



CENTRAL LAND COUNCIL

SUBMISSION

November 2010

Discussion Papers:

*Leading Practice Agreements:
Maximising Outcomes from Native Title Benefits*

and

Native Title, Indigenous Economic Development and Tax

Introduction

Discussion Papers

This submission is made in respect of both discussion papers given the linked nature of the Commonwealth papers; Leading Practice Agreements: Maximising Outcomes from Native Title Benefits and the Native Title, Indigenous Economic Development and Tax -.

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Central Land Council

1. The Central Land Council (CLC) is a Commonwealth statutory body established under the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth) (ALRA)*. The Land Council is also a Native Title Representative Bodies under the *Native Title Act 1993 (Cth)*.
2. Approximately 50% of the land in the Northern Territory is Aboriginal land including 85% of the Northern Territory coastline, and a large proportion of the remaining area is subject to native title interests.
3. The CLC has a broad array of functions related to claiming, acquiring, using and managing traditional lands and waters, be they Aboriginal land under the Land Rights Act, Native Title or community living areas. The Land Councils consult with and assist Aboriginal landowners regarding mining and exploration activity, land and sea management, including national and conservation parks, major infrastructure development such as railways, tourism, defence and other development proposals for their lands and waters.
4. The CLC has been in existence for over 30 years, and during this time has developed a clear understanding of the principles of Traditional Ownership has extensive involvement assisting traditional landowners to gain practical and sustainable outcomes from agreements made in respect of their land. The key role of governance in delivering these outcomes is acknowledged and the focus on governance measures by Government is welcomed.

In 2005 the CLC began a dedicated ‘community development’ approach to agreement benefit application under which landowners allocated at least some part of the benefits arising from their agreements. A recently presented paper prepared by Dr Danielle Campbell (CLC manager CDU) and Dr Janet Hunt outlines the experience of the CLC in this field and is attached to this submission (Annexure A). The paper discusses community development in Australian Indigenous communities and the CLC’s approach and experience with a number of projects, including the results of project monitoring undertaken in late 2009/early 2010. It points to the challenges that the CLC and landowners have faced as they seek to use their rent, royalty and affected area monies for community benefits, some lessons learned to date and highlights issues which governments, land councils and native title bodies need to consider in order to assist Aboriginal people gain greater and more sustainable benefits from land use agreements.

In précis the analysis concludes that whether the decisions of landowners regarding agreement benefits “will immediately help in ‘closing the gaps’ is not the central issue: some certainly will; others reflect different priorities from those currently determined by governments, such as retaining and transmitting cultural knowledge and language. Thus in determining what are ‘leading practice’ agreements it will be important to appreciate that different systems of value are at play. From a community development perspective what is most important is that Indigenous people are the decision-makers, aware of the choices and trade-offs they can make, taking responsibility for their own decisions based on the best available information. This points to the importance of designing monitoring and evaluation strategies that use appropriate indicators to measure success based on Aboriginal priorities.

Furthermore “governments must recognise that it is often their own constantly changing policies and complex institutional arrangements which frustrate Aboriginal attempts to take responsibility and pursue development, even when financial payments are directed in ways intended to deliver community benefit. This may act as a disincentive to such uses of Agreement monies. There also remains a risk that governments will shift the costs of citizenship services to Aboriginal people’s private funds, although there are also some small signs of Aboriginal investments leveraging additional government funding.

“Financial payment arrangements which will generate community benefits in remote areas will necessitate considerable expenditure on community development staff and capable organisations to support Indigenous people to overcome decades of disempowerment and dependency and appreciate that they are able to meaningfully make decisions about their futures. Where these funds should come from remains an open question. Arguably, it is a legitimate role for government to provide such capacity development support to enable Indigenous rights-holders to maximise the benefits which can emerge from agreements based on their rights. It is also clear that more support is needed to strengthen governance, management and conflict resolution capacities in Indigenous communities to enable Indigenous people to realise their ideas successfully.’

A. Leading Practice Agreements:

GOVERNANCE MEASURES

- Incorporation

Whilst the proposition for groups receiving communal benefits incorporating under either the Corporations (Aboriginal and Torres Strait Islander Act) 2006 (the CATSI Act) or the Corporations Act 2001 (Corporations Act) is not problematic, the implementation of beneficial arrangements will require both a ‘carrot and stick’ approach if they are to achieve their desired outcomes. It is noted that the *Aboriginal Land Rights (Northern Territory) Act 1976* requires that payments made in respect of Mining Agreements¹ and areas affected by mining² on Aboriginal Land are paid to an entity incorporated under the CATSI Act. (Although in the former case an agreement may specify otherwise). The taxation status of these monies are dealt with by Division 11C of the *Income Tax Assessment Act 1936* – the Mining Withholding Tax provisions, however, there is compelling justification for these arrangements to align with any changes that are proposed for ‘native title’ payments (esp. mining related) to avoid tax differential treatment for payments of essentially the same character. (see later discussion on tax issues.

- Appointing one or two independent directors,

The option to appoint independent directors is already available and is supported as an option – with provisions to encourage and support uptake as below. However, mandating directorship is problematic and contrary to accepted determinants of good governance. A more critical issue is assuring the quality of all directors. Questions also arise as to how the quality of independent directors might be assured and ‘Independence’ from whom; The traditional owners/members, their advisors, a mining company proponent/agreement party, government ?

If a variation of the principles utilised by the ASX (for example) were to be used, such as ; “An independent director is a non-executive director who is not a member of the native title group and who is free of any business or other relationship that could materially interfere with – or could reasonably be perceived to interfere with – the independent exercise of their judgment.” it would presumably require independence from all of those listed groups.

Rather than mandating for independent directors it would be more useful to adopt the model required by the ASX for listed entities. It is noted that the ASX listing rules do not prescribe

¹ s.35(3)(b) *Aboriginal Land Rights (Northern Territory) Act 1976*

² S.35(2) *Aboriginal Land Rights (Northern Territory) Act 1976*

independent directors – but it is recommended practice. However, listed entities must disclose in each annual report the extent to which they have followed the ASX Principles and Recommendations (which include the ‘independence’ recommendation) during the reporting period. If a listed entity considers that particular recommendations are not appropriate to its circumstances, it has the flexibility not to adopt them, as long as it explains why (“if not, why not”). This could be incorporated into ORIC best practice guidelines and medium/large CATSI entities required to report and give reasons if the guidelines were not being followed.

- The general proposition to adopt enhanced democratic controls, such as by encouraging transparency and accountability to beneficiaries, regarding payments received under native title agreements and disbursements is not objectionable.

It is also noted that a considerable amount of research work was undertaken by the Indigenous Community Governance Research Project. Its work was extensively referred to in the Productivity Commission Report on Overcoming Indigenous Disadvantage (latest release 2 July 2009). That report noted that *‘Six determinants have general application to good Indigenous governance, while allowing for the unique cultures of different organisations and communities: – governing institutions – capacity building – leadership – cultural match – self-determination – resources.’*

Tax treatment should not be conditional on adopting governance measures – these are separate issues.

IMPROVING GOVERNANCE AND NATIVE TITLE AGREEMENTS

There is a need to support parties to native title agreements to maximise the positive financial and non-financial benefits from native title agreements, however, this should be undertaken via the NTRB system. Educational support should be delivered by a dedicated Indigenous Governance body.

The Indigenous Community Governance Research Project recommendations identified, inter alia, that *‘There is an urgent need for a nationally coordinated approach to the provision of governance capacity development and training that is targeted, high quality and place-based. Governance capacity development is needed for leaders, managers and staff of organisations and community groups. Given the pivotal role of governance for Indigenous social, economic*

and cultural outcomes on the ground, serious consideration should be given to the early establishment of an Australian Indigenous Governance Institute to:

- disseminate best practice in Indigenous governance and*
- collaborate with relevant bodies at the national, state, territory and local levels to develop practical, culturally-informed educational and training materials, tools and resources to support the delivery of governance and organisational development at the local level*
- develop ‘train the governance trainer’ and mentoring courses, particularly targeted at developing a sustainable pool of Indigenous people with the requisite professional skills, and*
- undertake applied research to support those functions.*

Adoption of the above recommendation to establish an *Australian Indigenous Governance Institute* is strongly supported.

The proposed statutory review of agreements is not supported. The proposal is unlikely to improve governance outcomes and is a poor mechanism for the enhancement of agreement outcomes. Agreement outcomes will be enhanced by the dissemination of best practice outcomes amongst landowners and practitioners who advise them through mechanisms such as the AIATSIS Knowledge Management Project.

Any link for registration of agreements by such a body as a precursor to access taxation benefits is a particularly retrograde proposal which would serve as a post factum punishment for ‘bad’ agreements. Encouragement for best-practice agreements is a desirable goal for landowners, whereas the taxation system should not be used as an instrument to channel agreement provisions in accordance with government policy.

B. Native Title, Indigenous Economic Development and Tax:

Due to the range of complexity of issues involved in negotiations for land use agreements on indigenous land the potential tax implications are often only considered late in the process of negotiations and then generally in terms of the recipient vehicles. There is a strong need for administratively simple and clear tax provisions to apply and, most importantly, for alignment between existing treatment on aboriginal land.

Whilst Mining Withholding Tax applicability to aboriginal land held under the *Aboriginal Land Rights (Northern Territory) Act 1976* has provided administrative simplicity, it is noted that with mines and/or satellite ore deposits being located across a range of tenures the equity of current arrangements and compliance complexities require attention. Furthermore many land use agreements do not involve mining or exploration and tax provisions relating to aboriginal land (which should include land where native title rights exist) must also ensure that benefit recipient entities allow for ease of use and consistent tax treatment.

Income Tax Exemption

A clearly formulated exemption from income tax and CGT for native title agreements which includes agreements in respect of aboriginal land held under *Aboriginal Land Rights (Northern Territory) Act 1976* and similar legislation is a preferred outcome for indigenous land owners, considering that many such payments are either currently exempt or subject to modified tax provisions already.

The exemption should be applicable to agreements in relation to ‘aboriginal land’ which should be defined to include both land held under *Aboriginal Land Rights (Northern Territory) Act 1976* and similar legislation together with land held for community benefit by CATSI corporations and land where native title rights exist.

The application of funds derived pursuant to these agreements should not be prescribed within the taxation system – since many such payments are already exempt restricting their use would be an unwarranted limitation.

It is preferable that certain agreements (ie: those providing for large income streams, such as mining) for groups receiving communal benefits require payment of benefits only to entities incorporating under either the Corporations (Aboriginal and Torres Strait Islander Act) 2006 (the CATSI Act) or the Corporations Act 2001 (Corporations Act). Restrictions on payments

from these entities (which may be Indigenous Community Funds) will be applicable if they seek to retain tax exempt status either as charities or ICF's, however, payments from the entity to individual recipients would be subject to income tax, unless otherwise exempted.

Indigenous Community Fund

Notwithstanding that an exemption from payments made in respect of aboriginal land may be provided by amendments to the taxation system, an Indigenous Community Fund ('ICF') or similarly exempted entity is still required and should be progressed by Government as a matter of priority.

The CLC provides assistance to a range of CATSI incorporated entities some of which receive monies subject to MWT together with many that derive income from sources other than mining, be they native title agreements or lease arrangements for ALRA lands. These corporations range greatly in size, income and capacity and compliance intensity (and therefore costs) is greatly increased by current requirements to determine the source of income and therefore whether receipts are tax exempt or not.

The basis of exemption for an ICF should not be dependant on source of income but on compliance with governance requirements and use of funds. Permitted uses must be defined to be for the benefit of a specified group or groups of indigenous Australians (not merely limited to 'native title holders'). It is important to avoid limiting the definition of beneficiaries merely to 'native title holders' as there will be many indigenous groups who are unable to meet the definition under the Native Title Act ('NTA') who may receive settlements or hold land through arrangements other than those recognised by the NTA. In the CLC region there are many examples of traditional owners who hold title to land through incorporated entities for community living areas or from alternative settlements who may not meet NTA requirements.

In addition to those activities listed in the discussion paper as possible alternatives for purposes for an ICF, the following examples may also be included;

Assisting members of the Aboriginal Community;

- to nurture and protect cultural interests, including in relation to funerals and other ceremonies;
- advancement sporting and training assistance;
- to gain employment;
- in relation to the establishment and maintenance of their residences;
- in relation to the care and management of their Traditional Lands;
- to manage their personal financial and other assets and resources;
- to develop business enterprises;

- to improve the health and well-being of their families;

Governance

Whilst incorporation under the CATSI Act is supported for ICF's (and should be included in legislation as a specific mechanism which meets any specified alternate governance structure requirements) there should be no bar to incorporation under other legislation, such as the Corporations Act.

Other important aspects of governance are dealt with elsewhere in this paper.

A dedicated Indigenous Community Fund with clearly identified legislative requirements is vital to the economic and social welfare of indigenous Australians. The current uncertainty as to taxation arrangements creates inefficiency and diverts resources from the outstanding needs for development. The CLC community development work with communities and groups in our region would be assisted by the clarity that a tax exempt vehicle with sound governance requirements will provide. In some cases traditional owners may be encouraged to apply a greater proportion of the benefits derived from their land to the community development methodology (as distinct from individual use) by a combination of the growing belief in the program and the clarification of the tax issues pertaining to the ICF.

Use of an appropriate ICF for recipient entities of mining/exploration payments from 'aboriginal land' would also deal with problems of different source income (eg: investment or non-ALRA land income) as well as for traditional owners who have income only from non MWT applicable sources (eg: non ALRA freehold land granted by the NT Government).

NTMWT

Whilst in the absence of the above measures, a withholding tax could provide for ease of administration and certainty in dealings in respect of exploration and mining on native title lands – as it has done on aboriginal land currently subject to the MWT provisions (s.128U-X INCOME TAX ASSESSMENT ACT 1936) – it is of limited application. Although the existing provisions have dealt with some of the issues raised it does not cover the field sufficiently to warrant consideration as a stand-alone solution.

A NTMWT would not deal with payments arising outside of the a mining/exploration context nor does it deal with non native title land (such as that subject to alternative settlements).

Community Development in Central Australia - Broadening the Benefits from Land Use Agreements

Danielle Campbell (CLC) and Janet Hunt (ANU)³

Background

Over decades now, the extent to which Indigenous people have benefited from mining on their land has been debated, and Indigenous opposition to mining or other major extractive industry development continues in many places. In a recent contribution to the debate, Langton (2010) highlights the marginalisation of Aboriginal people from the mining wealth now being generated in the Pilbara. The wealth being generated from Aboriginal land stands in stark contrast to the poverty and exclusion which many Aboriginal people experience in their daily lives. As Altman says, 'there is considerable empirical evidence that Indigenous people rarely benefit equitably when major extractive industries occur on their customary land' (Altman 2009:3). Native Title and Land Rights were expected to deliver benefits for Aboriginal people, but those rights may not be achieving their potential, despite some positive achievements by some mining companies in boosting Indigenous employment. This is the context in which a recent Discussion Paper released by the government on Native Title Agreements indicates concerns about the outcomes of Native Title Agreements (Indigenous Land Use Agreements) and the intergenerational distribution of benefits (Macklin & McLelland 2010). As Minister Macklin said in her 2008 Mabo lecture,

'Arrangements for payments to Indigenous landholders are largely left to the companies involved and the landholders themselves who may not have the assistance they need to weave through the legal and operational landscape of major development.' (Macklin 2008)

In essence, government wants to see the growing number and significance of Native Title Agreements contribute more to 'Closing the Gap' between Indigenous and non-Indigenous Australians. However, agreements arising from land rights or native title rights are intended as a form of compensatory payment to those whose lands are being utilised or whose native title rights are being foregone as a result of particular developments. That is, they are payments arising from property rights, and are made to the particular holders of those rights. There is no particular justification for such payments having any conditions attached, nor is there any reason for such payments to necessarily benefit other community residents living in the same location as the landowners or native title holders. There is a risk that the use of such funds for community purposes will in fact see landowners, 'filling the gaps' in service delivery left by governments. The Central Land Council is well aware of this risk.

In this paper we are not intending to fully critique the Native Title Discussion Paper. However, the Discussion Paper suggests that government may develop a resource tool about 'leading practice agreements', and our focus is on just one aspect of agreements, to highlight the complexity of the issues surrounding how Indigenous people may or may not achieve the 'best' outcomes from land use agreements if government proceeds in this direction.

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Research on Indigenous agreement making suggests that there can be considerable achievements by Indigenous parties, not least an increased role in decision-making on issues that affect them (Langton et al 2004). However, O’Faircheallaigh (2000, 2003, 2004, 2006) emphasises the variability of the benefits which may be generated from agreements, a variability borne out in the work of the CAEPR Mining Project (Altman & Martin 2009). O’Faircheallaigh (2004) discusses how ‘outcomes’ from agreement making might be judged, in terms of the processes, the actual provisions, their implementation and their eventual impact. Among the range of provisions for which he tries to elaborate some benchmarks, such as cultural heritage, environmental management, rights and interests in land, employment and training, business development and so on, he includes financial payments. It is this aspect of agreements that we are most concerned with today. Whilst he suggests that financial payments are the simplest area in which to establish benchmarks, he notes that in terms of impact, the critical issue is how these payments are utilised. Referring to a Bougainville example, he says ‘if payments are used in ways that are socially destructive, a larger quantum of money might actually generate less favourable outcomes for Indigenous parties.’ (O’Faircheallaigh 2004:320).

In Central Australia, financial payments have generally been in the form of payments to individual landowners, of which (by resolution of the CLC) at least 50% is invested by the relevant royalty association on their behalf. In 2005 the CLC began to adopt a new approach through which landowners allocated at least some part of the distributed portion of financial payments arising from their agreements for community, rather than individual, benefit. While the payments we are discussing today arise from agreements made under the Aboriginal Land Rights Act (NT) 1976, the same issues would apply to agreements made under the Native Title Act (1993). The CLC currently facilitates CD planning processes with up to 15 communities and outstations each year involving up to \$5 million in rent, royalty and affected areas money. Annually this process often generates in excess of 80 sub-projects.

In this paper we will first briefly discuss what we understand by the term ‘community development’ and highlight some of the challenges of undertaking community development in Australian Indigenous communities noted in the literature. Then we will move to outline the CLC’s approach and its experience with a number of projects, including the results of some monitoring undertaken in late 2009/early 2010. We will conclude by highlighting some of the challenges that the CLC and landowners have faced as they seek to use their rent, royalty and affected area monies for community benefits and some lessons learned to date. These will indicate some of the issues governments, land councils and native title bodies will need to keep in mind if they are to achieve their aim of assisting Aboriginal people to gain greater and more sustainable benefits from land use agreements.

Community development – what do we mean?

Kenny defines **community development** as:

“processes, tasks, practices and visions for empowering communities to take collective responsibility for their own development. The aim of community development is to enable communities to have effective control of their own destinies. Effective control requires the development of ongoing structures and processes by which communities can identify and address their own issues, needs and problems within their own terms of reference.” (Kenny 2006:10)

Empowerment is a term frequently associated with community development. In this context it refers to ‘the ways that power relationships are changed in the interests of disadvantaged, oppressed or exploited groups’ (Kenny 2006:163). It draws attention to the ways power is exercised and the identities and rights of subordinate groups when such power is exerted. It must increase such groups’ access to and control over information and resources or assets. Thus as Kenny states:

“For empowerment to occur, disadvantaged groups must have confidence in their ability to manage their own affairs and increase their levels of democratic participation. People must develop a belief that they actually can collectively control their lives. People need to have a sense of their own history and society; they need to overcome pessimism and fatalism; they need to see new possibilities for human societies. Underlying all these requirements for empowerment is the principle of human agency. Indeed, human agency is central to human rights” (Kenny 2006:163).

Without such agency, peoples’ ability to determine their own futures is denied according to this approach.

These definitions immediately point to some challenges for anyone attempting to undertake community development in Indigenous communities which have long been dispossessed and may feel considerably disempowered by their experience of living encapsulated by the settler society. Routine marginalisation and disempowerment can inhibit the motivation to participate in community development activities.

Research on Community Development in Indigenous Australia

The predominant literature on community development in Australian Indigenous communities is in the health sector, with other areas of indigenous development less frequently discussed (see for example Campbell et al 2007, Entwistle 2009). It highlights some of the different understandings and interpretations which Indigenous and other people hold relating to community development and empowerment, particularly what such terms mean in practice. Indigenous people are looking for high levels of control when they participate in community development activities, but such degrees of control may challenge NGO or government officials working with them within certain defined frameworks (Campbell et al 2007).

Research points to a number of issues relating to the nature of Indigenous communities – as extremely heterogeneous places, with complex social and power dynamics and internal relationships, conflicting identities, and often an initial level of cynicism or mistrust both within communities, and of outsiders, especially governments (Eversole 2003).. This can make community development for common goals problematic. Furthermore, whilst the literature also emphasises the importance of local facilitators, local committees or liaison people, what is clear is that given the social complexities, it is critically important to get the right local people involved as community development facilitators from the outset, and success can come when they work with skilled external facilitators (Lawson and Close 1994, Tsey et al 2004). In addition, partly as a result of the proliferation of Aboriginal organisations but also because of the rapid social and cultural change occurring in Aboriginal communities, there is often little consensus within and outside Aboriginal communities about who is responsible for and capable of addressing issues that affect community members.

A second set of issues relates to the difficulties of achieving real participation and community ownership (Moran 2003). The best examples illustrate how communities have taken ownership of the problem and its solution (Hunter et al 1999) and how the development process has been genuinely Indigenous-led, utilising existing community capacity (Campbell and Stojanovski 2001; Nursey-Bray et al 2009). Siggers (2005) indicates that greatest success came where Indigenous people had a high level of control of the process of participatory research from the very outset. Starting small and building on stories which develop trust and a sense of shared identities and shared values can be a way to begin - small steps can build trust and confidence and gradually lead to change (Milliken et al 2007). The concept of small steps is also emphasised by Tsey et al (2005) in relation to the family wellbeing program in Queensland; they talk about working with the micro and building out, and about working with people rather than structures – that is begin by establishing relationships among people which generate trust. Developing trusting relationships also requires respect for local values and processes (Voyle and Simmons 1999; Campbell et

al 2005) and recognising cultural differences with respect to such things as people's perceptions of the locus of control in their lives, their ideas about individual autonomy and responsibilities to kin, preferred forms of communication, timeframes, language and worldviews (Hunt 2005).

A third set of issues relate to the role of outsiders, particularly when the outsiders are governments. One role for outsiders in a context of Indigenous-driven development is the provision of information, such as health information or information about the ways in which governments work (Campbell et al 2005). The development of strong relationships between governments and communities, and the gradual development of trusting partnerships is a constant theme, but Campbell et al (2005) show how difficult it often is for governments to allow community control and support Indigenous priorities and agendas (see also Wolfe-Keddie 1996). One factor in this is the narrow definition of certain problems and the failure to view things more holistically, coupled with the pressure to achieve specifically determined targets.

A further point made by Jarvie (2008) is the importance of high level government commitment and a long-term approach. Whilst there is often recognition of the need for governments to build trust with sceptical Indigenous communities, the need for governments to trust the communities to know the best ways to work locally and to be able to find workable solutions to problems is equally important (Burchill et al 2006).

One reason it is important to gain high level government commitment is that it enables flexibility in decision-making – another critical success factor (Burchill et al 2006). High level decision-makers are more able to deal with such flexibility, especially where funding is concerned, than more junior staff.

A further issue is the inequality in partnerships between outsiders (especially governments) and Indigenous communities - and what strategies may be put in place to address this; the Murdi Paaki COAG trial strongly emphasised investing in capacity development especially for governance (Jarvie 2008). Midford et al (1994) and the work of the Indigenous Community Governance Project also highlight the need for strong local governance structures (Hunt & Smith 2006, 2007; Hunt et al 2008).

But government capacity to work across jurisdictions with other governments and NGOs can also be a problem and this needs to be addressed, as it is clear that the environment surrounding community development initiatives is critical to their success. In Indigenous Australia, to a far greater degree than in developing countries, this issue of the intergovernmental arrangements and the role of governments in facilitating or frustrating community development efforts is very much to the fore (Hunt & Smith 2006, 2007).

Critics have often noted that the governments have used the language of community development to co-opt Indigenous communities into government agendas, save money, avoid responsibilities to Aboriginal people and to prioritise economic development over broader community development (Wolfe 1989; Mowbray 1994; Hollinsworth 1996; Martin 2001). And despite the rhetoric of community development, governments have retained centralised control over decision-making with the result that communities are not empowered and outcomes are not sustained (Kenny 1996; Petersen 1994; Mowbray 1994; Wass 2000). Ife (2002) goes further, arguing that the language of community development has been used to perpetuate oppression. Such criticisms draw attention to the need to make the action match the rhetoric.

Finally it is worth emphasising the research reveals that one cannot set out a template or model, a single approach for community development. The local context is extremely important to understand and although there are some principles which are clear, there is no single way to approach community development successfully in Indigenous Australia. In addition success also requires adequate internal and external resources (Braun et al 2003; Hunter et al 1999).

Many of these issues are relevant to the CLC's community development work. The CLC has the advantage of not being a government body, but it nevertheless is a statutory authority ultimately answerable to the Commonwealth Government and has to engage with various levels of government in its work. Although its Council comprises of Aboriginal members, the staff - particularly those who are not Indigenous- are to some degree outsiders for whom issues of earning trust and understanding of community dynamics are as important as for any other body working with Indigenous people.

The Central Land Council (CLC)

As mentioned above, the Central Land Council is a Commonwealth statutory authority which operates under the Aboriginal Land Rights Act (NT) 1976 and the Native Title Act 1993, representing some 24,000 people who live across approximately 771,747 square kilometres in the southern part of the Northern Territory. Its Council comprises 90 Aboriginal people elected from its vast region which covers 15 language groups. One of the CLC's initial roles was to assist landowners to reclaim ownership of their land under the Land Rights Act, and more recently, to assist Aboriginal people claim their Native Title rights and interests in land. However, the CLC has increasingly taken on a broader role as it seeks to do more to make Aboriginal communities stronger and healthier places. Having helped Aboriginal people regain land, the CLC is now working to help them use that opportunity to achieve the kind of lives that they want to lead, or in Sen's terms 'to choose the lives they have reason to value' (Sen 1999).

The CLC's Community Development Unit (CDU) was created in 2005 to lead the design of a community development framework and the implementation of community development projects by the CLC. The CLC signed off on an organisational CD Framework in 2009 which sets out the CLC's CD approach (Central Land Council 2009a). In so doing the CLC has made a conscious decision to develop and articulate CD goals, principles and processes for the organisation. This has been considered important given the broader context the CLC is operating whereby planning processes are very often top-down with often only lip-service being paid to the importance of Aboriginal involvement in decision-making.

The focus of the CDU is on working with landowners and native title holders using community development principles and processes to create lasting community benefits with monies from land use agreements. These include mining and affected area payments and traditional owner rent from Uluru-Kata Tjuta National Park. In each of its community development projects the CLC staff facilitate comprehensive planning processes that support local people to articulate their development aspirations, identify their priority issues, and draw on local and external knowledge to develop appropriate solutions, which are then implemented largely with their own money (Central Land Council 2009b). Central to the CLC's approach is the well documented lesson from international community development experience that community participation, capacity building and good governance are critical to successful and sustainable development.

Currently the CDU manages four major regional projects:

- The Warlpiri Education and Training Trust (WETT) Project
- The Uluru Kata-Tjuta Rent Money Community Development Project
- The Granite Mines Affected Area Aboriginal Corporation (GMAAAC) Project.
- Tanami Dialysis Support Service Project

The WETT Project

The WETT Project derives from a mining agreement signed by the landowners and Newmont Asia Pacific in 2003 which involved Newmont making annual payments into an education trust (WETT) for Warlpiri for the life of the mine (about 15 years from this agreement).⁴ In total, 20% of the total payments from the Newmont agreement go to the WETT trust; 40% are distributed to individuals and 40% is invested on their behalf. The governance arrangements are complex, but in practice, Warlpiri women from the Warlpiri-patu-kurlangu Jaru (WpkJ) WETT sub-committee, together with the Kurra WETT Committee of landowners, are the primary decision-makers. Kurra Aboriginal Corporation is the royalty association, while WpkJ is a Warlpiri indigenous education organisation. The intention is to provide training and education opportunities consistent with Warlpiri aspirations which supplement but do not subsidise nor substitute for core government education and training programs. The project is about providing learning opportunities for all Warlpiri from early childhood to adults, and involves a number of activities or sub-projects including: language and culture support through the community schools; an early childhood program; support for Warlpiri students completing secondary studies; a youth and media program; and a learning community centre program which is providing education and training to adults.

These projects came about through a process of consultation with Warlpiri as to their aspirations and external input from an education expert on what might be possible and valuable, which Warlpiri then considered and made priority decisions about what would be implemented. The project is also building the capacity of both the WpkJ WETT Committee and the Kurra WETT Committee.

The Uluru Kata-Tjuta Rent Money Community Development Project.

In 2005 the CLC resolved to take an alternative approach to landowner financial payments for Uluru-Kata Tjuta (UKT) National Park in order to provide a better balance between the rights of individual traditional landowners and the urgent community development needs of their communities. Just under 50% of the UKT National Park rent to Aboriginal people (Anangu) is now being spent, or is earmarked for spending, on community development projects; the remainder is distributed to landowners.⁵

The landowners annually choose three communities or outstations to fund with rent monies, in addition to providing ongoing support for Mutitjulu and funding several regional initiatives. The CLC then consults the residents (both Uluru-Kata Tjuta landowners and other Aboriginal community members) of these three places as to their priorities and helps them plan the projects each will carry out with the funds. Once the projects are clearly defined and costed, they are taken back to the wider landowning group for their endorsement. The final project plans are approved by the CLC Executive and then implemented, usually by local organisations, with the management support of the CDU. Many of the local projects have involved infrastructure in remote communities, such as improvements to water supply at outstations, upgrading a power supply, renovating and equipping workshops for art or general maintenance work, a new store, a BMX track, basketball court roof and resurface, and restoration of the historic Ernabella church. Regional projects funded to date include support for at risk youth and support for Anangu dialysis patients living in Alice Springs. Two other significant regional projects are the implementation of the Mind Matters Program at Imanpa, Mutitjulu and Docker River to build school children's mental health and well being and the *Ara Irititja* cultural history and maintenance digitised inter-active archive at Docker River, Mutitjulu, Imanpa and Finke. At Mutitjulu, the community has identified some key initiatives which are being progressed including: a swimming pool, renovation of the recreation hall, a playground, rubbish collection and grader repair and maintenance.

⁴ Warlpiri are Aboriginal people who speak Warlpiri language many of whom live to the North West of Alice Springs in communities in the Tanami Desert.

⁵ *Anangu* is the word for Aboriginal people in Western Desert Languages.

The Granites Mine Affected Areas Aboriginal Corporation (GMAAAC) Project

GMAAAC is an Aboriginal corporation established to receive 100% of the affected area payments for its members, the landowners of an area affected by gold mining operations in the northern Tanami Desert. Under the ALRA (1976) NT none of its funds may be distributed to individuals. The establishment and operation of GMAAAC preceded the establishment of the CDU but in 2008 the CDU began working closely with GMAAAC to strengthen its governance arrangements and provide greater support to the Corporation's members to develop and fund projects that can generate wide community benefit. The capacity building process is now well underway and systems have been developed to monitor allocations and gather data about the outcomes. The funds support a diverse array of projects proposed by 'eligible community organisations' in the communities and amounts of funding vary considerably. Funds may be used for vehicles, provision of community and outstation infrastructure and equipment, training and employment, and operational or program costs e.g. for health, art, media, aged care or sporting associations. While there are concerns about the sustainability of benefits provided by some of the allocations (particularly where vehicles are concerned), the project is delivering significant benefits for youth and health services in particular, in the latter case often combining with other funds. The governance systems and decision-making are also improving and it is expected that these will continue to improve as monitoring and evaluation feedback is considered by the community committees that allocate the funds.

The Tanami Dialysis Support Service Project

Building on the success of the WETT Project the Kurra Aboriginal Corporation has allocated significant mining royalties that would have otherwise been distributed, to fund a renal dialysis unit in Yuendumu. The unit at Yuendumu, which opened in August 2010, has two treatment chairs and a resident nurse, and will allow renal patients from Yuendumu, Willowra, Yuelamu and Nyirpi currently in Alice Springs to visit home more often and to stay longer. The new service is being managed by the Western Desert Nganampa Waltja Palyantjaku Tjutaku Aboriginal Corporation (WDNWPT), an Aboriginal health organisation with experience tackling the kidney disease epidemic in Central Australia. Recurrent government funding has now been secured to cover some of the operational costs of the Yuendumu service. The Kurra Aboriginal Corporation is now looking to establish a similar service in Lajamanu and has funded a feasibility study and full-time project manager position.

Intended outcomes of the CLC Community Development Program

The CLC's CD Framework sets out three key intended outcomes. The first is that Aboriginal people will have more control and be able to make better informed decisions about the use and management of resources that belong to them. Secondly, there will be a range of benefits to communities including economic (e.g. jobs and small business), social (e.g. education, training and health), cultural, political (e.g. stronger cultural transmission, improved governance,) and infrastructure development. Finally, there will be increased visibility of Aboriginal management of resources, which may improve public and government perceptions, facilitate complementary funding and encourage other Aboriginal groups to follow suit.

Monitoring

The CLC has annually met its Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) determined reporting obligations on its CD work since 2005, however, the importance

of undertaking more comprehensive and systematic monitoring has also been recognised. Reflecting on the extent to which the organisation's CD objectives are being achieved is critical in order that further improvements can be made and successes and lessons learned can be reported back both to the CLC's constituents and other stakeholders such as government departments. Currently, the broad community development goals which are being monitored have been agreed by the CLC, while individual project goals are agreed by the relevant landowners and communities.

In 2009 the CLC engaged an external consultant with expertise in international development evaluation to design a monitoring plan for the CD Program. In late 2009 and early 2010 CDU staff collected the first round of data either from project reports or directly from project participants in three areas. Individual projects were monitored and changes reported across three areas: what happened with the available money; what were the outcomes for people (expected and unexpected); and, what significant influences are there in the context of this project that have influenced the outcomes? Further data were collected in quarterly reflective reports by CDU staff and reflections by the CLC's CDU reference group of community development experts about the significance of particular contextual influences. These three sets of data were then collated and analysed by the external consultant. The previous section has indicated the sorts of things which the money has been used for, so the following sections of the paper will focus on the outcomes achieved to date and some of the factors that are influencing those outcomes.

Limitations of this first data collection process included a lack of resources to engage non-CLC researchers and community members to conduct interviews and to hire interpreters to collect project data. Additional funding recently secured from Newmont Asia Pacific will enable the CLC to address these limitations in 2010.

Results of the Monitoring

The first CDU monitoring report paints a mixed but largely encouraging picture of the CDU's work around the three key outcomes indicated above (Central Land Council Community Development Unit 2010).

Quality of Decision Making

The report indicates that decision-making is improving across the various governing bodies associated with the projects. In the two longest running projects, WETT and the Uluru Kata-Tjuta Project, the CLC is starting to see the positive effects of good governance and Aboriginal involvement in all levels of decision-making. The governing bodies for both projects have been operating under agreed rules and principles for several years now and the quality of their decision-making and deliberations reflects this learning from experience. That is, the decision-makers are developing a capacity to obtain and thoroughly consider all relevant information and its implications before making decisions. Both projects are funding regional initiatives that have the potential to generate wide benefit and the WETT Project is funding two five year regional initiatives. It also appears that the direct outcomes generated by their decision making supports the ongoing process. When people feel connected to the decision, see the benefit and have a real sense of controlling the process they are more likely to feel empowered and use the experience as a step towards other engagement. There is less evidence of such learning in GMAAAC committees which is not surprising given the CDU has only been working with these groups for two years, although this varies from community to community.

In the case of WETT, the ability of Warlpiri committee members to deliberate, comment and engage on issues is being extended to an ability to undertake advocacy with external bodies. For example WpkJ WETT Subcommittee members with the CLC, the Central Desert Shire and World Vision Australia, have lobbied the Commonwealth Government for funding for the Willowra Early Childhood and Learning

Community Centre. In another example, 17 Early Childhood trainees and WpkJ WETT Subcommittee members presented to an audience of more than 500 people at the Secretariat of National Aboriginal and Islander Child Care conference in Alice Springs, advocating for the need for early childhood programs in the Warlpiri communities.

It is worth adding that the extent to which community leaders feel ownership of these Projects is also growing. In a recent community meeting CDU staff attended at Yuendumu, a WETT Committee member spoke passionately and at length on the virtues of WETT and the real difference it is making to people's lives.

Benefits to people

The monitoring report indicates that people are benefiting from the activities under each of the projects. Interestingly, the GMAAAC project has the clearest evidence of material outcomes for people as a result of the many small and very tangible projects within its portfolio. However, it also had the clearest examples of activities where desired outcomes were not achieved; the less successful projects were often vehicles which were not being used for the project's intended purposes, or where management issues arose in relation to them. The Uluru Kata-Tjuta project demonstrates well some of the intangible benefits which are being obtained, and how factors such as group leadership or flow-on development opportunities can increase the benefits to people. The WETT project appears to be delivering many benefits, although more evaluative data on certain sub-components of this project is still to come. The Tanami Dialysis Support Service Project has also generated a range of benefits for Warlpiri dialysis patients including reconnection with family and community, improved access to health services, short return to country visits and a range of advocacy and housing support services in Alice Springs.

Ownership is an important factor in any discussion about benefits. It seems that where people feel some ownership and control of the benefit, whether a tangible benefit such as a basketball court, or the intangible benefit of increased control and pride in a situation, the monitoring report shows that they are more likely to engage with it, and build further development opportunities onto it. This highlights the importance of ensuring that people understand the decision-making processes through which rent or royalty monies get translated into projects with community benefit.

The amount of work and resources required to generate these benefits and the ability to sustain them where government policies might undermine the TO's achievements to date are issues which are discussed in the next section.

Increased visibility and program leverage

Whilst there have been a range of activities to increase the visibility of the CLC's CD work in Central Australia, the extent to which this is assisting to leverage additional government support is questionable. The CLC has had success in leveraging complementary government funding for some projects and it has secured additional government resources to implement its CD Program. However, the monitoring report indicates that there are some signs that at least one government department may see the use of rent or royalty payments as replacing rather than complementing government funding. This is clearly of significant concern.

Factors affecting these results and lessons learned

We now turn to discussing some of the factors which have influenced these results as well as some of the lessons learned after five years' experience.

Government policy and shifts in policy

Whilst projects are developed using funds derived from payments to landowners, governments cannot be left out of the picture, for a number of reasons. Where landowners fund projects in areas where governments have clear responsibility for service delivery, such as health, education and municipal services, they are seeking to supplement government funding, not replace it. Some of the initiatives which landowners wish to develop may require additional capital inputs or may require recurrent operational funding. Furthermore, TO funds from mining agreements will not flow forever. The CLC and landowners do not want to set up projects that rely on royalties from a mine which will one day shut down. Sustainability is an important consideration. Additionally, many of the projects require various levels of government collaboration in terms of planning and other legislative and policy requirements in order to proceed or be completed.

Ever-shifting policy at all levels of government is creating significant challenges for the CD Program. When this work was initiated in 2005, Commonwealth Government Indigenous policy was focused on 'mutual obligation' and 'shared responsibility' (Vanstone 2005), which the CLC anticipated would assist in getting government buy-in and complementary funding for projects identified and part-funded by landowning groups. The subtext of this policy was clearly that Aboriginal people should take responsibility for their impoverished situation; yet 'sharing responsibility' was largely just rhetoric while programs and projects continued to be delivered by government departments from the top down. Nevertheless, wherever possible the CLC used this policy to lobby Commonwealth and NT departments to share responsibility and co-fund community initiatives. This approach, although time consuming, had some success and the CLC secured government contributions to a number of regional, community and outstation-level projects, including a new community store at Imanpa, a power supply at Ulpanyali outstation, renovations to the church at Ernabella, and a project facilitator position for the regional WETT Early Childhood Program.

The Council of Australian Governments (COAG) National Indigenous Reform Agreement signed in November 2008 set out a priority for enhanced infrastructure support and service provision to 'larger and more economically sustainable communities' which allow for 'services outreach to and access by smaller surrounding communities' (COAG 2008:26). Fifteen of these communities are in the Northern Territory, but only three of these are in the CLC region. In 2009 the NT Government released a policy consistent with COAG's, called the 'Working Future' policy (Northern Territory Government 2009), which focuses on developing 20 NT hubs or 'growth towns' (the 15 determined by COAG plus another 5). Both policies focus in part on bringing private sector investment and employment and economic development opportunities to these communities so that they are eventually expected to have the same level of facilities and services found in any Australian town of a similar size.

This drastic policy shift has made it increasingly difficult to leverage complementary government funding for projects in small communities and outstations. This is at odds with the increasing trend of some of the landowning groups the CLC is working with to direct the majority of their funds to small communities and outstations. In part landowners are expressing their strong desire to support outstations which provide important links to country and culture, but they are also cognisant of the decreasing government funding available and choosing to invest their own money in outstations and small places instead. Some groups have articulated a view that their money should not go to communities because they can get government funding. This creates some issues in terms of the CLC's objectives of generating broad and sustainable benefits because while landowners are dealing with significant amounts of money there will never be enough to support all of their outstations on an ongoing basis. There is a real risk, particularly with the Uluru Project, that each year infrastructure will be built in a new set of outstations but there won't be enough money to maintain or build on this infrastructure to generate social and economic outcomes. Yet for many landowners this outstation infrastructure is a very high priority and maintaining a connection to

country remains a high priority. This highlights the ongoing disjunction between Governments' goals for Aboriginal people and the priorities that Aboriginal people themselves have.

As well, the new growth town policy has had a direct impact on some projects in non-growth town communities. One CD project which has been in train since 2007 with the Willowra community has been directly affected by this policy shift. In 2008 the Willowra Early Childhood and Learning Community Centre Project was viewed by a range of Australian and NT Government bureaucrats as an important project with the potential to attract recurrent government funding. As such, the Department of Education, Employment and Workplace Relations funded a feasibility study and business plan for the project. Unfortunately Willowra has now seen its status downgraded to that of a 'spoke' in the new 'hub and spoke' model. Landowners for the WETT Project have committed \$660,000 and through the Minister for Families, Housing, Community Services and Indigenous Affairs the CLC has secured an additional \$3 million from the Aboriginal Benefits Account (ABA) towards the construction of this Centre. However, potential government operational funds for activities such as early childhood and adult learning programs are looking uncertain. Instead the Government will be investing in the Childcare Centre and a new Family Centre at Yuendumu, 150kms away by rough dirt road. It has been inferred by Government staff that if people want to access child care services they may need to travel to Yuendumu.

A 2008 policy change by the NT Government has also had a significant impact on a WETT funded Warlpiri language and culture program. DET's replacement of the Bilingual Education Policy with a policy to promote English language teaching⁶ is inconsistent with the high priority Warlpiri place on supporting Warlpiri Language and Culture in schools. For the last five years WETT has funded a range of initiatives in the four Warlpiri schools including the production of bilingual resources, payments for elders to teach Warlpiri language and culture, and country visits. While the effectiveness of these projects has been varied and influenced by the extent to which they were supported by the school principals, up until October 2008 they were consistent with DET policy. Since the policy shift it has been increasingly difficult to get some schools to take these projects seriously and factor them into the curriculum in the way Warlpiri so want to see.

At the local government level, the very recent decision by the MacDonnell Shire to withdraw from delivering services to the Mutitjulu Community has put one of the largest CD projects in that community, a swimming pool, at risk. The current situation sees all levels of Government – Federal, Territory and Local – reluctant to take responsibility for delivering services in Mutitjulu, which is located in the Uluru-Kata Tjuta National Park which is run by the Australian Government under a 99 year lease. The issue for community members, who have so far allocated \$100,000 of rent money towards pool construction with the remaining required funding already secured by the CLC from the ABA, is that it is unclear which level of government is now responsible for running community services. While the Shire had indicated it may be willing to manage the pool operation it is no longer in a position to take it on. It is unclear which organisation or government could take on the pool operation and until this is resolved, and the other conditions the Park Board has placed on the pool have been met, including that the power station is upgraded at no cost to the Park, Mutitjulu children will continue to swim in rusty old water tanks and water holes that are very often polluted.

Impact of NTER on the CD Program

Since 2007, overlaying all of this has been the Commonwealth Government's Northern Territory Emergency Response (NTER) which has taken its top-down approach a step further (Howard & Brough

⁶ On 14 October 2008 the then Northern Territory Minister for Employment, Education and Training, Marion Scrymgour, announced that the first four hours of education each day would be conducted in English (Simpson, Caffery, & McConvell, 2009)

2007) . The policy has involved the Commonwealth taking over many aspects of Aboriginal people's lives and communities and legislating for 'special measures' it believed would improve the lives and futures of Aboriginal people and remote communities. These measures, enacted through a rushed legislative process that gave little or no opportunity for affected communities to have real input, largely remain in place. These changes have created an environment of confusion, mistrust and further disempowerment and marginalisation of Aboriginal people in Central Australia and indeed throughout the Northern Territory (Central Land Council 2008). Developing a community development program in this context has been particularly challenging. As the NTER Review found, people in the NT felt a great sense of injustice at the racially-based imposition of NTER measures, and the sense that Aboriginal people and their culture were responsible for problems which had arisen from decades of neglect in government service delivery (Commonwealth of Australia 2008). The ongoing implementation of the NTER continues to reduce the sense of control people feel they have over their land and their communities. This has created ongoing challenges for the CLC's CD Unit as its emphasis on increased decision-making opportunities and responsibilities for Aboriginal people is running counter to the prevailing environment of increasing external control. The contradictory trends are clear.

Who is defining benefits?

The discussion above has indicated how Aboriginal priorities and government policy are sometimes in conflict. It is clear from the experience of the CDU's projects that landowners are often prioritising projects and expenditure on infrastructure and equipment which support remote living, cultural and social priorities, including maintaining language, transmitting cultural knowledge through country visits and taking young people back to country for healing. Yet government policies are generally moving in the opposite direction with an emphasis on economic priorities, including enterprise development and employment, and in education on the teaching of English numeracy and literacy. This impasse will have to be overcome if any benefits are to be sustained and Aboriginal people are able to take responsibility for their own development with any level of governmental support. Until then, we sense that an irresolvable tussle will frustrate attempts to generate any sort of Aboriginal development – whether that reflects Aboriginal or other priorities.

It is not that priorities are so totally different – Aboriginal people are seeking education for their children and opportunities for adult education so that people can get jobs; they are seeking better health outcomes; they are also taking opportunities to generate income from arts and crafts and build economic activities - but they are doing it on their own terms. The problem is that government policies seem very often to frustrate rather than support these approaches to development. The challenge for the CLC is to find a way to promote the value of the CD work being done and the broad range of benefits that are being achieved even in the face of the average bureaucrat's standard response; 'yes, but how many people have been employed?'

But there are also different ideas within Aboriginal communities about how benefits should be judged compared to western ideas about benefits as set out in the CD literature. CD is concerned with generating broad, sustained community benefits that reach as many community members as possible particularly the most disadvantaged. This is in contrast with the way some Aboriginal community members, drawing on their own worldviews and values, make decisions about which projects to fund. For example, within the GMAAAC communities, distributing benefits is at least in part about maintaining relationships, so sharing the money around between the many community organisations that apply is important. This is not always consistent with deciding what to fund based on the potential benefit of the project to the broader community. Some people are directly focused on their personal and family relationships rather than some broader and abstract notion of 'community'. The CLC (and government) focus is on broad and sustainable benefits but these ideas are not necessarily shared by all landowners and other community residents. Communities, and landowners within them, define issues, solutions and benefits they want to see.

In contrast, the small group of Warlpiri women who have been centrally involved in the WETT Project are clearly committed to the notion of broad community benefit and creating opportunities for all Warlpiri in education and training. Whenever they present on WETT at community meetings or other public forums they make clear that they are not working for themselves or benefitting from WETT directly, rather they are doing it for all Warlpiri. The determination of these women, most of whom are school teachers and strong community leaders, to make life better for their kids and grandkids has been critical to WETT's success to date.

Careful planning versus action

Finding the right balance between careful project planning and getting initiatives happening so that benefits start flowing is a constant challenge. The CDU experience has shown that it is important to do as much planning up front as possible so that communities don't pursue projects that are ultimately not feasible or of only limited benefit. This contrasts with the desire of many community members to simply get on with doing things that they themselves may have been talking about for years and that they have no doubt prioritised as part of numerous previous planning processes. In Mutitjulu when the CDU started working with the community and their rent money, staff proposed workshopping community aspirations for the next five years at a community meeting. There was immediate reluctance by some to participate in the exercise because they had talked about what they needed many times before. What they wanted now was action, not more talk!

In other cases communities have prioritised project ideas, like building a roadhouse, and then become frustrated when CDU staff have sought to facilitate planning processes that examine the aim, objectives, risks and assumptions underpinning such ideas. Many landowners are understandably frustrated with the slow pace of change in their communities and by using their own money they want to get things happening as quickly as possible. It also seems that a common experience of participating in planning processes may be that they often don't result in any action.

The CDU is finding that it is better to focus on smaller achievable projects than taking on initiatives that are too big and will remain in the abstract planning phase for too long. Seeing tangible results encourages further engagement, whereas lengthy negotiations can be frustrating and debilitating for communities who have been seeking change for many years and are required to wait for lengthy periods before anything tangible comes out of the CD process.

Getting some runs on the board early also builds TO understanding of and support for the CDU's approach, as well as contributing to the establishment of trusting relationships which are so critical in this work. Many Aboriginal people in Central Australia are understandably sceptical at the outset about the extent to which their participation in decision-making is going to influence what happens. Several years into the Uluru Rent Money Project we sought feedback at a TO meeting on the Project. One senior TO commented, "It's good. We decide what we want to do with our money and then it happens." In this context it is certainly the case that action speaks louder than words.

Forming partnerships with capable organisations

The CLC's CD approach involves identifying a project area with a traditional owner group and then engaging an appropriate agency to be involved in further project development and project management. Implementing projects like upgrading outstations and building community stores is outside the CLC's statutory functions. When it is able to engage well governed agencies operating with a community development approach and good organisational capacity, project benefits are generally achieved and

sustained. For example, the Warlpiri Youth Development Aboriginal Corporation has received funding both under the WETT and GMAAAC Projects and with these funds provided a range of benefits in the Tanami region for young people including diversionary, education, training and employment opportunities. This is a well established and well run organisation that has been managing a range of very successful programs in the region over the last 10 years. This success is largely due to the strong emphasis on Warlpiri involvement and decision-making in all aspects of the work. Another example is the Tanami Dialysis Service being run by the WDNWPT (the Western Desert Dialysis organisation). This Aboriginal organisation grew out of the Kintore community's efforts to support dialysis patients from that community. The effective model WDNWPT has developed to design and implement a locally appropriate dialysis initiative has been adapted to the Warlpiri region and achieved similarly successful outcomes.

Conversely, where – due to a lack of an alternative – the CLC engages agencies to project manage that have either limited organisational capacity or limited commitment to Aboriginal involvement and decision-making it can be difficult to achieve identified objectives. Some agencies have expressed confusion with the notion that Aboriginal people themselves have determined what the priority is and are offering to fund the agency to co-design and then deliver a project. This is inconsistent with their usual experience whereby the agency determines what projects ought to happen and then goes out and seeks funding. Other agencies have willingly signed up to project funding agreements that require them to involve community members in the ongoing design of the project by coordinating a local working group and then made little or no attempt to ensure such local involvement. The NTER and the replacement of local councils with shires have contributed to the current lack of capable organisations to manage projects as they have arguably contributed to the demise of some functional Aboriginal organisations. When there is no better agency to take on project management the choice for landowners is either sub-optimal project management, and subsequently poor outcomes, or no project at all.

Understanding and accepting the complex nature of communities

There are many well documented barriers to community participation which are relevant in Central Australian Aboriginal communities that make engaging people in CD processes challenging. In the first instance, most people have a range of competing demands on their time and are therefore often not available to participate in the planning processes facilitated by the CLC and the many other government and non-government agencies operating in the region. People's poor health and education levels can also affect their capacity to get involved.

In many places, particularly larger communities, there is a limited 'sense of community', which can make CD work difficult. In some cases limited community cohesion can delay meeting schedules and CD processes in the community. In another case, the inability to attract government operational funding for a major project is at least in part because of the ongoing conflict within the relevant community between the two major family groups. The challenge for CD work is to find ways to work in conditions where conflicts exist in ways which 'do no harm' (Anderson 1999); as a minimum CD projects being contemplated must not exacerbate conflicts; at best, they will address the interests of all of the conflicting parties and hence help find common ground in at least one area of their lives. The scarcity of skilled and locally knowledgeable conflict mediators can delay progress; but in at least once case, we have witnessed conflict within a community ease following the success of a CD project.

Importance of appropriate communication tools

The CDU uses a broad range of communication tools and strategies to promote understanding of its CD work with the CLC's Aboriginal constituents. One of the most effective of these is the WETT DVD that was produced by Warlpiri community members in Warlpiri language as part of the WETT Youth and Media Program. In August 2008 while again trying to explain WETT to the landowners at a royalty

meeting, many of whom were confused by this still relatively new project, it occurred to CDU staff that people needed to see WETT, not hear about it; they needed tangible evidence of action, not more words. The WETT DVD has now been shown at countless meetings in the Tanami which has significantly increased the Warlpiri understanding of the project. One woman, who at the August 2008 meeting asked the CLC not to come and talk about WETT again, apologises to staff now every time she sees them for her previous lack of support for WETT which she attributes to simply not understanding what it was about. A DVD is currently being produced for the Uluru Project and a second WETT DVD updating project outcomes is currently in the pipeline.

Posters are produced for community meetings which include photos and feedback on funded projects, and a list of key decisions to be made. As well, the CDU puts out an annual newsletter covering all of its projects and stories are regularly included in the Land Rights News. Finally, meeting summaries are prepared following project committee meetings to assist members in feeding back to other community members.

The level of resourcing required

It is well documented in the literature that in order to be successful community development must be adequately resourced and timeframes must be realistic. The CDU staff has grown from two to eight full time staff. Five of these are funded as part of the CLC core operational funding from Government, although half of these are only confirmed until June 2011. The other three positions are funded by landowners as part of the WETT Project. This significant increase in resourcing has been essential as the CD workload has expanded from two to four major projects, with an additional major project about to commence. With this level of resourcing the CLC facilitates CD planning processes with up to 15 communities and outstations each year involving up to \$5 million in rent, royalty and affected areas money. Annually this process often generates in excess of 80 sub-projects.

While the CLC's CD work is only just sufficiently resourced, additional resources would enable the staff to implement a more comprehensive CD process. With additional resources, some CD officers could be based in communities, local people could be employed in each community to work alongside CLC CD officers and Alice Springs based CD officers could spend more time in communities building the capacity of governing bodies and planning projects with community members. More time in communities working alongside local co-workers would no doubt also assist with the development of trusting relationships with community members. With more funding, the CLC could afford to have trained interpreters at all meetings, rather than only being able to use them at key decision-making meetings. As well, more resources would enable the CLC to undertake more comprehensive monitoring and evaluation. With more staff to help stay on top of the project workload, more time could also be invested in strategic work including lobbying and advocating to Government on CD, and forming partnerships with agencies that may be able to support the Program such as philanthropies and corporate bodies.

This is a matter which needs considerable thought if future agreements are to build in community development opportunities. The resourcing and skills required are costly and must be provided for but it needs to be resolved who should pay for this, whether landowners must pay for it themselves or whether governments should pay to support Indigenous people in their decision making. And projects which will generate long term benefit must endure over many years, so very short-term funding is insufficient to ensure they are able to generate sustained benefits.

Conclusion

Despite the many contextual difficulties, the CLC can show that CD can work; benefits that landowners want are evident already, and seem likely to increase over time. The CLC can assist communities to

understand and maximise any possible opportunities afforded by the current Indigenous policy framework, and seek to minimise threats. However, there is a growing view that these policy initiatives will do little to encourage and achieve the more far reaching changes required. The current Central Australian context is likely to constrain the potential of the CLC's community development work, but equally it makes the need for this work even more urgent. International experience suggests that a community development approach, while sometimes slow and frustrating, can provide the foundation and tools for systemic and lasting change. The centrality of local participation in the CLC's community development approach means that it will create opportunities for Aboriginal people in Central Australia to be meaningfully involved in determining their lives and futures. Whether their decisions will immediately help in 'closing the gaps' is not the central issue: some certainly will; others reflect different priorities from those currently prioritised by governments, such as retaining and transmitting cultural knowledge and language. Thus in determining what are 'leading practice' agreements it will be important to appreciate that different systems of value are at play. From a community development perspective what is most important is that Indigenous people are the decision-makers, aware of the choices and trade-offs they can make, taking responsibility for their own decisions based on the best available information. This points to the importance of designing monitoring and evaluation strategies that use appropriate indicators to measure success based on Aboriginal priorities.

Looking more widely, if governments or others want Native Title holders or other Aboriginal communities engaged in agreement making to gain optimum benefits, the experience of the CLC's work with the financial payments element of such agreements needs to be heeded. That is, governments must recognise that it is often their own constantly changing policies and complex institutional arrangements which frustrate Aboriginal attempts to take responsibility and pursue development, even when financial payments are directed in ways intended to deliver community benefit. This may act as a disincentive to such uses of Agreement monies. There also remains a risk that governments will shift the costs of citizenship services to Aboriginal people's private funds, although there are also some small signs of Aboriginal investments leveraging additional government funding.

Secondly, financial payment arrangements which will generate community benefits in remote areas will necessitate considerable expenditure on community development staff and capable organisations to support Indigenous people to overcome decades of disempowerment and dependency and appreciate that they are able to meaningfully make decisions about their futures. Where these funds should come from remains an open question. Arguably, it is a legitimate role for government to provide such capacity development support to enable Indigenous rights-holders to maximise the benefits which can emerge from agreements based on their rights. It is also clear that more support is needed to strengthen governance, management and conflict resolution capacities in Indigenous communities to enable Indigenous people to realise their ideas successfully.

Returning to the definitions we discussed at the outset, if community development is to really succeed, Indigenous communities need to be able, in Kenny's words, to 'identify and address their own issues, needs and problems within their own terms of reference'. They must also, as she says, 'develop a belief that they actually can collectively control their lives'. Under present conditions, neither of these criteria is easily met in Central Australia, and the power shift which community development and empowerment requires is hard to achieve in the current policy environment. The overwhelming experience of 'deep dependency' of Aboriginal people which past and current policies have created cannot be overcome overnight. The CLC's community development work has given us a glimpse of what is possible through applying financial payments from land use agreements to community development purposes, but there remains a long way to go. These projects demonstrate that Aboriginal people are more than capable of making sound development decisions which reflect their aspirations, given the right opportunities. The wider challenge of changing power relations between Aboriginal people, governments and other players

in Central Australia , enabling them to do more of this with the far greater resources governments have at their disposal, remains.

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