central Australia region? If so, when, what were the amounts and to whom were the distributions made?

Mr Ross—I will take that question on notice.

Senator BRANDIS—Thank you. I will make this as plain as I can. If there had been no distributions, that note to your accounts would be misleading. You did not prepare these accounts, so I am not saying you misled anyone, but that note would be misleading because the justification offered in the accounts for treating these shares at nominal value rather than at asset-backing value is that these distributions have been made. The Central Land Council, as the controlling shareholder in Centrecorp, plainly has a fiduciary obligation, and a statutory obligation for that matter, under the Commonwealth Authorities and Companies Act to ensure the veracity of that note to the accounts. Do you understand?

CHAIR—You have only two minutes, Senator.

Senator BRANDIS—Thank you. Can you also tell me—and you might want to take this question on notice—whether any other transfer payments have been made either from the Central Land Council to Centrecorp or from Centrecorp to the Central Land Council in the way of administration fees, royalties, or payments of any other character? If so, what, how much and when?

Mr Ross—None to my knowledge, Senator.

Senator BRANDIS—Can you take that question on notice and check it? Finally, for completeness, is it the case that the capital that Centrecorp has used in order to acquire this large asset portfolio was seed funded from royalties paid by mining companies and other commercial entities with obligations to the central Australian Aboriginal people under the Aboriginal Land Rights (Northern Territory) Act or other relevant Commonwealth and Northern Territory statutes?

Senator Ludwig—Senator Brandis, for clarification purposes that seemed like a question that should be asked of Centrecorp. Was there a connection to the land council in the question that you asked? I am happy for your advice on this. It seemed to me to be a direct question which I thought we had dealt with earlier. I am happy to take that question on notice.

Senator BRANDIS—I think that is fair, Senator Ludwig. However, let me rejoin your observation. There is no dispute that the Central Land Council is the controlling entity of Centrecorp. I assert that one of the reasons I am entitled to ask the Central Land Council questions about the asset values and holdings of Centrecorp is that in the Central Land Council's own financial statements the justification given for treating the shares at nominal rather than real value is that distributions are made to Aboriginal people by Centrecorp under its trust deed. If that statement is false, there is a falsity in the accounts of the Central Land Council.

We have an extraordinary situation. A 60 per cent shareholding in a business, which is asserted by credible investigative journalists to hold in excess of \$100 million in assets and which would have a real value to the controlling shareholder of in excess of \$60 million, is written down in the books of the Central Land Council at only nominal value. The Central Land Council, which has to report to and give an account of itself to this committee, has to explain and justify the treatment of this asset in that way in note 6(b) of its own balance sheet.

Our accurate report is at <http://www.alicespringsnews.com.au/1605.html>

ATTACHMENT 5. Hansard, Estimates Hearings 27/2/08

Senator BRANDIS - You may need to take this on notice, Mr Ross, but what is the name of the trust administered by Centrecorp?

Mr Ross - There are two trusts: Centrecorp Aboriginal Investment Corporation. Hang on. There is the Central Aboriginal Charitable Trust - sorry I only have one. Then there is the Central Australian Aboriginal Charitable Trust.

Senator BRANDIS - All right. Is Centrecorp the sole trustee of those two trusts?

Mr Ross - My understanding is yes.

Senator BRANDIS - Is the administration of those two trusts the only business of Centrecorp?

Mr Ross - It is really Centrecorp's business.

Senator BRANDIS - So that is all it does. It does not do anything other than to administer those two trusts?

Mr Ross - I think they are probably questions that you need to put to Centrecorp.

Senator BRANDIS - As I said a little while ago, because you count your investment in Centrecorp as a Central Land Council asset, then speaking on behalf of the Central Land Council, and since you have a legal obligation to it to make yourself familiar with its financial affairs, and that includes its asset position, I think I am at liberty to ask you about these matters, especially given that you have elaborated on the very point in note 6(b) to your own accounts. It is not a hard question. Is it the case that all Centrecorp does is administer those two trusts?

Mr Ross - As I said, those are the two trusts of Centrecorp and it is their business how they operate those trusts.

Senator BRANDIS - I could perfectly well understand why in the Central Land Council's financial statements the nominal share value of its investment in Centrecorp would be written down at \$3 if it had no business other than to act as a trustee. I would find it more difficult to understand how its value could be written down as the nominal value of its shares if it did things other than act as a trustee. So the answer to this question really goes to the accuracy of the treatment of Centrecorp in the Central Land Council's financial statements. If the best of your understanding is that Centrecorp does nothing else but act as a trustee of the two trusts you have named then that satisfies me. It would be a perfectly complete answer and a perfectly good explanation of the treatment of Centrecorp in the Central Land Council's books. So could I have the answer please?

Mr Ross - It is a trustee only.

Senator BRANDIS - The only thing it does is administer those two trusts - is that right?

Mr Ross - That is it.

ATTACHMENT 6. Hansard, Estimates Hearings 27/2/08

Senator BRANDIS - In the 2008 financial year, did the Central Land Council make any payments or distribute any moneys to General Motors Acceptance Corporation?

Mr Nystrom - Did the Central Land Council make such a payment?

Senator BRANDIS - Yes .

Mr Nystrom - To my knowledge, no.

Senator BRANDIS - Were any moneys payable to the Central Land Council in respect of royalties owed to it from Newmont Mining diverted to payments to General Motors Acceptance Corporation?

Mr Nystrom - To my knowledge, no.

LATER

Mr Avery [CLC senior lawyer] - It is not General Motors Acceptance Corporation; it is Granite Mines Affected Areas Corporation, which is a recipient of affected areas money received by the Central Land Council from ABA and distributed without deduction to that Aboriginal corporation. I suspect there may have been a misunderstanding of the acronym wherever it was used.

Senator BRANDIS - I see in note 15(a) there was some \$5,320,043 paid under section 35(2) to Granite Mines Affected Areas Aboriginal Corporation. That is what you are referring to?

Mr Avery - It is sometimes referred to as GMAAC, which may have given rise to a misunderstanding of that reference.

Senator BRANDIS - Thank you for clarifying that.