Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund

OPERATION OF THE NATIVE TITLE ACT

Inquiry Into The Effectiveness Of The National Native Title Tribunal

Submission No:5
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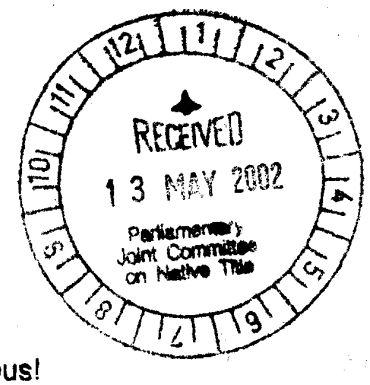

Parliamentary Joint Committee
Submission
By
John Tapp

At what point is **our** community meeting not a meeting? How ludicrous!

We have approximately 600 people registered with the Quandamooka Land Council (QLC) of who are Native Title Claimants or Traditional Owners (TO). The reality is the possible numbers of TO's is more like 4 to 5,000 people, most of whom live on the mainland due to the fact that there is more employment opportunity on the mainland. Over time there have been generations that have not set foot on this island but are still TO's.

Majority rules in our decision making process and it is up to the individual to attend such meetings. Most of the debating is done with people who live on the island or regularly visit here. It is hard for someone who does not live here to possibly know the politics involved in our society and then to speak on such matters, even though they have a right to do so.

Another **important fact** to consider is there are approximately 400 TO's living on the island on a permanent basis of which half would be adults. These adults who live permanently on the island always make up 90% to 100% of our community meetings when they are called. In other words every registered TO is advised, then has the opportunity to attend these meetings, but only a small percentage makes the trip to Stradbroke Island. The attendance books can verify this.

Our decision making process is under attack by a minority group of people who have in the past controlled the QLC (another **important fact**). Precedents have been set for **our** community meetings and decisions have been made by **our** standards. An example of this is the Dunwich Sewerage ILUA that was authorised at a community meeting with only 30 TO's in attendance. Dale Ruska was directed by the community then to sign the Dunwich Sewerage ILUA that he duly did so and the National Native Title Tribunal (NNTT) accepted this.

The community meeting of October 2001, when Graham Fletcher from the NNTT attended and was chairperson, was one of the largest community meetings we have had. Graham Fletcher advised Judge Drummond that our meeting was "heated from the outset and that it was a small representation of our claimant group". Graham Fletcher is contradicting himself when the NNTT accepted the Dunwich Sewerage ILUA with 30 TO's authorising the ILUA, then states that a meeting with 80 to 100 TO's in attendance is a small representation of the claimant group. One point that sticks out at the meeting of October 2001 was the unanimous decision to keep the 11 family groups as the claimant group to the

claim. This suggests that we are one group and decisions are made by the whole of the group as has always been the case.

There are many players involved in our Native Title Claim and I feel that the NNTT has let us down. I have been on the Board of Directors for QLC for the last two years and in this time I have **never** met our Case Manager from the NNTT. I am led to believe that when our original claim was lodged with our traditional boundaries, the NNTT suggested that we claim it in 3 stages, effectively putting our clan groups in conflict with one another.

Our community is a small group of people and when major decisions are going to be made, the outcome is well known before the meeting occurs. The **authorisation** meeting for the Mining Lease 7064 (ML7064) ILUA occurred on 26 May 2001 and was called off because the Ruska clan was fighting amongst themselves over their differences of opinions relating to ML7064. It was not with the majority of the community as Dale Ruska has stated. The community met the next week on 2 June 2001 with Security Guards present to keep the peace amongst the Ruska clan. It must be remembered that the Qld Government was pushing us to come to a decision so ACI could either keep their mining operations moving into ML7064 or relocate out to their Amity Lease.

At this meeting (2/6/01) it was voted on to **authorise** the ML7064 ILUA by the majority of the community (56-19) because the majority liked what the State Government were proposing. Dale Ruska **stated** at this meeting that he would **not sign** the ILUA as directed by the community because of his own views. Darren Burns duly noted that Dale would exceed his authority as an applicant and put a motion on the floor for his resignation as an applicant. Dale sought legal advice from Andrew Boe who together have proceeded to attack our decision making process. Andrew Boe has represented our community in the past with our Native Title Claim and now has attacked our community decision making process of which he is well accustomed to.

After the meeting of 2 June 2001 Uncle Pat Iselin (Chairman of the QLC) signed a **Deed of Agreement** to allow ACI to proceed with their operations behind Brown Lake. The Qld Government was pushing for this. Uncle Pat knows that the ILUA was authorised by **our** community at the meeting of 2 June 2001, which is why he signed the Deed of Agreement (a point which Judge Drummond is probably unaware of). At this time the QLC were funded by FAIRA to the sum of approximately $160 to $200,000 per year and were able to employ our own legal team in the form of Scott McDougall and Kevin Guy. I assume Scott McDougall advised Uncle Pat to sign the Deed of Agreement in light of the 2 June authorisation meeting.

If Dale refuses to sign the ML7064 ILUA surely this is grounds to remove an applicant by the pure **fact** that he has signed the Dunwich Sewerage ILUA as directed by the community (30 people) and refuses to sign the ILUA for ML7064?

We were receiving approximately $160 to $200,000 per year for our Native Title Claim and due to **ATSIC politics** our funding arrangements are now with QSRB our representative body who were forced upon us. QSRB refused to fund our claim to the amounts we previously were receiving. They advised that they would provide our legal counsel and I cannot help but feel that this sudden lack of funding to supply our claim is politically motivated when considering what is at stake. QSRB apparently have **3 lawyers working on 53 claims** so I am led to believe. When one considers that we have had 2 legal reps working on our claim every year for the past 8 years, it seems we have been set up to fail by having QSRB representing us. How can QSRB get all our funding money and not provide the same level of service to our claim as we previously had?

I was astounded at the Court Directions Hearing on 27 July 2001to see Judge Drummond speak to QC Paul Duggan (QSRB rep) in a reprimanding manner. To this day I do not know why Judge Drummond spoke to Paul in this manner. I am not sure if the following happened but if Paul Duggan presented Dale Ruska's affidavit doesn't that put **our** communities interest in jeopardy. I do know that Dale Ruska's affidavit attacked **our** community decision-making process and I felt like putting my view across in that Courtroom that day.

I am sure Judge Drummond is unaware of our community meetings of 26 May and 2 June 2001 where the community **authorised** the ILUA for ML7064, which is why he ordered the meeting for 20 October 2001. Can you imagine the uproar in the community when we were told that we would have to meet and vote on the authorisation of the ILUA for ML7064 once again? I'm sure if he had known about these previous circumstances that he might have directed otherwise like the removal of Dale Ruska as an applicant. The bottom line is Dale Ruska won't sign the ML7064 ILUA because of his personal views and not the community's view.

When Michael Maurice advised us that our court proceedings to remove Dale Ruska as an applicant would fail because of a legal perspective, I was bitterly disappointed. I had to respect Michael's learned experience, as he has been a Federal Court Judge himself. However, I could not see how leaving Dale as an applicant to our claim would put pressure on him to roll over. I would have liked to get a second opinion but our Land Council does not have the resources to fund such an exercise because of our funding arrangements being pulled from QSRB.

We have asked QSRB to lodge our sea claim in light of the Port of Brisbane development to extend into our traditional waters and land. Peter Beattie is keen to proceed with this development. I understand that the POBC wish to commence work in June, but to date our community have not had the opportunity to conduct our own cultural heritage assessment which is a requirement by law as I understand it. Furthermore, Dale Ruska is now saying he does not want the

QLC to negotiate with POBC on behalf of **our** community without his consent. The QLC was established to look after our Native Title Claim and to deal with Native Title matters.

I am not sure if he has the right to dictate to the whole community, especially since the QLC is a **community elected body**. The QLC has been chaired by several men in the past including Dale Ruska himself. In other words we have a minority view trying to dictate terms to the majority of the community.

A perfect example of this is the Planning and Management Study (PMS) with the local authority, the Redland Shire Council (RSC). Many issues that have been raised with the RSC relate to our negotiating position with the State Government. In other words the RSC have no jurisdiction to negotiate on certain matters. I feel that these discussions are an attempt to preview our negotiating position with the State Government. Stages 2 & 3 of the PMS were signed off with no proper indigenous community consultation. The signing off of Stages 2 & 3 of the PMS are a direct attempt by a group of people to diminish our Native Title rights. In my view this sort of action should be classed as illegal, considering that the QLC provided $250,000 of the $500,000 study. Only $50,000 of that money remains today.

Precedents have been set when conducting community consultations and these have been clearly ignored by the PMS Committee. The indigenous community has not been consulted with regards to "Visions, Core values and policies etc. etc." In any case some issues that the RSC wish to discuss are on the negotiating table with the State Government and should not be negotiated with the RSC.

At present the RSC are out of order and have commenced landscaping works on land that is under Native Title Claim. The notifications arrived after the works were completed. I have advised QSRB verbally on this matter and to date have not had a response from them.

I do not wish to keep these matters confidential but would like to make them public as I feel there is a sinister group of people trying to undermine our Native Title Claim. You don't have to be a Rhodes scholar to work out that there are millions of dollars at stake here with our claim.

I look forward to hearing from you in the near future.

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