

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

## **Submission**

### **Northern Territory Indigenous Communities: Outstations Policy**

In July of this year I provided a submission to the Senate Committee which discussed the situation of outstations and similar small communities in the Northern Territory. That submission dealt with the delivery of government services, in particular housing, municipal and essential services and related infrastructure, to approximately 500 discrete Aboriginal settlements. It described changes in the division of responsibilities between the Commonwealth and Northern Territory Governments arising from the Memorandum of Understanding of September 2007 - 'Housing, Accommodation and Related Services' (the MOU).

In my submission I also discussed the potential contribution of outstations and similar small Aboriginal communities to economic participation and improved social outcomes.

I have further elaborated on these matters in a recent submission (5 December 2008) to the Northern Territory Government in response to its request for comments on its Discussion Paper on Outstations Policy.<sup>1</sup> In my paper for the Northern Territory Government I have dealt with the history leading up to the MOU and argued that the MOU gives outcomes that are manifestly inadequate in terms of current policy objectives. Consequently, I see an urgent need for Governments to revisit the MOU and to negotiate a comprehensive partnership between the Commonwealth and the Northern Territory in respect of the full range of discrete Aboriginal communities in the Territory.

As these issues relate closely to the matters raised in my earlier submission to the Committee, I wish to provide my submission on the NT Outstations Discussion Paper as a supplementary submission to the Senate Committee. The paper is set out immediately below.

Yours faithfully

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<sup>1</sup> At [http://action.nt.gov.au/outstations/docs/Outstations\\_Discussion\\_Paper.pdf](http://action.nt.gov.au/outstations/docs/Outstations_Discussion_Paper.pdf)

Outstations Policy  
Office of Indigenous Policy  
Department of the Chief Minister

## **Submission re Northern Territory Government's Outstations Policy Discussion Paper**

### **Introduction**

- a) a spectrum of communities

Proponents and critics of outstations have long argued about the pros and cons of outstations and homeland communities. However, over the past 30 years or so outstations and similar small Aboriginal communities (including community living area communities) have become firmly established as a significant part of the pattern of Aboriginal settlement in the Northern Territory. They represent numerically by far the greater number of discrete Aboriginal settlements as well as being home to a significant proportion of the Aboriginal population.

This pattern is here to stay. Many Aboriginal people prefer, for a variety of reasons, to live in family or clan-based settlements on their traditional country or close to it. Other Aboriginal people live in medium to large-sized communities, again for a variety of reasons. There is a significant degree of mobility between these settlement types. Again some small communities are very close to larger communities, others are quite remote. Some are affected by seasonal conditions, others less so. Thus there is a *spectrum of settlements*, with the numerical preponderance being small to medium sized communities.

Sound policy will be based on an acceptance of this reality.

- b) need to renegotiate the Memorandum of Understanding

The Memorandum of Understanding between the Commonwealth and the Northern Territory Governments in respect of Indigenous Housing, Accommodation and Related Services of September 2007 (the MOU) is already out of date and needs to be re-negotiated as soon as possible. It is based on policy assumptions that no longer apply and provides an inappropriate basis for the cooperation required between the Commonwealth and the Northern Territory to achieve current policy objectives, in particular "Closing the Gap". Persevering with this fundamentally flawed document will undermine the development of sound and sustainable policy in respect of outstations and similar communities.

### **Personal Background**

My own background in this area of policy is quite extensive. I worked in the Northern Territory in Aboriginal Education and in the development and implementation of programs through the Department of Aboriginal Affairs in the mid 1970s through to the mid 1980s. I then worked in Canberra on policy in relation to land rights and native title at various times. In recent years I have worked as a consultant visiting the Northern Territory on numerous occasions. In particular I prepared three major reports for OIPC over the period 2005-06 on the delivery of services to outstations. Two of these dealt with the Northern Territory and were developed in close collaboration with relevant Northern Territory officials.

Most recently I was engaged to provide a context paper for the Review of the Northern Territory Emergency Response on the history of the relationship between the Commonwealth and the Northern Territory Governments in respect of Indigenous policy and programs going back to arrangements for Self-Government in 1978 (and before).

Consequently, I have a good understanding of the background and context of the current process of policy development in respect of outstations.

## **Issues**

### *Definitions*

As the Discussion Paper indicates, there are a number of definitions of ‘outstations’ or ‘homeland communities’. The Discussion Paper states that “Agreement on an acceptable new definition for the term ‘outstation’ is a key element of a future Northern Territory outstations policy” (p13).

However, the reason that it is difficult to establish a satisfactory definition of outstations is that there is no clear and logical distinction between ‘outstations’ and other discrete Aboriginal communities. For example, distinctions by land tenure (eg ALRA land, CLA land or other tenures) do not provide meaningful distinctions in terms of service delivery requirements. Similarly, distinctions by population size merely provide arbitrary cut-off points that provide little information as to the nature and circumstances of a particular community and consequently have little relevance to service delivery requirements. Thus a small ‘outstation’ located near a larger settlement or urban area may have quite different requirements to a larger ‘outstation’ or ‘community’ located at a considerable distance from settlements or towns. Population mobility and fluidity also militate against meaningful cut-off points for definitions based on population size – a community could move in and out of a category based on size more than once even in the space of a single year.

Much energy has been spent on what is essentially a fruitless exercise – that is determining a satisfactory definition of the term ‘outstation’. This effort grew out of the need to distinguish between types of communities because of the bifurcation of responsibilities for Aboriginal communities at the time of Self-Government. Under the original Self-Government arrangements, the Northern Territory took responsibility for the major Aboriginal communities, whilst the Commonwealth, through the Department of Aboriginal Affairs, and later ATSIC and FaCSIA, retained responsibility for ‘outstations’.

However, over time the distinction became blurred. Some outstations and CLA communities grew into sizeable communities. Some of these ‘migrated’ to the Northern Territory Government’s responsibility whilst others stayed under the Commonwealth’s umbrella, often receiving services through Commonwealth-funded outstation resource agencies (ORAs). The end result was that some larger communities that stayed with the Commonwealth ostensibly remained as outstations *for funding purposes*. That is, the communities that remained under the Commonwealth umbrella, funded through the CHIP program, were all under the ‘outstation’ heading.

The little-understood fact is that the Commonwealth’s continued funding of ‘outstations’, originating in the 1978 Self-Government arrangement, became over time funding for all Aboriginal communities other than the approximately 80 major communities that have become the responsibility of the Northern Territory. The distinction between ‘outstations’ and other types of communities remained essentially a funding responsibility distinction but lost much meaning otherwise and consequently can be misleading. These ‘outstation’ communities represent the greater number of Northern Territory Aboriginal communities – somewhere in the order of 500 discrete communities. Under the MOU they have now been inherited by the Northern Territory, under the rubric of ‘outstations’.

Under the previous Howard Government, in the early 2000s there was a strong push for the Commonwealth to withdraw from funding and program delivery (especially the latter) for Indigenous communities where the responsibility for such services for non-Indigenous citizens would normally be provided by a state or territory. Negotiations were entered into to this end - in the Northern Territory this process resulted in the “Overarching Agreement on Indigenous Affairs” of April 2005. However, the Overarching Agreement was not able to resolve all of the relevant issues and one remaining task identified in that Agreement was to ‘rationalise essential service delivery in towns and outstations’.

### *The MOU*

With the Commonwealth being keen at this time to extract itself from service delivery in the Territory, a process was put in place to work through this matter, culminating in the MOU of September 2007. The MOU reflects the objectives of the time – responsibility for ‘outstations’ (but in fact the vast majority of Northern Territory Aboriginal communities) was passed to the Territory, with the transfer from the Commonwealth of \$20m per year for 3 years. Given the magnitude of the task and the backlog in housing and infrastructure, this was arguably a significantly inadequate amount.

The logic of the MOU would make sense if the Northern Territory had thereby become responsible for all discrete NT Aboriginal communities, bringing to an end the bifurcated arrangements established in 1978. This would have been the culmination of the process of implementing Self Government. However, in the interim the approach of the Commonwealth to Aboriginal affairs in the Northern Territory changed markedly, as evidenced by the NTER – suddenly the Commonwealth bought back into the direct administration of Aboriginal programs in

the Territory, ironically particularly in respect of the major communities that were in fact the responsibility of the Northern Territory Government. The combination of the NTER and the MOU gave a somewhat perverse outcome – to a degree the bifurcation remained but responsibilities had been swapped around.

### *Policy and ideology*

The other development which influenced the MOU was developing policy scepticism about outstations and in particular the ideological attack on outstations mounted in 2005-06. Even before the development of the MOU a moratorium had been instituted in respect of spending on outstation housing under CHIP – this moratorium contributed to overcrowding on outstations and deteriorating standards of maintenance of housing and related infrastructure. It may well have contributed to the drift of population to urban centres such as Alice Springs. The ideological campaign against outstations was not evidence-based but has provide an unproductive distraction from constructive policy development.

### *Changed circumstances*

However, under the new Rudd Government there is clearly a commitment to improving outcomes for Aboriginal people, and a commitment to working in partnership with state and territory governments and Indigenous communities. These changed circumstances show that the MOU, signed in the dying days of the previous Federal Government, was outdated even before it was implemented. The MOU does not provide adequate resources. More importantly it does not provide for a partnership between the Commonwealth and the Territory in respect of 450 plus Aboriginal communities.

Given that these communities by and large are not going to go away, and may well increase in population, the goal of ‘Closing the Gap’ cannot be achieved without the Commonwealth and the Territory cooperating in the support and development of these communities. It is unrealistic to expect the goals of ‘Closing the Gap’ to be realised while the current arrangements under the MOU remain in place. Thus the MOU does not sit well with the realities of Indigenous life in the Territory. It has forced policy deliberation into a prism which is not conducive to constructive and rational policy development.

This is evidenced by the ban on Commonwealth housing funds being applied to ‘outstations’. This prohibition means that the great majority of Aboriginal communities in the Territory are condemned to a static and deteriorating housing stock. Just this fact alone makes “Closing the Gap’ an impossibility.

The MOU notes these communities will have access to the Housing on Indigenous Land (HOIL) program funds. However, an examination of the Indigenous Business Australia Annual Report 2007-08 shows that it will be a long time before the HOIL can make a significant contribution to housing in these communities (see pp 46-47 of the Report). Indeed for many communities the HOIL approach will be inappropriate. It should also be noted that the decision of the Commonwealth not to provide funding for new housing on the great majority of Aboriginal communities in the Northern Territory probably places Australia in breach of its international human rights

obligations, especially in respect of Indigenous people not being forced, directly or indirectly, to move from their traditional lands.

### **A genuine partnership**

The way forward is to jettison the legacy of the 1978 divided funding arrangements that have dogged the administration of Aboriginal programs in the Territory over the years. This can be achieved by:

- Treating Aboriginal settlement types as a spectrum rather than a series of distinct categories. That is, all communities should fall within the purview of a common policy framework without an attempt being made to divide them into categories;
- Taking ideology out of policy considerations and looking for pragmatic outcomes – the viability, vitality, sustainability and prospects for social and economic development of a community do not depend on whether the community is an outstation, a CLA community or some other category – it depends on a range of factors the mix of which will be unique to each community; and
- Developing a new partnership arrangement between the Commonwealth and the Northern Territory – the sooner the September 2007 MOU is made redundant and replaced by a revised document reflecting the objectives and priorities of the new Federal Government and the Northern Territory Government, the better.

### **Viability of communities**

Much has been made of the viability of communities, especially small communities, in relation to on-going support from government and the provision of essential and municipal services. Whilst some of this discussion has been simplistic, viability is a key issue. Much will depend on the aspirations of the community concerned, the opportunities available, the commitment of the community members and their willingness to make real contributions to their own future. Nothing in this submission should be read that there should be a blank cheque for Aboriginal communities in receiving support from Government. However, the key point is that the size and location of a community do not of themselves necessarily indicate viability. Support for groups should be negotiated, and principles like self-help and mutual obligation are legitimate underpinnings to such negotiations.

### **Education**

One of the most persistent mistakes of Aboriginal policy has been to divide, wittingly or unwittingly, the generations. Communities are communities – they hang together as entities. Thus, the importance of providing educational opportunity for children should not become a reason for failing to support communities that want to live on their own country, especially when the objective of the group is also social harmony and stability for the benefit of the younger generation.

There is a danger, and this is seen in the Discussion paper, of letting concerns for educational opportunity for children drive policy. This is a misplaced concern.

Educational provision is of course very important, but there is a range of educational possibilities that can be (and have been) provided for children in remote Indigenous communities. As a nation we have specialised in remote education because of the wide spread of pastoral and farming families. We developed the use of radio through the School of the Air. We developed a range of assistance for rural families such as the Assistance for Isolated Children's scheme. The approach to educational provision for remote Aboriginal communities needs to be flexible, creative and positive. It can be done.

In this context it is a mistake to see 'outstations' and similar small communities as some sort of haven for older people but not suitable for younger people. This is to condemn such communities to having no future and to not having aspirations for development and growth.

### **Summary**

In this submission I have not tried to canvas the pros and cons of 'outstations'. I have made an exception to make brief comment on the issues of 'viability' and 'education'. I could elaborate on these areas if required.

However, my purpose is to suggest a reframing of how 'outstation' issues are considered, and to provide some background on how we have got to the present situation. In this area of policy, as in others, we do not want to be prisoners of history.

The distinctions between types of Aboriginal community, which have always proved problematic, have been forced upon us by the particular history of funding arrangements and responsibilities in the Northern Territory. These distinctions and categorisations can and should now be left behind. This would help free up policy analysis and consideration.

Ideology has proved to be an unproductive diversion and should be jettisoned.

The September 2007 MOU was never a good outcome, but has now been made largely redundant by developments including the change of Government at Federal level. A new agreement, reflecting genuine partnership, needs to be developed to cover the full spectrum of Aboriginal communities in the Northern Territory.

Lastly, urgent attention has to be paid to providing some form of public housing across the board in Northern Territory Aboriginal communities. To leave in excess of 400 communities without any prospect of Commonwealth support for new housing (it is not feasible to leave this responsibility to the Northern Territory alone) is not justifiable.

