

The Parliament of the Commonwealth of Australia

**ABORIGINAL PEOPLE AND
MAINSTREAM LOCAL GOVERNMENT**

AN ISSUES PAPER

House of Representatives
Standing Committee on Aboriginal Affairs

November 1989

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TERMS OF REFERENCE OF THE INQUIRY

The Committee inquire into and report on the effectiveness of existing support services within Aboriginal and Torres Strait Island communities, including administrative and advisory services:

- . mainstream local government and Aboriginal communities.

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PREFACE

In its interim report on the support services inquiry, the Committee identified 'mainstream local government and minority Aboriginal communities' as one of the four distinct areas it wished to address within the terms of reference of the inquiry. The Committee defines what it means by 'mainstream local government' in section 1 of the report.

The Committee emphasises the importance of this area as part of its support services inquiry. Over two-thirds of the Aboriginal population live in major urban or other urban centres in communities that are encompassed within existing mainstream local government boundaries. Of the remainder, a number live in or near small towns in rural areas that are incorporated in local government shires. For these Aboriginal communities the role of local government can be crucial in the provision of services to them.

Also proposals by some State and Territory governments have seen, or will see, schemes of Aboriginal local or community government incorporated into mainstream local government. While the Committee will largely address the systems of Aboriginal local or community government within the Aboriginal community management aspects of the support services inquiry, some issues will directly relate to mainstream local government questions and may need to be investigated as part of an inquiry into Aboriginal communities and mainstream local government.

As will be noted later in the paper there is evidence that local government bodies are not providing services to Aboriginal communities within their boundaries on an equitable basis. Also, Aboriginal people are generally not participating in local government activities.

The Committee noted in its interim report on the support services inquiry that some of the issues it would address included:

- . funding of mainstream local government;
- . provision of essential services by mainstream local government to minority Aboriginal communities;
- . Aboriginal participation in local government;
- . employment of Aboriginal people within local government; and
- . the consultative process.

Evidence to the support services inquiry to date does not provide the Committee with a sufficient basis on which to report in detail on these issues and draw conclusions and make recommendations for action. This paper will canvass information and ideas on these issues that have been presented in submissions evidence and other material to the inquiry to date. The Committee recommends that the Minister for Aboriginal Affairs refer to it a detailed inquiry into the interaction between mainstream local government and Aboriginal communities. Terms of reference for the inquiry are suggested by the Committee.

Warren Snowdon MP
Chairman

November 1989

CONDUCT OF THE INQUIRY

The Committee's current inquiry into support services for Aboriginal and Torres Strait Island communities was referred by the Minister for Aboriginal Affairs on 18 November 1987.

Since then the Committee has received over 50 submissions to the inquiry and has held an extensive series of public hearings and field visits through Australia in connection with the inquiry. The Committee has also tabled two reports resulting from its inquiry - an Interim Report in November 1988 and a report 'A Chance for the Future' in September 1989 on the education and training aspects of the inquiry.

There is reference in the Chairman's preface to the process that has given use to this report.

Lists of submissions received, exhibits, public hearings held and witnesses heard and field visits undertaken were published in the recent report 'A Chance for the Future' and are not repeated in this report.

The Committee again thanks those who have made submissions, given evidence at hearings and been involved in informal discussions.

The Committee envisages concluding the inquiry into support services early next year by reporting on the community management and resource services aspects of the inquiry.

RECOMMENDATION

The Committee recommends that the Minister for Aboriginal Affairs refer an inquiry into the interaction between mainstream local government and Aboriginal communities to the Committee for detailed review and report.

Suggested terms of reference for the inquiry are that the Committee investigate and report on the interaction between mainstream local government and Aboriginal communities with particular reference to:

- . the long-term role of mainstream local government in providing local government-type services within Aboriginal communities, having regard to the existing role of Aboriginal councils, organisations and resource agencies, the aspirations of Aboriginal people and the need to maintain Aboriginal self-determination and self-management;
- . financing of mainstream local government in relation to the servicing of Aboriginal communities' needs including -
 - valuation and rating of Aboriginal land;
 - methods of allocating and accounting for Commonwealth general and specific purpose funding (including methodologies of grants commissions);
- . ways of increasing Aboriginal participation in and representation on mainstream local government councils including -

- changes to local government systems of voting and representation;
- encouragement of Aboriginal people to stand as candidates in local government elections;
- mobilisation of the Aboriginal vote in local government elections; and
- Aboriginal participation in local government associations;

. methods of improving relationships and involvement between local government councils and Aboriginal communities including -

- employment of Aboriginal liaison officers;
- establishment of Aboriginal community liaison committees; and
- awareness and training programs for local government council staff; and

. ways of increasing Aboriginal employment within local government including -

- training programs;
- implementation of Equal Employment Opportunity policies;
- incentives to employ Aboriginal staff; and
- use of Aboriginal contractors.

ABORIGINAL PEOPLE AND MAINSTREAM LOCAL GOVERNMENT

AN ISSUES PAPER

SECTION 1 : DEFINING MAINSTREAM LOCAL GOVERNMENT

1. The Committee refers in this report to 'mainstream local government'. This term requires definition.

2. In referring to mainstream local government the Committee means the general system of local government established under State legislation that has been in place in Australia for many years as distinct from the more recent establishment of systems of local and community government designed specifically, or largely, for communities with a majority Aboriginal population.

3. These systems of Aboriginal local or community government exist in the Northern Territory under the Community Government section of the Local Government Act and in Queensland under the Community Services (Aborigines) and Community Services (Torres Strait) Acts. Also in Queensland two former Aboriginal reserves, with majority Aboriginal populations, were established as local government councils in 1978 under State legislation. The Committee will address many issues concerning these distinct systems of Aboriginal local or community government as part of the Aboriginal community management aspects of the support services inquiry.

4. However, these systems of Aboriginal local government are, or are proposed to become, part of the general local government system by being incorporated into existing funding arrangements for mainstream local government and by becoming

members of existing local government associations. There would be a number of issues concerning the systems of Aboriginal local government which will need to be considered under 'mainstream local government'. These issues could include the funding provided to all local government, equity between Aboriginal local government and general local government, Aboriginal representation within mainstream local government forums and Aboriginal alternatives to local government.

5. In addressing 'mainstream local government' the focus is on those areas where Aboriginal people are mostly a minority within a local government area and where there are indications of a lack of equity in the provision of services to Aboriginal people and a low level of participation by Aboriginal people in local government. While noting that in most mainstream local government areas Aboriginal people are in a minority, there are a few in which they are a majority and a number of others in which they form a significant minority. These local governments have also demonstrated a history of poor servicing of Aboriginal communities, a failure to recognise or acknowledge Aboriginal priorities and a low level of participation by Aboriginal people, although this is now changing in at least one case (Wiluna).

6. Finally, the structure and role of mainstream local government raise questions about its appropriateness as a form of government in catering to the particular social and cultural aspirations of Aboriginal communities. Mainstream local government will have to adapt to meeting the differing needs of Aboriginal communities. This paper explores some of the means by which mainstream local government could change to take into greater consideration the social and cultural circumstances of Aboriginal communities and some of the ways in which Aboriginal communities could respond to an increasing role in their affairs by mainstream local government.

SECTION 2 : ROLE OF LOCAL GOVERNMENT

Tension in role

7. Local government in Australia is established under State and Territory legislation. As a result, local government is often described as a 'creature' of State and Territory governments being seen as a 'dependent appendage of State administration'.¹ Local governments' dependency is reinforced by its reliance on significant funding from the Commonwealth Government. However, much of this is untied funding which imposes no obligations on local government.

8. Opposing local governments' legal and financial dependency is the autonomy it has as a third tier of government. It offers to its constituents a form of local representative governance and a local delivery of services.

9. Thus there is a tension in the role of local government in Australia between its position of relative dependency vis-a-vis the constitutionally defined levels of Commonwealth and State governments and its de facto position as a third tier of government which ostensibly supports democracy at a local level and is a vehicle for the local delivery of services. This tension forms the backdrop to much of the discussion in this paper of the role of local government in catering to the needs of Aboriginal people and communities.

10. For example, suggestions by some that local government does not adequately cater to the needs of Aboriginal people can lead to calls for Commonwealth or State governments to use their superordinate position in relation to local government to intervene to ensure that Aboriginal people obtain equitable treatment. On the other hand, intervention by superordinate levels of government may be seen as autocratic and an undermining of democratically elected local institutions. In the long term such intervention may not be in the interests of Aboriginal

people. This leads to suggestions that the best way to obtain more equitable treatment for Aboriginal people within local government is to improve Aboriginal representation on and participation within the forum of local government.

11. This paper suggests that elements of both approaches may be necessary to make local government more responsive to the needs of Aboriginal people.

Functions of local government

12. In terms of the functions of local government a distinction is often made between responsibilities related to property (property services) and ones that serve people directly (human services).² Property services such as roads, rubbish collection, sewerage, stormwater drainage etc are those traditionally associated with local government. However, local government has increasingly become involved in providing a range of other services such as recreation and culture and health and welfare that are services to people rather than the traditional services to property.³ The largest proportion of local government activity is still in the provision of property-related services.

13. A report on the responsibilities and resources for local government prepared by the Advisory Council for Inter-government Relations divided the range of local government functions into a number of categories:

Services to individual properties: These encompass those traditionally associated with local government such as collection of refuse, issuing of building permits, inspections of buildings during construction, inspection of cafes and restaurants etc.

Services to individual households: These services include meals-on-wheels, home help, home nursing and

similar services where there is a need to take account of the needs of the individual or family involved. Some of these services are funded by other levels of government.

Neighbourhood infrastructure services: These include the provision and maintenance of local streets and roads, footpaths, kerbing and guttering and stormwater drainage. They have generally been provided by local government.

Personal services: These include health and welfare services such as health clinics and education, children's services, services for the aged, services for the unemployed and community support services. The provision of these services can be seen as performing a community development function.

District facilities: The provision of public halls, swimming pools, recreation facilities and kindergartens falls within this category. Town and country planning is also part of local government's district responsibilities.⁴

14. The report also argues that local government could take on further responsibilities that are generally those of higher levels of government. These functions include the provision of regional services, involvement in education and school facilities and involvement in the provision of public housing.⁵ However, it is noted that if local government were to take on those functions it would need more funds, more and better qualified staff and greater accountability to the electorate.⁶

Role of local government within Aboriginal communities

15. Given its potentially wide-ranging and important responsibilities, it has been argued that local government could

effectively provide the support services which Aboriginal communities need. The Aboriginal Development Commission (ADC) claimed that the advantages in local government delivering services to Aboriginal communities included:

- . enjoy economies of scale often not realisable by small, widely dispersed Aboriginal communities;
- . have access to expertise, both in-house and by engaging external consultants;
- . provide a suitable vehicle for channelling State and Commonwealth funds for community support services;
- . can be provided with tied grant funding needed to address specific Aboriginal disadvantages and services required by them;
- . can be subsidised to ensure that the cost of Aboriginal programs does not place an unfair burden on the general community;
- . have access to training facilities able to provide on-the-job and other course training for Aboriginals;
- . provide career and other employment opportunities for Aboriginals to work in their own communities;
- . enable Aboriginals to become decision makers and councillors or ward committee members in determining the level of resources allocated to them, and identifying Aboriginal needs and priorities;
- . are a vehicle for extending Aboriginal input into decisions affecting their own communities; and

- . preclude costly duplication arising from the present need to establish Aboriginal resource agencies.⁷

16. The ADC noted that the fact that local government often does not function in this way now is not an indication that it is unable to do so. Nor was effective Aboriginal participation in local government and access to its services impossible.⁸

17. However, local government will need to change significantly to realise the potential suggested by the ADC. It will need to respond more generously to Aboriginal needs for facilities and services as well as enable greater Aboriginal participation within its structure. This paper discusses some of the ways in which local government can change to adapt to Aboriginal needs.

18. Even with adaptation towards Aboriginal communities, values and lifestyle, mainstream local government will not be a suitable vehicle for all Aboriginal communities to meet their needs. In its report on community management, the Committee discusses the needs of remote Aboriginal communities which may incorporate as Aboriginal local government bodies or as community councils to provide their local government-type services. For small Aboriginal communities such as outstations or town camps mainstream local government may be 'either inappropriate or unacceptable for cultural or traditional reasons'.⁹ In these cases resource agencies have often been formed to provide essential and other services to the communities. The role of resource agencies generally will be discussed in the report on community management and resource services. However, in this report the Committee refers specifically to the role of resource agencies operating in communities which are incorporated within mainstream local government boundaries and suggests that their role in relation to local government needs to be investigated.

SECTION 3 : FINANCING OF LOCAL GOVERNMENT

19. The major sources of local government finance are local taxation (rates, fees, charges etc), general and specific purpose grants from Commonwealth and State governments and borrowings. Local taxation has remained fixed at around 50% of total revenue of local government generally. However, this proportion differs significantly between local government councils. The major areas in which local government revenue has increased have been in income from property (such as interest, rent and dividends) and Commonwealth grants paid through the States. In the latter case, most of the increase has been in the general purpose or tax sharing payments of the Commonwealth which are discussed in paragraphs 28 to 33.¹⁰

Locally generated revenue

20. The overwhelming majority of locally generated revenue for local government comes from taxation in the form of rates. Rates are primarily of two kinds. General rates are essentially a tax on property. The basis for the charging of general rates is the capital value of property as assessed by an independent valuer. Services rates are also charged for the provision of water, sewerage and other services.

21. As noted earlier rates generally comprise about half of all local government revenue. However, for some local government councils such as the Halls Creek and Wyndham-East Kimberley Shire Councils rates make up less than 20% of revenue.¹¹ These councils are much more reliant on governmental general and specific purpose grants as their main sources of revenue.

22. Although rates are the basis of local taxation, local government councils are supposed to provide services to all their citizens, whether they are ratepayers or not. For example, some categories of property owners (such as churches or government) often do not pay rates and yet are provided with services.

Similarly renters of property do not pay rates directly but are provided with services.¹²

23. Despite this, some local government councils have argued that only those who pay rates should be entitled to the services provided by local government. This argument has been used to explain the denial of servicing to Aboriginal communities which may not pay rates.

24. The reasons why some Aboriginal communities do not pay rates vary. In some States Aboriginal land has Crown reserve status and consequently is not subject to property rates. Where Aboriginal land is rateable the problem arises of how land that is inalienable (and consequently has no assessable market value) can be valued for the purpose of rating. This problem has been resolved in some areas by the levying of a uniform general rate either on the community as a whole or on individual dwellings on a pro rata basis.

25. In its discussion paper on Aboriginal participation and equity in local government, the Department of Aboriginal Affairs argues that Aboriginal community lands should not have valuations attached to them and should be exempt from property rates. However, it suggests that where Aboriginal land is developed for exclusive use of an individual or corporation (such as the establishment of conventional housing or an enterprise) the relevant area of land should be excised from the community's land, leased to the individual or corporation, and be subject to valuation and rating.¹³

26. Such an arrangement would be more equitable than current methods of rating on a community basis. However, the implications of policies for the excision of portions of Aboriginal community land for the use of Aboriginal individuals or corporations would need to be carefully considered by Aboriginal communities. The Committee suggests that the valuation and rateability of Aboriginal land be part of the terms

of reference of the inquiry into local government and Aboriginal communities recommended by the Committee. The inquiry should also examine the issue of the charging of services rates to Aboriginal communities and how these could be equitably determined and collected.

27. Regardless of conclusions that are drawn on rating and charging of Aboriginal communities, local government should be providing services to all residents. The Committee discusses the provision of services to Aboriginal communities by local government in the next section.

Commonwealth financial assistance

28. There are two forms of Commonwealth financial assistance to local government: (1) general purpose grants, and (2) specific purpose grants which are paid directly to local governments or are channelled through the States. There has been a significant shift in Commonwealth assistance from specific purpose grants to general purpose grants.¹⁴

(1) General purpose assistance

29. General purpose assistance has been paid to local governments since 1974-75. It is provided by the Commonwealth Government to local government under the *Local Government (Financial Assistance) Act 1986*. Under the Act funds available for distribution are calculated on a formula basis each year. These are then disbursed to the States and Northern Territory on a per capita basis (from 1989-90) based on populations at the previous 31 December. At this point of disbursement there is no attempt at equalisation.

30. Each State and the Northern Territory has established a grants commission which makes recommendations on the allocation of the funds to local government bodies. These allocations must accord with principles agreed between the Commonwealth and the

particular State or Territory. These principles reflect the Commonwealth's objective of equalisation - that is, providing the greatest financial assistance to local governing bodies that are most disadvantaged in terms of ability to raise revenue and provide services when compared with other local governing bodies. Equalisation takes place on about 70% of the total funds allocated to each State and Territory with at least 30% being distributed on a per capita basis.

31. Changes incorporated within the Act have seen general purpose funding extended to Aboriginal local government bodies (or their equivalents) in the Northern Territory and Queensland. The Committee discusses this funding in its report on Aboriginal community management. However, this issue may need to be addressed further in the inquiry into mainstream local government, particularly in terms of the methodologies of the State and Territory grants commissions for allocation of the funding.

32. The Commonwealth Government's powers under the Act relate only to the agreement with State and Territory governments of the principles for distribution. The Commonwealth can determine the principles for a State or Territory in the event of a failure to draw up principles which accord with the Act. The Commonwealth Minister for Local Government also has to be satisfied that the grants proposed by State governments on the basis of recommendations from their grants commissions are in accordance with the principles. Neither the Commonwealth nor State or Territory governments can inquire as to how the allocations are spent such as questioning whether the funds are being utilised to benefit the disadvantaged in a local government area. The allocation of funds is 'effort neutral' on the part of local governments. The amount of funding allocated relates only to formulae for calculating the relative disabilities of differing local government bodies.

(2) Specific purpose assistance

33. In addition to general purpose assistance, the Commonwealth Government also provides specific purpose assistance to local government either as:

- . direct grants - payments made direct to local government authorities for specific purposes designated by the Commonwealth. These grants differ from specific purpose payments to the States and the Northern Territory in that they are not made in relation to programs designed solely to assist local government. Not all local government authorities necessarily are involved in the activities which are assisted under the various Commonwealth programs (for example, the aerodrome local ownership plan); and
- . assistance passed on through the States and the Northern Territory - some funds provided to the States and the Northern Territory for specific purposes are passed on to local government. The amounts passed on are generally at the discretion of the State and the Northern Territory governments, although in certain instances (such as road funding) the amounts passed on are subject to the approval of the Commonwealth. As is the case with direct grants, this assistance is not provided under programs specifically designed to assist local government.¹⁵

34. Most specific purpose payments are for roads. The Commonwealth can also seek to achieve other objectives by means of specific purpose payments. For example specific purpose payments for Aboriginal advancement, employment creation and welfare services have been made by the Commonwealth to or for local government.

Issues for consideration

35. Commonwealth financial assistance to local government has become significant. In providing this assistance the Commonwealth has endeavoured to achieve wider national objectives, such as the promotion of greater equality between regions, by means of the equalisation distribution that exists within the processes for allocation of general purpose funding. However, the Commonwealth's achievement of this objective is limited because, while equalisation controls the input of funds into local government, there is no control over the expenditure (or output) as the allocation of general purpose funding is 'effort neutral' on the part of local government.

36. The Self Report noted in 1985 that the general purpose funding provided by the Commonwealth did not appear to have facilitated an expansion of local government activity into a range of additional services. Rather it had enabled local government bodies to continue to provide a reasonable level of essential services and to contain rate increases.¹⁶ A report on local government and Aboriginal communities in the East Kimberley noted that one council in the area had used the greatly increased general purpose funding it received as a result of greater equalisation in the allocation to build up a large surplus in its budget.¹⁷

37. There have been suggestions that the Commonwealth Government should use the leverage it has by means of its financial assistance to local government to achieve greater equity in local government for Aboriginal people. In a discussion paper on Aboriginals and local government, the Minister for Aboriginal Affairs suggests that:

consideration should be given to specific allocation by the Commonwealth of a considerable percentage of total general purpose funding, for distribution between the States and the Northern

Territory, to be allocated to local government grants commissions for accelerated development of Aboriginal communities;

- . consideration should be given to amending the Local Government (Financial Assistance) Act to require representation of Aboriginal interests on all local government grants commissions; and
- . local government grants commissions should also be required to visit and report on all Aboriginal communities at least every second year.¹⁸

38. The implementation of these proposals may tilt the balance, described in the first section, between local government's democracy and its dependency. The implementation of such measures may force Aboriginal communities into an association with local government which they may not want. It could greatly increase local government's role within Aboriginal communities but would not guarantee that Aboriginal communities were adequately consulted or involved in the process of service delivery unless it was accompanied by a much greater acceptance by local government of the role of Aboriginal people in setting priorities and a greater sensitivity to Aboriginal aspirations by local government grants commissions.

39. An alternative may be to adopt the Self Committee's approach of embodying some incentive for local government to develop particular services into the calculations of grants to individual councils through avoiding a negative assessment for need in those cases and utilising actual rather than notional local expenditure.¹⁹ Services to Aboriginal communities, particularly in areas of significant Aboriginal population, could be ones which councils are given an incentive to develop.

40. A further possibility would be to increase specific purpose payments made directly to local government councils for the provision of services and facilities to Aboriginal communities. These payments would be in addition to the general purpose payments already made to local government.

41. The Committee has not gathered sufficient evidence to assess approaches that could be used to target Commonwealth funding to local government to ensure more equitable access for Aboriginal people. However, approaches which ensure the Commonwealth's objective of greater equity in the provision of services to local government is achieved should be considered. These approaches should be investigated as part of the inquiry the Committee has recommended. The investigation of these approaches should include assessment of current methodologies for allocation of funding.

SECTION 4 : PROVISION OF SERVICES TO ABORIGINAL COMMUNITIES BY LOCAL GOVERNMENT

42. The general picture conveyed to the Committee in submissions was that local government has not provided Aboriginal communities with equal access to its services. The discussion paper on local government circulated by the Minister for Aboriginal Affairs outlined this general position and indicated some reasons as to why it has occurred:

Most of Australia is covered by established systems of local government, where Aboriginals are in a minority within existing local government areas. This minority situation, together with entrenched discriminatory or apathetic attitudes within local government councils, and the historical 'separateness' of Aboriginal missions or reserves, has by and large resulted in discrete Aboriginal communities receiving no services or services at a far lower level than that provided to non-Aboriginal settlements by local government. With few

exceptions, local government generally has not become involved with the provision of either 'property' services (roads, sewerage etc) or 'human' services (health, education, welfare etc) to Aboriginal communities.²⁰

43. The failure to provide services is particularly apparent in areas where Aboriginal people comprise a significant proportion of the local government population. The Human Rights and Equal Opportunity Commission reported on the failure of the Moree Plains Shire Council to provide services to Toomelah.²¹ This situation is repeated throughout rural New South Wales as the Committee established on a field visit to some western New South Wales communities.²²

44. A report on Aboriginal people's involvement with local government in the East Kimberley found that

... the level of services provided to Aboriginal residents in town camps, or reserves, and on nearby pastoral leases, is poor by comparison with those available to non-Aborigines.²³

45. Again this view is supported by the Committee's field visits in the Kimberley which included discussions with both Aboriginal communities and local government councils.²⁴

46. However, some local government councils argue that there are reasons as to why Aboriginal communities are often not serviced by them. It was noted in the previous section that some councils argue that Aboriginal communities often do not pay rates and so the councils have no responsibility for providing services. Also it has been argued that many Aboriginal communities and former reserves are 'private land' and so can only be provided with services by local government on the basis of full cost recovery.

47. These arguments are questionable. In its report on Toomelah the Human Rights and Equal Opportunity Commission noted that

... the New South Wales Department of Local Government, which is responsible for the administration of the Local Government Act, stated that a local government authority is responsible for the provision of services throughout its area, including all Aboriginal communities.²⁵

48. The Commission was further advised by the New South Wales Department of Local Government that there was no legal basis under the Local Government Act upon which a local government authority could avoid responsibility for servicing Aboriginal communities.²⁶ However, in response to questions from the Committee, the New South Wales Government implied that there were legal impediments to the provision of services when it noted that it was considering strategies to amend the Local Government Act to empower councils to undertake service provision and maintenance on Aboriginal land, other than on a fee-for-service basis.²⁷

49. In Western Australia the argument of no representation or services without the payment of rates has been described as a 'myth' which

... exaggerates the relative importance of rates in the overall revenue-raising capacity of a local government authority and then translates this misconception to an exclusionary view of those who do not actually pay rates.²⁸

50. It will be a matter for the inquiry recommended by the Committee to assess whether there are legal impediments in any of the States to the provision of services by local government to Aboriginal communities within their boundaries. The inquiry should also assess the appropriateness of local government

involvement in the provision of services to all Aboriginal communities. Aboriginal communities may have a variety of responses to a greater role for local government.

Possible strategies to provide services

51. The independent review recommended by the Committee should consider approaches which would see local government take greater responsibility for providing services to Aboriginal communities. Some of these approaches have already been canvassed in an earlier section.

52. In the Minister for Aboriginal Affairs' discussion paper on local government it was argued that discrete Aboriginal communities within existing mainstream local government areas should make a decision either:

- a. to participate in a program to develop urban planning status and subsequently accept local government control of community infrastructure and responsibility for associated rates and charges; or
- b. maintain private development status and accept the likelihood that programs which are specifically for assistance to local governments will not apply.
(This does not preclude later electing for 'a').²⁹

53. If communities chose to accept local government control and costs in return for the infrastructural benefits, the discussion paper noted a number of restraints that existed in developing these areas to urban status and having local government accept responsibility for them. These restraints are:

- . an almost universal lack of proper sub-divisional town planning in Aboriginal communities, which to overcome will require detailed survey, and extensive planning and consultation with the communities and planning authorities;

- . sub-standard or inadequate existing infrastructure, or systems which may be expensive to operate or maintain, and which a local government may therefore not be prepared to take over without capital guarantees or ongoing subsidies;
- . an Aboriginal lands system which is strictly regulated by Commonwealth or State legislation and does not allow for the dedication of thoroughfares and other public areas to local government control, or for establishment of easements or the resumption of land for essential purposes; and
- . the non-enforceability to a local government of the payment of rates and utility charges by either the Aboriginal owners of the land or the individual householders or lessees on those lands.³⁰

54. This would require significant infrastructural work and investment in Aboriginal communities prior to their becoming part of the local government system. Issues such as valuation and rating of Aboriginal land may also have to be resolved.

55. Aboriginal communities would have to be closely consulted about developments that would see local government play a greater role in servicing them. While they may welcome a significant upgrading of facilities and services, there would also be a much greater intrusion into their lives and perhaps less autonomy and control over future developments within their communities. As discussed in paragraph 57, some Aboriginal communities may not wish to be serviced by local government for these reasons. However, if local government can become more sensitive to Aboriginal aspirations and closely consult and involve communities, these problems will be less likely to emerge.

56. The issues raised by a much greater involvement by local government in servicing Aboriginal communities are complex. They should be addressed as part of the inquiry recommended by the Committee.

**Separate Aboriginal local government
and Aboriginal servicing of communities**

57. In a number of areas discrete Aboriginal communities within existing mainstream local government boundaries are provided with essential services by Aboriginal resource agencies or community councils rather than the local government council. For example, Tangentyere Council in Alice Springs provides services to Aboriginal town camps within the boundaries of the Alice Springs Town Council. Similarly, the Waringarri Association in Kununurra provides services to discrete Aboriginal communities within the boundaries of the Wyndham-East Kimberley Shire Council. Many other examples exist. However, these organisations have no recognition as local government bodies, nor do they receive the funding entitlements of local government bodies (such as Commonwealth general purpose funding).

58. The communities serviced by these agencies may not wish to become a part of, or be serviced by, mainstream local government. The question then arises as to how these communities' needs can be effectively and equitably met. Among the options are to create new local governments for them within the existing system or as part of the system of Aboriginal local government or to continue to allow them to be serviced by their own organisations without setting them up as new local government structures.

59. The Minister for Aboriginal Affairs' discussion paper on local government argues against separating Aboriginal communities from the mainstream on the basis of lack of economic viability and diseconomies of scale. However, the paper does note that, if the present system is not providing for Aboriginal participation

and equity, then 'the Aboriginal situation could hardly be any worse'.³¹ But the paper concludes that:

On balance, the Aboriginal interest is more likely to be permanently advanced by making the 'mainstream' local government system more relevant and responsive, unless the Aboriginal community is very large, remote from other population centres or is seeking to maintain a traditional lifestyle.³²

60. Similarly the Human Rights and Equal Opportunity Commission argued that constituting Aboriginal communities (even the larger ones) as separate local government authorities did not appear to be a realistic option. The Commission noted that as well as the difficulties of revenue raising, efficiency and cost-effectiveness seemed to dictate the linking of Aboriginal communities into service networks within existing local government areas.³³ It is essential that mainstream local government become much more responsive to Aboriginal needs. However, there may be grounds for Aboriginal communities in some areas continuing to be serviced by organisations over which they have direct control rather than by mainstream local government bodies. The Committee recognises that there may be Aboriginal communities which do not wish to have services delivered by local government authorities as they do not consider local government an appropriate agency to provide services to them.

61. The inquiry recommended by the Committee should investigate the provision of local government-type services to discrete Aboriginal communities which are part of existing mainstream local government systems but are serviced by separate Aboriginal organisations. The review should address the long-term viability of these arrangements, the nature of the relationship between local government and those Aboriginal communities and their agencies, the structures under which such arrangements could operate and methods of funding the organisations.

SECTION 5 : ABORIGINAL REPRESENTATION WITHIN LOCAL GOVERNMENT

Low level of representation

62. The earlier discussion in this report has highlighted the importance of getting greater Aboriginal representation on local government councils as the best means of introducing an Aboriginal perspective into councils and influencing the provision of local council services to Aboriginal communities. Rather than using local governments' dependent position to impose greater attention to Aboriginal needs, the election of Aboriginal representatives to councils builds on the democratic dimension of local government to lead to a better response to local needs.

63. However, the level of Aboriginal participation and representation in mainstream local government currently is low. Although Aboriginal people make up a significant proportion of the population in some local government areas, they have little or no representation on the local government councils.

64. A representative of the Aboriginal Development Commission noted that in New South Wales there are:

... a number of small towns of which the Aboriginal population is in the majority and yet representation on the local decision-making bodies is a European majority.³⁴

65. In Western Australia two shire councils have a majority Aboriginal population. However, it is only within the last few years that Aboriginal people have been able to secure majority membership on one of these councils. In the case of the other council Aboriginal representation remains a minority.

Reasons for low level of representation

66. There are a number of reasons as to why Aboriginal representation within local government is low. Local

government's traditional association with the provision of services to property and the connected enfranchisement only of ratepayers, has given Aboriginal people little historical connection with local government. Aboriginal people have generally not been property owners (in a European sense) and hence have not been eligible to vote in local government elections until the vote was extended from ratepayers to include all residents. In one State - Western Australia - it was only as recently as 1985 that there was universal franchise for local government elections.

67. Since the general enfranchisement of all residents of local government areas for the purposes of local government elections, there has been greater participation of Aboriginal people in local government. For example, it has been noted that since the change to the local government franchise in Western Australia:

... Aboriginal people (in some communities more than others) have been encouraged by Aboriginal political leaders, Community Advisers and others to take a more active interest in local government matters, and this has resulted in the standing of Aboriginal candidates, an increasing, though uneven level of postal voting and an increasing awareness among some community members of the extent of local government powers and functions.³⁵

68. However, providing the franchise is one thing, and getting Aboriginal people to vote in elections that are not compulsory, is another. In fact, apathy about participating in local government elections is a general phenomenon extending to the wider community. Among the particular obstacles to Aboriginal participation in local government elections are the failure to provide remote polling booths in remote Aboriginal communities, a lack of electoral education about local government elections and a lack of interest because of a paucity of Aboriginal candidates.

69. It has also been pointed out that while changes to extend the franchise do have a positive impact, it is necessary to achieve greater and more direct Aboriginal participation in local government decision making if local needs are to be articulated and met.³⁶ This points to other reasons for a lack of Aboriginal participation in local government than the formal one of disenfranchisement or obstacles to voting.

70. There has been a perception among Aboriginal people that local government as an institution is irrelevant to them. It was reported to the Committee that Aboriginal people in some areas see local government as a 'white enterprise' and hence tend not to get involved or do not consider that local government can provide them with assistance.³⁷ This perception is perhaps reinforced by the past failure of local government to respond to Aboriginal needs and in some cases even to be hostile to Aboriginal perspectives and interests.

71. When Aboriginal people have become involved in local government as councillors, they have often been the only Aboriginal representatives on the council and have felt isolated and have lacked confidence.³⁸ Aboriginal councillors need a better understanding of the role of local government and need the support of, and contact with, other Aboriginal people in similar positions.

Ways of achieving greater Aboriginal representation

72. The Committee suggests that consideration needs to be given to the following methods of achieving greater Aboriginal representation in local government:

- . changes to local government voting systems and methods of representation;

- . encouragement of Aboriginal people to participate in local government elections;
- . encouragement of Aboriginal candidates to stand in local government elections; and
- . representation of Aboriginal people within local government associations.

73. It has been suggested that current systems of voting and representation within local government do not improve the chances of obtaining greater Aboriginal representation. Changes which have been proposed to current systems include the creation of Aboriginal electoral wards within predominantly non-Aboriginal local government areas and the use of proportional representation in local government elections. The fairness of existing voting and representation systems within local government should be examined by the inquiry. Regardless of the systems of representation, the encouragement of Aboriginal people to vote in, and stand as candidates for, local government elections will be essential.

74. Current Aboriginal electoral awareness education campaigns are conducted mainly for Federal and State elections. The Australian Electoral Commission's Aboriginal Electoral Information Service needs to extend its information and education program to include local government elections. This would have to be done in conjunction with State governments and local government associations. The inquiry should investigate ways of increasing Aboriginal participation in local government elections by means of information and education programs.

75. In some areas there has been a mobilisation of the Aboriginal vote in local government elections that has seen an increased Aboriginal participation as well as a better directing of the Aboriginal vote to Aboriginal candidates who represent Aboriginal interests. Such a mobilisation cannot be orchestrated

or manipulated from outside, but depends on resources and interest within Aboriginal communities to generate it. Greater awareness of, and interest in, local government by Aboriginal people should see more Aboriginal candidates standing and Aboriginal people participating in elections.

76. Once Aboriginal representatives are elected to councils support could be provided to overcome problems of isolation and lack of knowledge about the role of local government. In New South Wales a Local Government Aboriginal Network has been established to provide support to Aboriginal elected representatives of councils. Similar 'networks' in other States could overcome problems of isolation for Aboriginal councillors as well as enable them to share experiences. Training and information progress and seminars for Aboriginal local government councillors also could be undertaken. The inquiry recommended by the Committee should address these issues.

77. Each State and the Northern Territory has a local government association which comprises all local government bodies. The networks of Aboriginal councillors discussed in the previous paragraph could form Aboriginal consultative or advisory committees to the local government associations. This could be considered by the inquiry.

SECTION 6 : LOCAL GOVERNMENT AND COMMUNITY RELATIONS

78. In its report on Aboriginal town camps in 1982, a previous Committee commented that local government authorities have often reflected 'the prejudice and inherited attitudes towards Aboriginals of their communities'.³⁹ In referring to evidence given to it, the Committee noted that some actions of local officials in removing dwellings of town campers to comply with local government regulations appeared to be influenced by racial intolerance.⁴⁰ The Committee stated that such attitudes had to change if local government was to play an effective role in providing services to town camps.

79. Evidence provided to the support services inquiry indicates that the situation referred to in the town camps report has not changed significantly in some areas. Local government policies on Aboriginal housing and planning in some shires in Western Australia were described as 'likely to be a direct reflection of Shire attitudes toward Aboriginal people rather than an expression of Aboriginal needs'.⁴¹ In such cases, council attitudes have generally operated in an 'exclusionary' manner as far as Aboriginal people are concerned.⁴²

80. However, the evidence also points to positive attitudes emerging in some areas of local government towards the needs of Aboriginal people. The Department of Aboriginal Affairs reported examples in New South Wales of an increasing awareness by local government councils of the need to provide support to Aboriginal communities.⁴³ A report on local government and Aboriginal community development in New South Wales stated that:

... there is now emerging a genuine commitment to change within many local government councils. There is evidence of a move by both council and Aboriginal communities, to engage in genuine consultation and negotiation.⁴⁴

Ways of improving local government/Aboriginal community relations

81. There are a number of ways in which the relationship between local government and Aboriginal communities may be improved. These may include:

- . Aboriginal representation on local government councils;
- . Aboriginal liaison officers employed by councils;

- . establishment by councils of Aboriginal advisory or community relations committees; and
- . education and sensitisation of councillors and council staff to Aboriginal perspectives and needs.

82. It was noted in the previous section that greater Aboriginal representation within local government will make the most impact on local government perceptions of, and servicing to, Aboriginal communities. The presence of Aboriginal representatives on councils should assist in changing the attitudes of other councillors towards the Aboriginal community in general. Aboriginal representatives on councils also can operate as mediators between the council and Aboriginal communities.

83. The process of mediation, liaison and consultation between councils and Aboriginal communities could benefit from the employment of Aboriginal liaison officers and/or the establishment of Aboriginal community liaison committees. In its report on Aboriginal town camps a previous Committee encouraged the appointment of liaison officers and establishment of liaison committees.⁴⁵

84. A report on local government and Aboriginal people in New South Wales also recommended the employment of Aboriginal community/liasion workers by councils. The role of such persons was to include:

- . liaison with the Aboriginal community to establish a formal consultation process with council;
- . the provision of information to the Aboriginal community concerning such things as funding and employment opportunities;
- . the provision of information concerning Aboriginal needs and perceptions to council;

- . the provision of information, advice and advocacy for Aboriginal organisations;
- . liaison with officers of government agencies at State and Federal level; and
- . the development of channels for access by Aboriginal communities to mainstream services.⁴⁶

85. Aboriginal liaison officers could be supported by Aboriginal liaison committees made up of community representatives who could provide advice directly to either the council or liaison officer about Aboriginal needs.

86. While these measures will, of themselves, create a greater awareness of, and sensitivity to, Aboriginal needs and perspectives among councillors and council staff, there may also be a need for educational and awareness programs to be run for councillors and council staff. Further, an understanding of Aboriginal society and culture could be a factor considered in the appointment of key staff to councils with a significant Aboriginal population within their boundaries.

87. The proposals outlined above have been supported by various inquiries over a number of years. The inquiry recommended by the Committee should address the mechanisms by which these proposals can be implemented so that they have the most beneficial effect on improving relations between local government councils and Aboriginal communities.

Local government and Aboriginal community and resource organisations

88. This paper has already touched on the relationship between mainstream local government councils and resource agencies. In many cases the community councils and resource

agencies are servicing Aboriginal communities with services in lieu of the role of local government and in preference to it. While recognising that local government may be a more efficient provider of such services in the long term, it will require a better response from local government to Aboriginal needs and aspirations than has been the case to date. In some cases Aboriginal communities may wish to have their own community councils and resource agencies continue to provide services to their communities.

89. Close consultation with Aboriginal communities and involvement of Aboriginal people in providing services to their communities will need to be among the responses which local government makes if it is to effectively service Aboriginal needs. In doing so the role of Aboriginal organisations will continue to be crucial even if Aboriginal liaison officers are appointed and Aboriginal liaison committees established. The councils and resource agencies will continue to have a vital role as the representatives of, and advocates for, their communities. They will be central to the retention of self-determination by Aboriginal people within the context of an expansion of the role of mainstream local government in providing services to Aboriginal communities.

90. The Committee has suggested that the inquiry into mainstream local government and Aboriginal communities address the question of the continued servicing of Aboriginal communities by Aboriginal resource agencies and community councils. This should be extended to address the relationship generally between mainstream local government and Aboriginal community organisations and agencies, particularly in the context of an expansion of the role of local government within Aboriginal communities.

91. The Committee discusses the structure, functions and funding of Aboriginal community councils, organisations and resource agencies in its forthcoming report on Aboriginal

community control. While much of the report is concerned with situations in which Aboriginal communities have been constituted as discrete local government bodies or their equivalents, the report also applies more generally to all community-based Aboriginal organisations, among which are those in existing mainstream local government areas.

SECTION 7 : LOCAL GOVERNMENT AND ABORIGINAL EMPLOYMENT

92. The potential of mainstream local government as a significant employer of Aboriginal people was noted in evidence to the Committee.⁴⁷ However, the Committee's field visits indicated that this potential was not being realised in many areas. Generally the proportion of Aboriginals employed by local government does not reflect their proportion of the community within local government areas. Also when Aboriginal people are employed by local government it is often in unskilled or semiskilled positions.

93. Local government is potentially significant as an employer of Aboriginal people because it is a large employer in rural areas where many Aboriginal people live and where their rates of unemployment are extremely high. A survey of Aboriginal people in non-metropolitan New South Wales conducted a few years ago estimated levels of Aboriginal unemployment at 76% for males and 65% for females.⁴⁸

94. The measures it has been suggested could be adopted to increase the level of employment of Aboriginal people by local government include:

- . development and implementation of training programs;
- . encouragement of development and implementation of Equal Employment Opportunity programs by local government;

- . . . incentives for local government to employ
. . . Aboriginal people; and
- . . . use by local government of Aboriginal contractors
to provide services.⁴⁹

95. The Committee reported earlier this year training programs for greater Aboriginal community management and control in its report 'A Chance for the Future'. The recommendations of the report did not specifically address training programs for employment in mainstream local government and this is an issue that would need to be examined by the inquiry.

96. In some States, local government is beginning to develop Equal Employment Opportunity policies. For example, the New South Wales Government advised the Committee that an Equal Employment Opportunity Booklet setting out guidelines for local government councils concerning the employment of Aboriginal people had been prepared and sent out to councils.⁵⁰ The development and implementation of similar approaches in all States and the Northern Territory should be considered.

97. The Federal Government's Special Works Projects program was one means of providing incentive to local government councils to employ Aboriginal people. However, it has been questioned whether this program was successful in generating long-term employment.⁵¹ Other approaches may need to be assessed. In New South Wales, for example, an Aboriginal Employment Strategy for local government is being developed involving the New South Wales Department of Local Government and Industrial Relations and Employment, the Office of Aboriginal Affairs and the Commonwealth Department of Employment, Education and Training. Similar co-operative approaches to developing employment programs for Aboriginal people within local government could be considered by the inquiry.

98. In its report on Aboriginal community management the Committee will consider the contracting of work for Aboriginal local governments to Aboriginal organisations and enterprises. Mainstream local government could also use local Aboriginal contractors to provide services both to Aboriginal communities and the general community. This may be one means of ensuring a continuing role for Aboriginal community-based organisations and resource agencies within the context of an expansion of the role of mainstream local government in servicing Aboriginal communities. The inquiry should consider this issue.

SECTION 8 : CONCLUSION

99. The issues that have been canvassed in this paper should be investigated in detail by a separate inquiry which it is recommended that the Minister for Aboriginal Affairs refer to the Committee.

100. Suggested terms of reference for the inquiry are that the Committee investigate and report on the interaction between mainstream local government and Aboriginal communities with particular reference to:

- . the long-term role of mainstream local government in providing local government-type services within Aboriginal communities, having regard to the existing role of Aboriginal councils, organisations and resource agencies, the aspirations of Aboriginal people and the need to maintain Aboriginal self-determination and self-management;

- . financing of mainstream local government in relation to the servicing of Aboriginal communities' needs including
 - valuation and rating of Aboriginal land;
 - methods of allocating and accounting for Commonwealth general and specific purpose funding (including methodologies of grants commissions);

- . ways of increasing Aboriginal participation in and representation on mainstream local government councils including
 - changes to local government systems of voting and representation;
 - encouragement of Aboriginal people to stand as candidates in local government elections;
 - mobilisation of the Aboriginal vote in local government elections; and
 - Aboriginal participation in local government associations;

- . methods of improving relationships and involvement between local government councils and Aboriginal communities including
 - employment of Aboriginal liaison officers;
 - establishment of Aboriginal community liaison committees; and
 - awareness and training programs for local government council staff;

- . ways of increasing Aboriginal employment within local government including
 - training programs;
 - implementation of Equal Employment Opportunity policies;
 - incentives to employ Aboriginal staff; and
 - use of Aboriginal contractors.

November 1989

WARREN SNOWDON MP
Chairman

ENDNOTES

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- 30 Transcript of Evidence, p. S653.
- 31 Transcript of Evidence, p. S655.
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