

The Minister for Families, Community Services and Indigenous Affairs
The Hon Jenny Macklin MP

Katherine Regional Land Council Application

Dear Minister,

I take this opportunity to make a further submission to you concerning the proposal for a Katherine Regional Land Council [KRLC].

You will be aware that I made a very brief submission in September 2011. The Applicants expressed disappointment at it, on the grounds that I had done research with them for years, and now thought I could speak for them. I want to begin by responding briefly to that.

First, I have done research in the Katherine-Darwin region for years, but not with any group constituted in the way the Applicants are in this instance. Second, I do not claim to speak for them. It should not be a matter for disappointment if researchers retain an independence of thought. Third, my research interests have been various, but I have never failed to turn them to the advantage of indigenous people and communities when possible. In regard to land I have assisted or had a central role in positive land outcomes in Yingawunarri (Mudbura), Jawoyn (Katherine), Gimbat (Stage III), Mataranka and Elosey land claims, have freely made available to co-workers and others relevant materials I collected related to Larrimah, Wombaya, and Innesvale claims, and have worked on native title matters in various parts of Australia.

I briefly return to the reasons for which I originally recommended caution in this case.

The KRLC proposes, as I understand it, to take over an area amounting to approximately 80% of the current [Northern Land Council] NLC area, with an extremely small staff, and evincing a particular view of an appropriate working and management style.

Devolution, or decentralization, might be an arguable position where the proposed entity is highly focused, as was the case of the Anandilyakwa Land Council; but the differences between Groote and the area under discussion are significant. Groote is an island community with a focal identity, traditional ownership boundaries are comparatively clear-cut, and the community at Groote has its own substantial income from mining royalties. As compared with that, the proposed KRLC region comes close to replicating the current NLC area, with its diversity and size, and therefore requires a similar infrastructural and competence base to the existing land council.

I remain uncertain, first, that a majority of indigenous people within this area have had the opportunity to gain an appropriate understanding of the proposal and its implications, and second, that the KRLC proposal represents a majority view over the area. When I was in the area in latter 2011 I was aware of claims that at least some visits and consultations were carried out briefly, selectively, and (allegedly)

with benefits to attendees, resulting in consultation being the subject of contention and concern in certain locales. This includes but is not limited to Katherine town, where the Jawoyn Association supporting the KRLC proposal is not the sole representative of the opinion of Jawoyn people and other members of local communities. It seems important that the modes of consultation be perceived to be appropriately inclusive and transparent, otherwise forms of discontent and allegation begin to build.

On another issue, to carry out land council functions over the large applicant area would certainly require a much larger staff and infrastructure than has been proposed, without any doubt. The fact that such a small contingent was originally proposed seems to me to lead to questions about the management style, capacity and understanding of land council functions as set out in the KRLC submission.

The KRLC proposal is critical of the NLC for its large meetings and wide consultation. Their suggestion seems to be that decisions about land use, including mining and other matters, can be made in consultation with a very small group of 'elders', and thus be money-saving.

Large meetings and wide consultation are doubtless always difficult. But I suggest that the alternative proposed style, of relatively closed consultation and the promotion to decision-making status of only a handful in each community, goes against the reality of the thinning ranks of older people and other changing demographics of indigenous communities – where there is an ever larger proportion of young people, many of whom seek inclusion. It may be contrary, not only to statutory requirements on the Land Council to consult, but also to the wishes of indigenous people themselves who may seek to have wider family representation in matters of importance. Such a closed style is almost certain to lead to considerable dissatisfaction in the longer term in my opinion. Surely the aim must be for organizations to attempt to develop effective community bases, to foster participation, and to consult despite greater effort and some cost. Otherwise, too, community impressions of exclusion and favouritism towards some rapidly arise and become corrosive. I suggest these are not trivial matters but link closely with questions of governance, administration and the empowerment potential of indigenous organizations. Such issues, in my opinion, are an on-going concern to be met not only by good management and governance practices, but by ensuring periodic independent oversight and review of organizations – but this goes beyond the present issue.

As to the constituency of the proposed KRLC region, it has to be understood that many of the tribal identities set out – e.g. Yangman, Jawoyn etc. – name entities that have a complex constitution and porous boundaries, with many families and persons able to claim more than one such identity. The idea of attempting to resolve issues of ownership, regional linkages, responsibility, resource allocation etc. without wider community consultation indicates that these fundamental matters of indigenous identity and belonging, and the ways they relate to territorial claims, are not being represented in the KRLC proposal as having the kind of complexity that they actually involve.

From my position as having worked from outside and alongside the Land Councils for years, sensible proposals for making their work more effective and responsive are, in my view, overdue and should be considered on their merits with respect to the large land councils. But I do not see the KRLC proposal as a feasible alternative given its scale, diversity and its own projections of its governance and management style. I invite further discussion of these important matters.

Sincerely yours,

[Name removed]