
PROPOSED KATHERINE REGIONAL LAND COUNCIL ABORIGINAL CORPORATION

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Contents

The Land Commissioner's Reports.....	1
[Name removed]	2
Referral for the Vote	3
Further Submissions?.....	4

28 September 2012

The Hon. Jenny Macklin MP
Minister for Families, Housing, Community Services and Indigenous Affairs
House of Representatives
Canberra ACT 2600

By fax: [text removed]

Dear Minister

Thank you for your letter dated 25 July 2012 in relation to the reports you have received from the former Aboriginal Land Commissioner, the Hon. Howard Olney AM QC, in relation to our application to establish the Katherine Regional Land Council.

You have invited us to provide comments in relation to the reports from Justice Olney. In addition, subsequent to your letter to us, we have been provided with a copy of a submission of [name removed] dated August 21, 2012, upon which we will also provide comments.

The Land Commissioner's Reports

Our comments in relation to Justice Olney's interim report (14 October 2011) are, by and large, set out in 3 annexures of his final report (27 April 2012). We will not repeat them here.

We were pleased to see that, despite the limited finances available to us to pursue our application, Justice Olney states that our submissions '***deal succinctly with the relevant issues raised by the NLC in opposition to the application and some other issues raised in the interim report***'.

This is no small matter in view of the NLC's active opposition to our application, an opposition the propriety of which we have questioned in earlier

correspondence to you, both in terms of the NLC's proper functions and also in terms of the proper use of its administrative funding.

The end result is that, in view of the NLC's opposition and Justice Olney's conclusion that we have addressed that opposition, you can be all the more assured that a decision that the application should be referred to the vote under section 21C is all the more appropriate.

Indeed, after noting that:

- the issues raised by the NLC in opposition have been addressed,
- our application was made well over a year ago,
- our application has been widely publicized and discussed by various stakeholders,

Justice Olney concludes that you have, in his reports, a wide range of material upon which the relevant issues mandated by section 21B can be considered.

The clear implication is that you have enough information to make a decision in relation to our application and, in particular, enough information to justify a decision to support our application and refer it to a vote under section 21C.

[Name removed]

In brief, [name removed] second submission of August 21, 2012 is of little merit for your purposes. It is simply a reiteration of matters raised in [text removed] first submission and seems, principally, to have been prompted by a desire to justify [text removed] earlier comments in light of our criticisms.

As such, we would confidently expect that the [text removed] second submission, which post-dated Justice Olney's final report, would not have changed the substance of his final report.

In brief, we find in [name removed] submission:

- the repetition of a number of objections raised by the NLC and already addressed by us, including with respect to staffing and the range of communities included in the boundary of the proposed KRLC;
- a continuing insistence that [text removed] knows us - and our communities - better than we do, combined with an apparent willingness to have our communities deprived of a vote under section 21C (or a misunderstanding of the Act's processes for establishing new land councils);
- an assertion that we and our communities - do not know about land councils - even though land councils have operated for 35 years;
- a misunderstanding of our draft proposals for the operation of the KRLC following its establishment, for example, in relation to staffing;
- a criticism of our proposed means for obtaining traditional owner consent and for undertaking consultation with other interested Aboriginals which not only shows a misunderstanding of our proposals but would also keep land

councils - and anthropologists engaged by them - in positions of power and control in relation to the management and development of our lands, our communities and our businesses;

- a misunderstanding of the relationship of the Jawoyn Association with us, as the applicants, and with the KRLC following its establishment;
- a misunderstanding of the relationship between us, as the applicants, and the members of the KRLC following its establishment;
- a misunderstanding of the roles of land councils and land trusts; and
- a willingness to pass opinion on matters outside the scope of [text removed] expertise and experience, for example, opinions about proper public administration based, it seems, on an asserted understanding of the nature and scope of the NLC's operations when [text removed] has never even been employed by the NLC (and such information was not provided by the NLC to the Aboriginal Land Commissioner).

In any event, and despite [text removed] ill-based criticisms, [name removed] concludes [text removed] second submission with the statement that 'sensible proposals for making [Land Councils] work more effective and responsive are overdue'.

Is that not the purpose of our application?

Referral for the Vote

Justice Olney has, at paragraph 17 of his interim report, raised some matters for your attention relating to the period after a decision is made to refer the matter to a vote under section 21C.

Whilst we might hope otherwise, the NLC's active opposition to our application confirms the basis for Justice Olney's expectation that referral to a vote will involve considerable administrative and logistical activity as well as expense and that 'it would be appropriate to have due regard to the available resources of the various groups who support or oppose the establishment of the proposed new Land Council'.

We welcome Justice Olney's comments.

The Electoral Commission might also play an important role in relation to publicising the vote, not only in relation to its logistics but also in relation to the question to be asked and the distribution of (basic) outlines of the pros and cons associated with the question.

We trust that we will be able to comment on the form of the question to be asked and the related information to be distributed by the Electoral Commission (or other independent bodies).

We also trust that consideration will be given to ensuring appropriate resources is made available to us to inform the Aboriginal communities of the issues

relating to the question, especially if the NLC continues to be unfettered in its opposition and the application of its considerable financial resources to such opposition.

Further Submissions?

In light of Justice Olney's comments and conclusions, contrary to our earlier comment (which are quoted at paragraphs 11 and 13 of the interim report), we would not wish to make any submissions further to those we have already made and as set Out in this submission. However, if there is any particular matter which you wished to be addressed or further addressed, we would wish to do so.

In addition, we note your advice (in your letter dated 25 July 2012) that you may consider any submissions on the matter you receive from third parties.

We have also been advised by [name removed], that it is intended that this submission of ours will be made available on your Department's website. Such a posting may well elicit further submissions from others.

Accordingly, we would be pleased to have the (brief) opportunity of commenting any submissions you consider and of which we have not been earlier provided.

Please contact us if you wish any clarification of the above submissions.

Finally, we look forward to receiving advice shortly that you have decided, we trust, to refer our application to a vote under section 21C of the Act.

Yours sincerely

[Names and signatures removed]