

Committee Secretary
Senate Select Committee on Regional
and Remote Indigenous Communities
Department of the Senate

Submission

Northern Territory Regional and Remote Indigenous Communities

Introduction

In providing this short submission for the Committee's consideration I first wish to set out briefly my background and experience.

I have an Economics background (major in my degree). I also have expertise in International Law (Masters ANU) particularly in human rights and specifically in Indigenous rights. I have extensive program and policy experience in the public sector in Indigenous affairs, both in the Northern Territory and at Central Office level. I have over more recent years been engaged as a consultant in Indigenous policy areas by Commonwealth and state agencies, statutory authorities and non-government organisations.

I am happy to elaborate on any of the matters raised in this submission if that would be of assistance to the Committee.

This submission covers two principal areas of concern.

PART A deals with the current explicit policy that prohibits the provision of Commonwealth funding for houses at outstations, homelands and similar small discrete Aboriginal communities in the Northern Territory.¹ This policy, despite its major implications for the Aboriginal community of the Northern Territory, has gone almost completely unnoticed and unremarked. The policy is barely on the public record. Attention to what is happening in respect of outstations has been subsumed by the avalanche of activity and interest in the NTER.

However, it is important to see the NTER in the context of broader policy and Indigenous program settings in the Northern Territory including the division of responsibility between the Commonwealth and the Northern Territory. Under the Self-Government 1978 arrangements a bifurcated administration of Aboriginal affairs in the Northern Territory was established with the Northern Territory Government acquiring responsibility for major Aboriginal communities and the Commonwealth retaining responsibility for outstations and other smaller and decentralised communities. The legacy of the 1978 arrangements continues to have major implications today.

¹ The terms 'outstation' and 'homeland' are virtually interchangeable although local usage may prefer one to the other. Although definitions are elusive, these are typically small communities of up to 100 residents.

The transfer of responsibility for outstations to the Northern Territory (see Memorandum of September 2007 below) along with the Commonwealth intervention in the major communities previously the domain of the Northern Territory need to be viewed together as they are part and parcel of the same overriding policy objective of prioritising major settlements and communities and downgrading outstations.

Central to the hostility to outstations in current policy settings is the express prohibition on the use of Commonwealth funds for new housing on outstations. This has left outstation housing in a parlous state. It is my considered view that the situation of outstation housing in the Northern Territory is a scandal. It has had and continues to have a major deleterious effect on Aboriginal communities throughout the Northern Territory. It arguably places Australia in breach of a range of international treaty obligations.

In PART B I have provided a conceptual discussion of the problems and potentials of outstations and similar communities for participation in the market and the development of meaningful employment opportunities. There are serious issues to be addressed, but unfortunately a constructive discussion has not taken place to date largely because the bogus issue of ‘viability’ has tended to dominate. Such discussion as has occurred has been characterised by ideology rather than by careful objective analysis.

PART A

1. Outstations and similar communities in the Northern Territory

The scale of the problem must first be recognised. Of approximately 600 plus discrete Indigenous communities in the Northern Territory, in excess of 500 can be classed as outstations or similar small communities. The majority of these are on ALRA land, but others are on excisions from pastoral leases (Community Living Areas) or are town camps. Outstations and homelands represent an established and preferred settlement mode for a significant proportion of the Aboriginal community outside of the urban areas such as Darwin and Alice Springs.

Despite various protestations to the contrary, it can be shown that outstations represent a strong Aboriginal priority and are the result of Aboriginal initiatives. A significant number of today’s outstations have been in continuous existence for 20 or 30 years or even longer. In the case of some small communities on Community Living Areas, Aboriginal groups have been resident at those locations from the beginnings of white settlement. Outstations and similar communities are simply not the product of white idealism or romanticism, nor do they represent a refusal to deal with the modern wider society – often instead they represent a means of making that engagement on a meaningful and sustainable basis.

Whilst this is not always the case, and there have been outstations that have failed or faltered, nevertheless, it is evident that outstations clearly represent the wish of many Aboriginal people to live on their ancestral lands, to maintain cultural and spiritual connection on a day to day basis, and to avoid many of the problems of social

dysfunction closely associated with artificiality, conflict and meaninglessness of life that often characterises life in the major communities and settlements.

Outstations have shown a number of health and social benefits in responding to problems of substance abuse and delinquency. But it is not the intention to argue here for the benefits of the outstations/homelands settlement patterns. The point is that such settlement patterns represent a clear and constructive Aboriginal choice. It is a choice based both on considerations of cultural maintenance and on finding workable responses to the challenges of modernity and to the effects, especially on young people, of the social anomie of settlements.

2. Reversal of policy settings - housing

The settlement pattern of outstation and similar communities received significant support from the Commonwealth over many years. Housing and other infrastructure, municipal and essential services, CDEP and training programs represent a major multi-million dollar investment by Government in outstation communities. Commonwealth programs have usually been delivered by outstation resource centres, and many of these centres have developed into highly effective service delivery agencies. Additionally, organisations such as the Centre for Appropriate Technology have developed innovative, effective and cost efficient modalities for power supply and other essential services for small decentralised communities, again with funding support from the Commonwealth. Overall, support for outstations and similar communities has been a major commitment on the part of the Commonwealth.

What is not generally realised is that the outstation/homelands/community living areas settlement option has been deliberately undermined at the most basic level – the provision of housing. Policy settings support outstation communities have been quietly reversed. It is now virtually impossible to obtain new housing for the 500 plus existing outstations in the Northern Territory. It is quite impossible to obtain support for new small communities. With the odd exception, this has been the case for a number of years. As a result the backlog of suitable and appropriate housing on outstations is immense.

I am informed, for example, that in one locality west of Alice Springs (comprising 5 separate land trusts under the ALRA) approximately 40 outstations have not received a new house since 2000. The result is serious overcrowding, significant health risks, and pressure to move to Alice Springs. Many members of the families involved would prefer to live on the outstations, but there is no room for more than camping visits at weekends. The situation in respect of housing provision on outstations and similar communities is driving the population drift over the last few years to Alice Springs and other urban areas.

As I have argued, these policy settings have received little attention. It is, I believe, important to identify and describe the policy/program track that leads to the present situation as this has not suddenly emerged from nowhere. The progression of policy development leading to the current prohibition on outstation housing is as follows:

- (a) The Community Housing and Infrastructure (CHIP) moratorium.

A moratorium has been in place in respect of the provision of new housing on outstations under the CHIP program some years ago. The following extract from the CHIP Guidelines sets out clearly the nature and extent of the moratorium imposed on outstation funding under the CHIP program:

2.5 Homelands and Outstations

Considerable whole of government discussion is occurring on the funding to homelands and outstations. While this work is being undertaken **the moratorium on the funding of new homelands and outstations remains in place.**

Submissions for funding of homelands and outstations in 2006-07 will only be considered if the homeland has previously received funding under the programme and essential services are in place. Funding **will only be provided to maintain and repair existing** housing, infrastructure and essential services.

(extract from CHIP Guidelines at [http://www.facs.gov.au/internet/facsinternet.nsf/via/chip_guidelines/\\$file/e-sub_guide_2006_07.pdf](http://www.facs.gov.au/internet/facsinternet.nsf/via/chip_guidelines/$file/e-sub_guide_2006_07.pdf)). As of 21 July 2008 these Guidelines remain on the FaHCSIA website which notes that they are current until 30 June this year.

(b) The CHIP Review

The FaHCSIA website also notes that CHIP was reviewed before the development of the Australian Remote Indigenous Accommodation (ARIA) program.

The CHIP Review produced the report *Living in the Sunburnt Country – Indigenous Housing: Findings of the Review of the Community Housing and Infrastructure Programme*. This Report was an important step in turning the moratorium on outstation housing into a permanent policy setting.

Recommendations 18 and 19 of the Report make the position of outstations in general and outstation housing in particular clear. The Report's recommendations to 'continue the move away from building new housing on "on-country" outstations and homelands where there is no certainty of access to education, health, law and order and other basic support services' and to 'examine the benefits of providing mobility incentives' to encourage families to move to more centralised locations spelt the end of outstation housing programs (with the possible exception of some satellite communities close to major settlements). The Report provides no arguments in support of the Recommendations. Nevertheless, the CHIP moratorium had now become permanent. As a news item referring to 'an explosive independent report' observed:

No new houses would be built for Aborigines living in remote outstations under a radical plan to accelerate the Howard Government's push to move indigenous Australians into larger settlements.²

These new policy settings in respect of outstation housing and the provision of other services to outstations are now embedded in agreed housing funding arrangements entered into between the Commonwealth and the Northern Territory in 2007.

- (c) The Memorandum of Understanding Between the Australian Government and the Northern Territory Government Indigenous Housing, Accommodation and Related Services September 2007.

This agreement covers the funding and delivery of Indigenous housing, accommodation and related services in the Northern Territory using funds under the CHIP and the Australian Remote Indigenous Accommodation (ARIA) programs from 2007-08 to 2010-11 inclusive. Key provisions of the MOU include:

Paragraph 5 – the Northern Territory Government will take over responsibility for the delivery of services to outstations.

Paragraph 6 - the Commonwealth Government will have no further responsibility for the delivery of Indigenous housing, municipal, essential and infrastructure services in the Northern Territory from 1 July 2008.

Paragraph 17 is the crux – it notes that the Commonwealth's position is that ARIA funding not yet committed is to be applied on the basis of the identified priorities (and that it will seek to have these priorities reflected in funding agreements), viz:

Funding Priorities (Paragraph 17)

- first order priority - main urban centres and larger/strategically placed growth communities where there will be funding for repairs and funding of existing housing stock **and new housing** to meet existing demand and future growth;
- second order priority - smaller communities where repairs and upgrade will be possible, **and new housing** on a case-by-case basis as negotiated and agreed (eg lease-purchase arrangements); and
- third [and last] priority - 'other communities' (including outstations and homelands): **'No Australian Government funding will be provided to construct housing on outstations/homelands'**.

(emphasis added)

It seems clear that there will be no new housing on outstations. In identifying 'level' of communities (paragraph 15) the Memorandum identifies around 500 plus as the number of outstations. So this appears to be the number of communities affected by the ban on new housing.

² Patricia Karvelas, "Howard says not to bush homes for Aborigines" The Australian, 2 March 2007

The third priority communities will, however, have access to the Housing on Indigenous Land (HOIL) program funds. This program is administered by Indigenous Business Australia and is intended to assist Indigenous Australians purchase their own homes. It is entirely inappropriate for outstations and similar communities. It would presumably require surveying of all outstation homeland communities (a potentially mammoth task) and there would be very few situations where people living in these communities would have the long term full-time employment profiles required to sensibly enter into the types of arrangements required to purchase houses under this program. The program has had some success in urban environments such as Tennant Creek and Alice Springs. Its efficacy in larger Aboriginal settlements is yet to be determined. It is so inappropriate for the situation of most of the 600 smaller outstation and homeland communities of the Northern Territory as to be virtually irrelevant to their needs.

3 *Implications*

The major implication is no new housing for outstations. Some satellite communities close to larger settlements might get under the radar and get funded, but otherwise the huge investment in housing on Indigenous outstations and homelands to date is basically to be left to depreciate to worthlessness. There is no replacement program, let alone additional housing. The significant unmet demand and backlog, and the rapidly growing population, are all to be ignored. The only way to obtain housing in future will be to move back to the large communities. The message to Aboriginal people is clear.

Underlying this policy is an assumption that a process of attrition will lead to the eventual depopulation of Aboriginal land, except for the larger townships. A number of commentators have noted the thrust towards depopulation (Altman, Toohey amongst others). The assumption is that younger people will move to the large communities or to urban centres such as Alice Springs, Katherine etc. Older people will be left to see out their days in the bush. Hence the claim can be made that no-one will be 'coerced' into moving. However, a policy that explicitly forbids Commonwealth funds to be provided for housing for such communities is, of course, *de facto* coercion, no matter how the matter may be presented.

We now have a policy where Aboriginal people living on outstations and homelands are to receive no assistance for housing whatsoever, apart from some repairs and maintenance,. This represents perhaps the most significant change in Aboriginal policy and programs over recent years. It arguably has far greater implications for Aboriginal well-being and economic and social progress than any initiative under the NTER. It is remarkable that these basic policy changes have been made with minimal public consideration or informed discussion.

The position of outstation communities is further jeopardised by the handover of all functions to the Northern Territory. It is clear that the Northern Territory has had difficulties meeting its responsibilities for the major communities for which it assumed responsibility with self-government. There are concerns about whether full Indigenous funding has even been applied by the Northern Territory to Indigenous communities. There is also uncertainty about the future of the effective and well-established outstation resource centres which may be subsumed by the new shire

arrangements even though they have shown that they work. In effect there appears to be a policy by the Commonwealth of abandonment of a significant proportion of the Aboriginal population of the Northern Territory.

4 *A failure to meet responsibilities?*

It is clear that these fundamental changes have been wrought without any reference to the people concerned. Otherwise, where there were questions of viability, cost effectiveness etc in respect of outstation support these would have been negotiated on a case by case basis. No one expects a blank cheque approach to supporting communities, whether large or small, Indigenous or non-Indigenous. Questions of reasonableness, equity and cost effectiveness all need to be factored in to any program development and delivery.

However, given the purposes of the ALRA and of other legislation for recognising land rights and native title, and given the acknowledged critical importance to Indigenous people of their links with their ancestral lands and territories, the presumption has to be that Indigenous people will be assisted to live on their land where this is their wish. Fundamental changes to policy settings need to be made in consultation with these people. The policy changes we have been considering here are unilateral and cut to the heart of Indigenous identity, status, aspirations and well-being. The views of Aboriginal people have simply not been sought – affected Aboriginal communities are simply to be told of the changes in delivery arrangements and the priorities for the delivery of housing (paragraph 29 of the Memorandum).

Given what is at stake for the Aboriginal communities so affected, a number of international law principles and provisions to which Australia is committed, either by ratification of relevant human rights treaties, or as a good international citizen, would appear to be in jeopardy. Without going into detail, at least Article 27 of the International Covenant on Civil and Political Rights, a number of provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR) including article 11, the International Convention on the Elimination of All Forms of Racism (CERD) and the relevant jurisprudence of the supervising Committees for these instruments, would suggest that the policies now in place in respect of Aboriginal housing for outstations and similar communities may well place Australia in breach of its international obligations. A coalescence of various international norms and practice would suggest that such unilateral treatment of the housing needs of a significant number of Indigenous people is not acceptable by contemporary standards.

This is a potentially serious situation. It poses a danger to Australia's international reputation. More importantly, it suggests that Australia does not take its international obligations, freely entered into, seriously in developing its policies and programs in respect of a disadvantaged section of the Australian community.

PART B

Potential contribution of outstations and similar small Aboriginal communities to economic participation and improved social outcomes

Introduction

The major problem facing participation in the economy by Aboriginal communities in the Northern Territory has been the destruction of the traditional economy. Today the traditional economy can at best only supplement the daily necessities of life. However, finding a place in the market-based economy that has supplanted the Aboriginal economy is not easy – previous mainstays of employment, in particular station work, have been greatly reduced. The market-based economy is itself uncertain in an age of rapid globalisation, and future areas of employment growth can be difficult to predict.

Problems in economic participation

Except for low paid casual work, participation in the market economy places a high premium on literacy and similar skills. Difficulties for Aboriginal people in market participation apply in the Northern Territory to a considerable degree, *regardless* of whether Aboriginal people live in an outstation environment, a larger community or an urban area. The dearth of meaningful employment is a significant problem, especially for young people, and provides little motivation for success in the European education system.

Despite some expectations to the contrary, it has not been possible for people living on outstations to always escape the welfare net, along with the deleterious effects that have been identified by Noel Pearson and others. However, in comparison to larger settlements and to town camps on the fringes of urban centres, outstations have potential advantages in terms of providing meaningful employment possibilities which may be congruent with Aboriginal values and lifestyle.

Firstly, there is the possibility to mix the welfare economy with subsistence activities, in particular hunting and gathering food (the so-called ‘hybrid’ economy). This lifestyle can provide an important source of nutrition, activity and cultural maintenance. The potential significant improvements in health outcomes from this approach have been documented in Kevin G Rowley et al, ‘Lower Than Expected Morbidity and Mortality for an Australian Aboriginal Population: 10-Year Follow-up in a Decentralised Community’ (2008) 188(5) *Medical Journal of Australia* 283. The results of this 10-year study showed that for the residents of Utopia, which is made up of 16 outstations, health results (including in relation to cardio-vascular diseases) were significantly better than for residents of other Aboriginal communities.

Secondly, a number of possibilities exist for participation in the market economy, eg small-scale cultural and eco-tourism ventures, growing and collecting traditional foods for restaurants and food manufacturers, the production and sale of paintings and other crafts (a significant money-spinner for the Northern Territory economy and based largely on outstations and homelands), running small (often killer) cattle enterprises, local municipal administration, house building and upkeep, road and

vehicle maintenance, small-scale metal fabrication, working in health and education, border protection and surveillance of illegal fishing and other intrusions, and land conservation and management.

This last area, given the priority now attaching to environmental protection and rehabilitation provides a potentially significant area for employment that can draw on traditional knowledge systems and provide work which is accessible, interesting and provides for a constructive engagement with the wider community. Of note are the Indigenous Land Use Agreements (ILUAs) covering 27 national parks which provide for joint management, employment and training, and protection of cultural heritage.³ Such work provides an approach to enhanced learning and capability by Aboriginal people in wildlife protection, maintaining biological diversity and programs to control and eliminate feral animals and to reintroduce native species. It provides a feasible and relevant approach to learning and gaining qualifications

In marginal economies such as much of the Northern Territory, the lead time in developing regular employment can be quite long – it is not easy to establish genuine activities that do not require a degree of subsidy (this is in fact true for much of rural Australia and farmers and pastoralists exist on a range of direct and indirect subsidies). Whilst outstations do provide potential for improved employment (and social) outcomes, this will necessarily be an incremental process. It will require the provision of educational and training inputs of sufficient extent and quality to meet the challenge. Education and training will need to be closely coordinated with employment and economic development programs to provide pathways to successful job placement without necessarily leaving Aboriginal lands. This is all possible but needs a new approach which places economic development and empowerment on Aboriginal or nearby land as a first priority.

The significance of these considerations is that outstations represent the reality of Aboriginal life for many Aboriginal people across the Territory. This is not as a result of policies to support or encourage outstations. It is clear that outstations are an initiative of, and a major priority for, many Aboriginal people. Whilst the economic circumstances facing outstations and similar small and decentralised communities are difficult, this situation will not be solved by encouraging people to move from their traditional lands – this merely displaces the problem and arguably exacerbates negative outcomes.

Responses to the situation

There is, nevertheless, the potential for significant and meaningful economic activity and employment, but the delivery of services, including essential services, will be a critical component in regard to outstations being viable and healthy communities. It is no good allowing outstations and similar communities to become dilapidated with worn out infrastructure and over-crowded housing.

At present there is no focused and coordinated approach to economic development for Aboriginal communities large or small. Too much emphasis is placed on the training

³ See http://www.nntt.gov.au/News-and-Communications/Media-Releases/Pages/Agreements_over_NT_national_parks_an_Aus.aspx

and employment spin-offs from large scale mining and similar projects but for a number of reasons the utility and sustainability of this source of economic activity is limited. Problems with such large-scale projects include fly-in fly-out workforce arrangements, the incompatibility of the working environment for many Aboriginal people, the 'lottery' effect of where exploitable minerals exist, environmental and site degradation/desecration, the finite duration of such projects, the fact that such projects are generated by large-scale external capital rather than representing locally-based Indigenous initiatives, and the social problems that can come with large mining townships.

The vacuum in support

Many Aboriginal ideas and initiatives for small-scale enterprises fail to get off the ground because of the vacuum in available support for Aboriginal communities for such initiatives, whether by grant or loan. Whilst support either through grants or micro-credit for small scale economic activity has long been recognised as a key to poverty alleviation in developing countries, such an approach has been largely overlooked in Australia despite its potential to support Aboriginal initiatives in ways consistent with Aboriginal values and ways of doing things.

Support for outstations and homelands should be seen in the context of maintaining a residential community presence in rural and remote areas. This is a problem faced by other countries in our region who have noted the tendency of urbanisation and industrialization to lead to 'urban drift' and a depopulation of the countryside. However public policy in those countries has been to maintain a viable population base and community presence in rural and remote areas. In particular, Thailand, following on from work done in Japan, has developed the impressive 'One Tambon [village] One Product' (OTOP) Program. Considerable resources are applied to this program which identifies market niches for small villages and then provides significant support to producing and marketing the identified goods and services.

Whilst this program may not be replicable in Australia, what it evidences is the need to make a commitment to remote communities to help them find a place in the modern world. Not everyone will want to stay in communities on their traditional country, but many will if the opportunity for productive and meaningful activity is there - this can provide considerable beneficial social economic and cultural outcomes.

The major gap at present is in developing plans and coordination on a regional basis, coupled with flexible and innovative financing and business planning support services, to assist remote Aboriginal communities move towards a degree of self-reliance and market participation. One area of funding that has provided a degree of flexibility to support such initiatives has been CDEP which partly filled the gap and which has provided support for more than one successful Aboriginal enterprise. However, CDEP was not designed as a fund for supporting the development of Aboriginal enterprises and this avenue of finance is clearly under threat.

Conclusion

No agency or organization presently grasps the problem of economic development and the concomitant opportunities for training and employment. No agency appears to have developed a vision for dealing with this issue, nor provided the resources and structures to respond to it. A regional approach, combining planning, advice, support and flexible and tailored finance is needed. Partnerships with the private sector need to be part of such an approach.

Aboriginal economic development needs to be based firmly on the premise that Aboriginal people will continue to occupy and enjoy their traditional estates and territories, that this can be done in a way that provides significant integration with the market and with programs of national priority such as border integrity. Outstations, homelands and similar communities are integral to such a revitalized approach to developing sustainable Aboriginal livelihoods in remote Australia.

Greg Marks

21 July 2008.