



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Public Accounts Committee

Inquiry into the Local Decision Making Framework

May 2023

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Chair's Preface

The NT Government's Local Decision Making Framework is a policy commitment that seeks to empower Aboriginal people by returning decision making power to communities, giving them greater input into how programs and services are delivered and, in some instances, transitioning the delivery of programs and services to community control.

The Committee found there was considerable support for the principles underpinning the Framework and the Government's commitment to transform the way it works with Aboriginal communities. However, the evidence provided by stakeholders illustrated there are some concerns about the Framework and how it is being implemented which are detailed in this report. The Committee has made a number of recommendations to the Government regarding Local Decision Making and the coordination and implementation of Aboriginal Affairs policies more broadly.

The Committee travelled to a number of remote communities and met with stakeholder organisations and community members to seek feedback on their experiences with Local Decision Making. These visits provided the Committee with insights that could not have been gained through only reading submissions and holding public hearings in Darwin. One of the key takeaway messages for the Committee was the need for governments and Aboriginal communities to not only work together, but to learn from each other as well. This was emphasised by a community member in Yirrkala who told the Committee:

If you go out fishing, you've got hook, sinker. If that hook and sinker all gone, what is the next thing you can catch the fish? Nothing. Come and get the teaching from the Yolngu. Hey? When you have no hook, no sinker, you have the special very important material with you—it's the spear. Hey?

That is how we have to work together. If you are on your own and you will see the fish swim, how can I get that because I have no hook here and no sinker? How will I get the fish? That is why you will have to come and get the teaching from the Yolngu. They will show you how to make that spear. That is your next thing to catch the fish.

The Committee is hopeful that this inquiry has raised awareness of Local Decision Making and that the Committee's work will contribute to tangible outcomes and improvements in the lives of Aboriginal people, particularly those living in regional and remote areas.

On behalf of the Committee, I thank all those who assisted the Committee through making submissions, appearing at public hearings and speaking to the Committee during community visits. I thank the Member for Mulka, Mr Yingiya Guyula MLA, for his keen interest and participation in this inquiry despite not being a member of the Public Accounts Committee. I also thank my fellow Committee Members for their contributions to the inquiry. I acknowledge the significant contribution made by the former Member for Arafura, Mr Costa, who participated in the inquiry from its outset, however, sadly passed away in December 2022.




Joel Bowden MLA

Chair

Committee Members

	Mr Joel Bowden MLA: Member for Johnston	
	Party	Territory Labor
	Committee Membership	
	Standing	Public Accounts (Chair) Legal and Constitutional Affairs House (Deputy Chair)
	Mr Brent Potter MLA: Member for Fannie Bay	
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	Select	Electronic Cigarettes and Personal Vaporisers (Vaping) (Deputy Chair)
	On 22 August 2022 the Member for Fong Lim, Hon Mark Monaghan MLA, was discharged from the Committee and the Member for Fannie Bay, Mr Brent Potter MLA, was appointed. Following the passing of the former Member for Arafura, on 10 February 2023 the Member for Daly, Mr Dheran Young MLA, was appointed to the Committee.	

Inquiry Member

	Mr Yingiya Mark Guyula MLA: Member for Mulka	
	Party	Independent
	Committee Membership	

Note: in May 2021, the Assembly resolved to suspend Standing Order 193(2) insofar as it would otherwise prevent the Member for Mulka attending the Public Accounts Committee's deliberative or in camera meetings regarding any inquiry into Local Decision Making or related matters.

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Acknowledgments

The Committee acknowledges the individuals and organisations that provided written submissions and attended the public hearings to provide evidence. The Committee expresses its sincere thanks to all the community members and organisations that participated in the hearings outside of Darwin and appreciates their willingness to share their experiences through frank and open discussions.

Acronyms and Abbreviations

AHAC	Anindilyakwa Housing Aboriginal Corporation
AJA	Aboriginal Justice Agreement
ALC	Anindilyakwa Land Council
APO NT	Aboriginal Peak Organisations of the Northern Territory
ARDS	Aboriginal Resource and Development Services Aboriginal Corporation
COAG	Council of Australian Governments
DCMC	Department of the Chief Minister and Cabinet
GEBIPCAC	Groote Eylandt Bickerton Island Primary College Aboriginal Corporation
GRAC	Green River Aboriginal Corporation
LDM	Local Decision Making
LGANT	Local Government Association of the Northern Territory
NTG	Northern Territory Government

Terms of Reference

The Public Accounts Committee will inquire into and report on the implementation and future of the Local Decision Making (LDM) Framework, having particular regard to:

1. the progress, achievements, challenges and future potential of LDM implementation across the Northern Territory
2. how to foster community and leadership interest in and commitment to new LDM agreements
3. the impact of technology, Treaty, Truth-Telling and Voice on LDM development.

Recommendations

Recommendation 1

The Committee recommends that the Government publish the findings of the joint review of the Local Decision Making Framework to be conducted by the Government and the Aboriginal Peak Organisations of the Northern Territory.

Recommendation 2

The Committee recommends that, as part of the review of the Local Decision Making Framework, the Government update the Local Decision Making resources so that they better assist public stakeholders' understanding of the Framework.

Recommendation 3

The Committee recommends that the Government improve engagement with the Local Government Association of the Northern Territory and regional councils, and define the role of regional councils within Local Decision Making and explore the viability of community councils within the local government structure, to build a stronger collaborative approach in the development and implementation of Local Decision Making agreements.

Recommendation 4

The Committee recommends that the Government review Commonwealth and Northern Territory Aboriginal Affairs policies and programs to identify and reduce duplication in responsibilities and service delivery.

Recommendation 5

The Committee recommends that the Government develop a more inclusive governance approach across all levels of government and peak body stakeholders that supports collaborative planning, improved coordination and integration, effective engagement and reduces duplication of effort and community participation fatigue.

Recommendation 6

The Committee recommends that the Government allocate adequate funding to agencies and non-government organisations to more effectively engage with communities to negotiate and implement Local Decision Making agreements.

Recommendation 7

The Committee recommends that the Government invest in change management across the whole of government to ensure that the principles underpinning Local Decision Making are embedded in the policies, programs and service delivery of every agency.

Recommendation 8

The Committee recommends that the Government publish an annual update detailing the status and progress of Local Decision Making negotiations and implementation of agreements including information on the work being undertaken by all NT government agencies.

1 Introduction

Background to the Inquiry

- 1.1 In May 2021, the Committee invited representatives from the Department of the Chief Minister and Cabinet (DCMC) to brief the Committee on the Government's Local Decision Making (LDM) Framework.
- 1.2 In anticipation of the Committee initiating an inquiry, the Assembly resolved that:

Standing Order 193 (2) is suspended insofar as it would otherwise prevent the Member for Mulka [Mr Yingiya Mark Guyula MLA] attending the Public Accounts Committee's deliberative or in camera meetings regarding any inquiry into Local Decision Making or related matters.¹
- 1.3 On 10 June 2021, the Committee resolved to undertake an Inquiry into Local Decision Making in accordance with the following terms of reference:

The Public Accounts Committee will inquire into and report on the implementation and future of the Local Decision Making (LDM) Framework, having particular regard to:

 1. the progress, achievements, challenges and future potential of LDM implementation across the Northern Territory
 2. how to foster community and leadership interest in and commitment to new LDM agreements
 3. the impact of technology, Treaty, Truth-Telling and Voice on LDM development.

Conduct of the Inquiry

- 1.4 On 11 June 2021, the Committee called for submissions by 13 August 2021. The call for submissions was advertised via the Legislative Assembly website, Facebook, Twitter and email subscription service. In addition, the Committee directly contacted a number of individuals and organisations to seek submissions.
- 1.5 As detailed in Appendix 1, the Committee received 29 submissions to the inquiry. The Committee held seven public hearings in various locations across the Northern Territory as listed below.²
 - 16-17 September 2021 – Darwin
 - 4 October 2021 – Alice Springs
 - 27 October 2022 – Yirrkala
 - 28 October 2022 – Alyangula
 - 2 December 2022 – Darwin

¹ Northern Territory, Legislative Assembly, *Minutes of Proceedings*, 12 May 2021, <https://territorystories.nt.gov.au/10070/831648/0/1>

² Appendix 2 provides details of the organisations and witnesses that appeared at the hearings and links to the transcripts.

- 17 February 2023 – Darwin
- 1.6 The Committee had intended to travel to each region across the Territory to meet with organisations and community members. In February 2022, the Committee resolved to defer any activity in relation to the inquiry until July 2022 due to COVID-19 related travel restrictions. The travel restrictions limited the amount of travel the Committee was able to undertake over the course of the inquiry and delayed the progress of the inquiry. A number of visits to remote communities were also cancelled due to unforeseen sorry business.

Report Structure

- 1.7 Chapter 2 provides an overview of Northern Territory and Commonwealth Aboriginal Affairs policies and a history of local government reforms.
- 1.8 Chapter 3 outlines the Local Decision Making Framework.
- 1.9 Chapter 4 provides an overview of the LDM agreements and implementation plans in place and case studies of the communities visited by the Committee.
- 1.10 Chapter 5 details the issues raised in submissions and public hearings over the course of the inquiry.
- 1.11 Chapter 6 summarises the key issues raised in evidence and contains the Committee's findings and recommendations on how LDM can be improved.

2 Policy Context

Northern Territory Aboriginal Affairs Strategy

- 2.1 Officially launched in March 2020, the Northern Territory's *Everyone Together Aboriginal Affairs Strategy 2019-2029* provides:

a way for the Northern Territory (NT) Government to reshape how it works with Aboriginal Territorians to support community aspirations and achieve better outcomes. The strategy is focussed on Aboriginal families, children and communities and reflects the importance of ensuring that people and place are at the centre of government policy design and service delivery, and are empowered to determine their own futures.³

- 2.2 The strategy incorporates three guiding principles of Healing, Respect and Engagement and covers 10 focus areas that highlight where the NT Government needs to improve outcomes for Aboriginal Territorians.⁴ Along with Treaty and the Remote Engagement and Coordination Strategy, the Local Decision Making Framework is a primary initiative within the Truth and Healing focus area.⁵ Together these initiatives aim to empower Aboriginal Territorians to 'participate in and lead decision making through the recognition and celebration of Aboriginal people, history and culture.'⁶ As detailed in the following chapter, LDM recognises that:

building and investing in strong Aboriginal governance and solutions are led by local people through an Aboriginal-led community-based decision making. It is a 10-year commitment to transfer, where possible, government service delivery to Aboriginal organisations based on the particular community's aspirations.⁷

- 2.3 Developed in response to extensive consultations with NT government agencies, non-government organisations and Aboriginal communities over a 12 month period between 2017 and 2018, LDM underpins the Government's 'ambitious agenda to transform the relationship it has with Aboriginal Territorians in order to support self-determination.'⁸ The ambitious nature of *Everyone Together* and LDM should not be underestimated. It is widely acknowledged that no matter how well-intentioned, Aboriginal policies over the past 50 years, including those that purport to facilitate and support self-determination, have invariably entailed the implementation of top-down, paternalistic approaches that 'ultimately fail to recognise and support Indigenous Australians as functioning sovereign beings'.⁹
- 2.4 Indeed, the submission from the NT Government notes that LDM seeks to

³ Office of Aboriginal Affairs, 'Aboriginal Affairs Strategy', <https://aboriginalaffairs.nt.gov.au/our-priorities/aboriginal-affairs-strategy>

⁴ Office of Aboriginal Affairs, *Everyone Together Aboriginal Affairs Strategy 2019-2029*, Northern Territory Government, Darwin, March 2020, p. 6 & pp. 11-19.

⁵ Office of Aboriginal Affairs, *Everyone Together Aboriginal Affairs Strategy 2019-2029*, p. 11.

⁶ Office of Aboriginal Affairs, *Everyone Together Aboriginal Affairs Strategy 2019-2029*, p. 11.

⁷ Office of Aboriginal Affairs, *Everyone Together Aboriginal Affairs Strategy 2019-2029*, p. 11.

⁸ Northern Territory Government, *Local Decision Making Framework Policy*, 2018, p. 5, https://ldm.nt.gov.au/_data/assets/pdf_file/0006/791358/ldm-policy.pdf

⁹ E Jeffes, 'Who knows best? Paternalism in Aboriginal Policy', in *NEW: Emerging Scholars in Australian Indigenous Studies*, vol. 5 no. 1, 2019, p. 1, <https://epress.lib.uts.edu.au/student-journals/index.php/NESAIS/issue/view/125>

respond to consistent messaging from Aboriginal communities that government policies and legislative reforms, such as the Commonwealth's Northern Territory National Emergency Response (the Intervention), the subsequent Stronger Futures in the Northern Territory legislation, and the NT Government's reform of local government structures, have been particularly disempowering.¹⁰

- 2.5 With regards to Commonwealth policies, the Chair of the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs, Senator Patrick Dodson, recently stated that:

over the past 15 years, [Aboriginal people's] right to self-determination has been deliberately denied by governments of all stripes. The Northern Territory National Emergency Response and the Stronger Futures in the Northern Territory Acts were both legislative means of structurally disempowering remote Aboriginal communities in the NT. Through these policy regimes, governments have destabilised, disempowered, and disoriented Aboriginal communities. Governments have taken away community power and instead made them dependent on government for survival and have done so with little to no accountability.¹¹

- 2.6 Similar sentiments have been expressed regarding the amalgamation of community councils in remote Aboriginal communities of the Northern Territory. As noted by the Northern Territory Treaty Commission:

by centralising decision-making over large regional areas, it limited local area decision-making. ... the shire model imposed a single top-down system of local government over large areas of land which was not culturally relevant, and which was far too focused on regionalisation. It has left First Nations Territorians in remote areas with inadequate capacity to make decisions about matters affecting their lives ... First Nations communities across the NT have generally experienced the Shire Model as an undermining of community control.¹²

- 2.7 The impact of these policies on Aboriginal communities and the resulting distrust of government was further exacerbated by the fact that the 2006-2008 local government reform process coincided with the Intervention which commenced in 2007. As the Aboriginal and Torres Strait Islander Social Justice Commissioner pointed out in his 2012 report:

the local government reforms and the Intervention measures were introduced by different levels of government, but were indistinguishable to many community members. The cumulative effects of these policies disempowered communities and the nature of the interrelated impacts must be understood together.¹³

- 2.8 Importantly, any assessment of the implementation and future of LDM should also be cognisant of how government policies have impacted Aboriginal communities and ultimately shaped the LDM operational environment. As such,

¹⁰ Northern Territory Government, Submission No. 24, 2021, p. 2.

¹¹ Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Inquiry into community safety, support services and job opportunities in the Northern Territory*, Parliament of Australia, Canberra, February 2023, p. vii.

¹² Northern Territory Treaty Commission, *Final Report*, Australian Centre of Excellence for Local Government, Broadway NSW, 29 June 2022, p. 156.

¹³ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2012*, Australian Human Rights Commission, Sydney, 2012, p. 124.

the following discussion briefly examines the aforementioned policy reforms relating to local government structures in the Northern Territory, the Intervention, and Stronger Futures measures which combined have been said to have ‘caused significant damage to the governance capacity of remote communities in the Northern Territory.’¹⁴ Finally, the refreshed Closing the Gap strategy is considered in relation to its alignment with the *Everyone Together Aboriginal Affairs Strategy* and LDM.

Local Government Reform in the Northern Territory

2.9 The evolution of local government in the Northern Territory has been influenced by Aboriginal Affairs policy settings, national local government and micro economic reform agendas, and the unique circumstances of the local government sector in the Northern Territory. The following discussion provides a brief overview of the development of local government in the Northern Territory and the ways in which it has affected the governance capacity of remote Aboriginal communities.

2.10 At the time of Self-Government in 1978, the Northern Territory had just four municipal councils: Darwin, incorporated in 1957; Alice Springs, incorporated in 1971; Katherine and Tennant Creek, both incorporated in 1977. Up until 1977, municipal services within urban centres and services to communities without local government were provided by Commonwealth government agencies.¹⁵ To facilitate the delivery of local government services across the Northern Territory following Self-Government, the *Local Government Act 1978* (LGA) provided for both municipal councils and the development of flexible, community government schemes in small and remote communities of the NT.¹⁶ As the government of the day pointed out:

Aboriginal people constitute 69.4% of the population of remote communities in the Territory. The social structure of the communities is influenced by family groups, Aboriginal culture and laws. Because of the differences amongst Aboriginal communities, any form of local government adopted by them needs to be tailored to suit the unique needs of each, and to take into account the capacity of the communities to provide local government services to their constituents.¹⁷

2.11 Underpinned by policy aims of self-determination, the community government council model focussed on community-led decision making and reflected the ‘prevailing view that Aboriginal communities should have as much autonomy as possible in running their own affairs.’¹⁸ To this end, the LGA provided that

¹⁴ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2012*, p. 140.

¹⁵ Department of Housing and Local Government, *Focus for Change: Strategic Planning for Local Government in the Northern Territory*, Northern Territory Government, Darwin, January 1997, p. 9, <https://territorystories.nt.gov.au/10070/403983>

¹⁶ Department of Lands, Housing and Local Government, *Local Government in the 1990s*, Northern Territory Government, Darwin, December 1993, p. 2; see also *Local Government Act 1978* (NT), Part XX, <https://legislation.nt.gov.au/en/Bills/Local-Government-Bill-No-4-1978-S-173?format=assented>

¹⁷ Department of Lands, Housing and Local Government, *Local Government in the 1990s*, p. 2.

¹⁸ Northern Territory Treaty Commission, *Final Report*, Australian Centre of Excellence for Local Government, Broadway NSW, 29 June 2022, p. 153.

community government schemes could make provision for, or in relation to, the performance of functions regarding:

- (a) commercial development;
- (b) communications;
- (c) community amenities;
- (d) education or training;
- (e) electricity supply;
- (f) garbage collection and disposal;
- (g) health;
- (h) housing;
- (i) relief work for unemployed persons;
- (j) roads and associated works;
- (k) sewerage;
- (l) water supply; or
- (m) welfare.¹⁹

2.12 The general competence philosophy of the LGA meant that the legislation was worded in such a way as to:

provide councils with considerable discretion in the range of functions each may undertake to perform, and the manner in which those functions are performed. Provided that, in exercising a power or performing a function, a council does not breach the Act or other laws of the Commonwealth or Territory, it may set its own standards of service delivery.²⁰

2.13 A number of Aboriginal community-based organisations incorporated under the Commonwealth's *Aboriginal Councils and Associations Act 1976* or the Territory's *Association and Incorporation Act 1978*, were also providing municipal-type services outside formally incorporated local government areas. While the Government actively encouraged these associations to consider incorporation as community government councils, in the late 1980s the LGA was amended to recognise both community government councils and 'association councils' (community councils) as local governing bodies. As such, both were eligible for Commonwealth and Northern Territory local government funding.²¹

2.14 Initially, uptake of the community government option was quite slow. In August 1989, the Minister for Local Government advised the Legislative Assembly that:

At present, 14 community government councils are established in the Northern Territory ... Another 17 communities are considering establishing their own councils. ... some communities have been considering community government for a long time. That is a process which this government considers to be extremely important. It is the policy of the Northern Territory Government not to rush communities into taking on community government.

¹⁹ *Local Government Act 1978* (NT), s 454, <https://legislation.nt.gov.au/en/Bills/Local-Government-Bill-No-4-1978-S-173?format=assented>

²⁰ Department of Lands, Housing and Local Government, *Local Government in the 1990s*, p. 4.

²¹ W Sanders, *Local Governments and Indigenous Interests in Australia's Northern Territory*, Centre for Aboriginal Economic Policy Research, Canberra, December 2006, p. 3, [CAEPR Discussion Paper No. 285/2006 \(anu.edu.au\)](https://www.caepr.anu.edu.au/publications/285/2006)

They must proceed at their own pace to ensure that community government is really what they want.²²

- 2.15 The municipalities of Litchfield and Palmerston and the special purpose town council of Jabiru were also established during the 1980s. Another 18 community government councils were established during the 1990s. By 2006, when the government announced its intention to establish 'a new framework for local government',²³ the sector included 56 community councils – 30 community government schemes and 26 association councils.²⁴ In 2006-07, the median population of the community councils was estimated to be 475.²⁵
- 2.16 While the vast majority of the community government schemes were 'small, single locality, contiguous area incorporations',²⁶ there were two notable exceptions. In 1988, the Yugul Mangi council located in South East Arnhem Land was the first multi-settlement incorporation of 'eight non-contiguous land areas and their associated discrete Indigenous communities.'²⁷ In 1993, the Anmatjere Council located in Central Australia was also established as a multi-settlement incorporation involving 'nine small discrete Indigenous living areas'.²⁸
- 2.17 In the absence of other community service providers in remote communities, community councils were often, by default, government service delivery agents of last resort. In addition to local government functions, they performed a range of functions on an agency basis for the Commonwealth and Territory governments. This included a disparate mix of services such as aged and child care, Community Development Employment Programs (CDEP), management of community stores, postal services, Centrelink front counter services, community safety responsibilities (including night patrol and safe houses management), and airstrip management and maintenance.²⁹
- 2.18 In addition, community councils commonly accepted broader responsibilities relating to community management activities such as the provision of 'emergency loans, internet access, organising travel, organising funerals and other miscellaneous tasks.'³⁰ The many and varied roles these councils played in relation to service delivery, dispute resolution, cultural leadership, advocacy and government interface, served to make them a central institution in communities:

They had control over community priorities and the manner in which services

²² Northern Territory, Legislative Assembly, *Debates*, 23 August 1989, p. 6722, <https://territorystories.nt.gov.au/10070/699441>

²³ E McAdam (Minister for Local Government), *Local Government Blueprint for the Future Announced*, Media Release, 11 October 2006, <https://territorystories.nt.gov.au/10070/350549>

²⁴ W Sanders, *Local Governments and Indigenous Interests in Australia's Northern Territory*, p. 3.

²⁵ T Michel, R Gerritsen and I Thyne, *Northern Territory Scoping Study*, Australian Centre of Excellence for Local Government, August 2010, p. 8, <https://opus.lib.uts.edu.au/bitstream/10453/42068/3/RRI-NT-Scoping-Study.pdf>

²⁶ W Sanders, *Local Governments and Indigenous Interests in Australia's Northern Territory*, p. 3.

²⁷ W Sanders, *Local Governments and Indigenous Interests in Australia's Northern Territory*, p. 3.

²⁸ W Sanders, *Local Governments and Indigenous Interests in Australia's Northern Territory*, p. 3.

²⁹ T Michel, R Gerritsen and I Thyne, *Northern Territory Scoping Study*, p. 9; Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2012*, p. 128.

³⁰ Dr M Limerick, Dr R Morris and M Sutton, *Local Government Service Delivery to Remote Indigenous Communities*, Australian Centre of Excellence for Local Government, May 2012, p. 68, <https://opus.lib.uts.edu.au/handle/10453/42097>

were delivered; and they had the authority to make a wide range of decisions ordinarily outside the remit of local councils. ...

They had developed over time in response to specific needs and as such communities felt the structures provided a certain amount of community control and ownership. In fact communities had come to accept the Community Councils as formal decision-makers, representatives to government and service deliverers of the community.

Because of this broad role, there is a need to look beyond the administrative role and the narrow economics of Community Councils when assessing them. The community reliance and attachment to their local organisation is an expression of Aboriginal and Torres Strait Islander cultural identity within Australian society.³¹

2.19 However, for many community councils the increasingly complex operational environment proved to be extremely challenging. Their limited revenue raising capacity meant that they were highly reliant upon Territory and Commonwealth funding in the form of operational subsidies, grants and invoiced services for nearly all of their operations.³² Given the additional costs associated with service delivery in remote communities, funding from relevant agencies was often inadequate and under-resourcing, more generally, relative to their responsibilities was an ongoing issue of concern.³³ The administration of multiple service agreements and grants, coupled with increasing accountability requirements from both the Commonwealth and Territory governments, also put significant strain on their often limited administrative and management capacity, and exacerbated the need for and ability to retain appropriately qualified staff.³⁴

2.20 The challenges facing community councils and the national reform objectives of the early 1990s, focussing on achieving economies of scale, efficiency, effectiveness and accountability in the local government sector, informed a ten year period of local government reform that would ultimately result in the 2008 establishment of:

a new framework for local government based on a system of municipals and regional shires operating across the whole of the Territory under an amended *Local Government Act*.³⁵

2.21 In December 1993, the Government launched the discussion paper *Local Government in the 1990s*. With a view to developing a broad future directions strategy for local government, submissions were sought on a range of potential initiatives relating to identified issues of significance to the future of local government. These included: constitutional recognition, roles and functions, management, community development and community planning, Town Camps, accountability, funding eligibility, revenue options, association

³¹ Aboriginal and Torres Strait Islander Social Justice Commissioner, Social Justice Report 2012, p. 127.

³² Department of Lands, Housing and Local Government, *Local Government in the 1990s*, p. 17.

³³ T Michel, R Gerritsen and I Thyne, *Northern Territory Scoping Study*, pp. 9-10.

³⁴ Northern Territory, Legislative Assembly, *Debates*, 7 March 2002, p. 1112, <https://territorystories.nt.gov.au/10070/421049>

³⁵ E McAdam (Minister for Local Government), *Local Government Blueprint for the Future Announced*.

councils/community government, external boundaries, environmental management, and training.³⁶

- 2.22 Released in January 1997, the subsequent strategy document, *Focus for Change: Strategic Planning for Local Government in the Northern Territory*³⁷ contained 'an integrated package of proposed initiatives and reforms for the development of local government in the Northern Territory over the next three to five years.'³⁸

The proposals include measures to assist productivity through increased efficiencies. There are suggested measures to increase the stability and management capacity through training, funding and enhanced communications. And other proposals aim to promote cooperative arrangements between councils for a sharing of resources and the achievement of social and economic goals of mutual benefit.³⁹

- 2.23 Given the trend elsewhere in Australia of forced amalgamations as the primary means of achieving the national reform objectives, the 1993 discussion paper raised the question:

Should small and remote communities be integrated within large shire structures or should economies of scale be foregone in the interests of community and cultural identity? Can the two principles be accommodated within a system of continuing complexity?⁴⁰

- 2.24 Although the *Focus for Change* strategy did not specifically refer to the amalgamation of councils, it did promote the development of a more regional approach to service delivery in remote areas. For example, it was suggested that cooperative arrangements between councils could provide opportunities for:

- social and economic benefits as a result of trade practices which maximise employment and skills development, encourage industrial growth and allow for the local retention of funds;
- savings in terms of joint ownership of plant and equipment (road construction and maintenance etc.);
- benefits as a result of economies of scale in purchasing;
- joint enterprises. (ie. clubs, stores, transport, fishing, tourism etc.);
- economies in terms of staffing and expertise as a result of amalgamated administrative arrangements (ie. councils could remain independent, despite the merging of their respective administrations); and
- economies as a result of shared arrangements with respect to the provision of local government services as well as programs. These might also extend to the management and operation of social programs,

³⁶ Department of Lands, Housing and Local Government, *Local Government in the 1990s*, pp. 10-22.

³⁷ Department of Housing and Local Government, *Focus for Change: Strategic Planning for Local Government in the Northern Territory*, Northern Territory Government, Darwin, January 1997, pp. 17-18.

³⁸ M Palmer (Minister for Local Government), *Ministerial Statement: Strategic Directions for Local Government in the Northern Territory*, February 1997, p. 4, <https://territorystories.nt.gov.au/10070/403368>

³⁹ M Palmer (Minister for Local Government), *Ministerial Statement: Strategic Directions for Local Government in the Northern Territory*, pp. 4-5.

⁴⁰ Department of Lands, Housing and Local Government, *Local Government in the 1990s*, p. 7.

including those targeted at women and youth etc. as well as community justice arrangements.⁴¹

- 2.25 As such, while maintaining support for the community government model, the strategy actively promoted multi-settlement incorporations:

the establishment of smaller individual councils in close proximity to each other will not be encouraged. Such small neighbouring communities ... will be encouraged to make cooperative arrangements with each other for their mutual benefit.⁴²

- 2.26 Two years later in 1999, the Government stepped up its push for regionalisation and voluntary amalgamations under its 'Reform and Development Agenda'⁴³ noting that:

A key issue for the government is the sustainability of local government in rural and remote areas. It is the government's view that there should eventually be fewer councils in the Territory. These councils should ideally provide access to services for the entire Territory population. The government has no specific number of councils in mind. ... Similarly, no minimum population has been set. It seems, though, that councils with a population of less than about 2,000 people encounter greater difficulties in maintaining adequate levels of administration and service delivery over the long term than those with larger populations.⁴⁴

- 2.27 As highlighted by the Northern Territory Treaty Commission, moves towards mainstreaming and regionalisation of local government in the Northern Territory also reflected changes in Aboriginal Affairs policy settings at the Commonwealth level:

From 1996, the Commonwealth dismantled policies underpinned by self-determination because it saw the broad program as a failure, although this was not the view of many researchers in this area. Instead it focussed on programs of limited indigenous 'self-management'. In 2002, the Commonwealth explicitly rejected the principle of self-determination and committed itself only to the principle of indigenous people having opportunities to exercise control over aspects of their affairs.⁴⁵

- 2.28 Regionalisation through amalgamation was also pursued under the subsequent 2003 'Building Stronger Regions, Stronger Futures' policy with the introduction of the regional authority proposal:

The regional authority proposal allows for the voluntary establishment of a representative structure which will have the authority, economies of scale and legislative force to carry a full range of functions currently available under the local government legislation. The range of functions will also include those which might be negotiated under outcome focussed regional agreements with the Territory and Commonwealth governments and other statutory authorities such as ATSIC.⁴⁶

⁴¹ Department of Housing and Local Government, *Focus for Change: Strategic Planning for Local Government in the Northern Territory*, pp.17-18.

⁴² M Palmer (Minister for Local Government), *Ministerial Statement: Strategic Directions for Local Government in the Northern Territory*, p. 14.

⁴³ Northern Territory Treaty Commission, *Final Report*, p. 154.

⁴⁴ Northern Territory, Legislative Assembly, *Debates*, 17 February 1999, p. 2772, <https://territorystories.nt.gov.au/10070/419404>

⁴⁵ Northern Territory Treaty Commission, *Final Report*, p. 153.

⁴⁶ Department of Community Development, Sport and Cultural Affairs, *Building Stronger Regions Stronger Futures*, Northern Territory Government, Darwin, May 2003, p. 11.

- 2.29 While successive governments between 1997 and 2006 actively encouraged the voluntary amalgamation of community councils, the policy had limited success. In 2001, the Tiwi Islands Regional Council was established through the amalgamation of three former single settlement community councils. Similarly, in 2003, the Nyirranggulung Mardruk Ngadberre Regional Council replaced three existing community councils.⁴⁷
- 2.30 Dissatisfied with the progress of regionalisation through voluntary amalgamations, in October 2006 the Government announced its intention to compulsorily amalgamate all non-municipal councils into nine regional shires by 1 July 2008.⁴⁸ In a subsequent speech, the Minister for Local Government outlined the shortcomings of the Territory's local government sector. Citing a multi-year risk assessment audit undertaken by the Department of Local Government that found 50 percent of community councils were deemed to be high risk or dysfunctional, the Minister noted:
- the failure of small councils to live up to the growing administrative, governance and service delivery expectations; the crippling high turnover rate of managerial staff; and the ever-present instances of gross financial mismanagement.⁴⁹
- 2.31 Following significant opposition from residents in the Litchfield municipality, in February 2008 the Government decided against creating a Top End shire.⁵⁰ At 1 July 2008, the Territory's local government sector included the five non-amalgamated municipal councils (Alice Springs, Darwin, Katherine, Litchfield and Palmerston), eight regional shire councils (Barkly, Central Desert, East Arnhem, MacDonnell, Roper Gulf, Tiwi Islands, Victoria Daly and West Arnhem), and three community government councils that had originally been included in the proposed Top End shire (Coomalie, Belyuen and Wagait).⁵¹
- 2.32 Regionalisation and the attendant loss of what had become a central institution in remote communities impacted Aboriginal people in a number of ways. First and foremost, the move to centralised decision making over large regional areas inevitably limited local area decision making.⁵² Similarly, centralised control of service delivery has been described as a 'capacity-diminishing step for communities.'⁵³ As noted by the Northern Territory Treaty Commission:

the shire model imposed a single top-down system of local government over large areas of land which was not culturally relevant, and which was far too focused on regionalisation. It has left First Nations Territorians in remote areas with inadequate capacity to make decisions about matters affecting

⁴⁷ W Sanders and S Holcombe, 'Sustainable governance for small desert settlements: learning from the multi-settlement regionalism of Anmatjere Community Government Council, in *The Rangeland Journal*, 2008, vol. 30, p. 138.

⁴⁸ E. McAdam (Minister for Local Government), *Local Government Blueprint for the Future Announced*.

⁴⁹ M Thomas and A Taylor, 'Death by a Thousand Grants? The Challenge of Grant Funding Reliance for Local Government Councils in the Northern Territory of Australia', in *Local Government Studies*, vol. 38 (4), 1 August 2012, p. 5, <http://dx.doi.org/10.1080/03003930.2012.666212>

⁵⁰ ABC News, *Local govt reformer resigns over scrapping of super-shire plan*, 12 February 2008, <https://www.abc.net.au/news/2008-02-12/local-govt-reformer-resigns-over-scrapping-of/1040388>

⁵¹ T Michel, R Gerritsen and I Thyne, *Northern Territory Scoping Study*, pp. 12-13.

⁵² Northern Territory Treaty Commission, *Final Report*, p. 156.

⁵³ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2012*, p. 138.

their lives ...

First Nations communities across the NT have generally experienced the Shire Model as an undermining of community control. ... and ignores the aspirations of First Nations Territorians, and particularly those in remote and very remote areas. The Central Land Council has argued that most Aboriginal people in the (CLC) region viewed local government amalgamation as an attempt by the NTG to increase its influence and control over Aboriginal communities.⁵⁴

- 2.33 In an attempt to ensure that communities were not disenfranchised or excluded from local government processes by the reforms, the *Local Government Act 2008* provided for the optional establishment of local boards as advisory bodies to the shires.⁵⁵ However, the local board system proved to be 'an inadequate replacement for community councils and lacked legitimacy in the eyes of the community'.⁵⁶
- 2.34 Unlike the community councils, local boards had no decision making powers or financial delegations, no control over service delivery, and no service delivery functions. Members were unpaid and appointed by the shire as opposed to being paid, elected members. While community councils had a very broad remit, often encompassing a range of community management activities, the remit of local boards was restricted to local government business.⁵⁷
- 2.35 Similarly, while community councils had a significant amount of autonomy, local boards were subject to the control of the shire. It was also the case that there was no legislative requirement for the shires to consider or follow local board advice.⁵⁸ As the only mechanism for remote community decision making under the shires model, some considered that local boards did not provide an appropriate substitute for the broader governance functions previously undertaken by community councils.⁵⁹
- 2.36 Additional local government reforms were introduced in 2012. In response to community dissatisfaction with the local boards system, in August 2013 the Local Government Amendment Bill sought to 'strengthen the existing local governance arrangements in regional and remote areas'.⁶⁰ On the basis of feedback received, it was noted that:
- local governments in regionals and remote areas have not provided a voice for communities to influence or play a vital role in their governance.⁶¹
- 2.37 The legislation was subsequently amended to provide for a new category of 'regional councils' and the establishment of 'local authorities':

⁵⁴ Northern Territory Treaty Commission, *Final Report*, p. 156.

⁵⁵ *Local Government Act* (NT) 2008, Part 5.1

⁵⁶ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2012*, p. 133.

⁵⁷ *Local Government Act* (NT) 2008, Part 5.1

⁵⁸ *Local Government Act* (NT) 2008, Part 5.1

⁵⁹ Dr M Limerick, Dr R Morris & M Sutton, *Local Government Service Delivery to Remote Indigenous Communities*, p. 19.

⁶⁰ Northern Territory, Legislative Assembly, *Debates*, 21 August 2013, p. 1995, <https://territorystories.nt.gov.au/10070/438533>

⁶¹ Northern Territory, Legislative Assembly, *Debates*, 21 August 2013, p. 1995, <https://territorystories.nt.gov.au/10070/438533>

Regional councils will have similar functions, roles and responsibilities to municipal and shire councils. However, unlike municipal and shire councils, regional councils will have local authorities. Local authorities will bring the voice of communities to the council table. They will have an active role in council decision-making including budget decisions. ...Local authorities will have a direct role in community planning which will contribute to the plan of a regional council.⁶²

2.38 The primary role of the local authorities was the same as that of the local boards to 'improve and enhance community involvement in local governance structures'.⁶³ As outlined below, since the new legislative provisions differed little to those for local boards, they were subject to the same criticisms. Similar to local boards, establishing local authorities was optional. However, the legislation now provided for the Minister to identify by *Gazette* notice, 'a regional council that must establish and maintain one or more local authorities.' As well as the functions of the pre-existing local boards, local authority functions now included making recommendations to council in relation to the council's budget, reviewing council expenditure relevant to the local authority area, and performing other functions as assigned to the local authority by the Minister.⁶⁴

2.39 Three months later in November 2013, restructuring legislation was also passed to facilitate the creation of the West Daly Regional Council, and 'provide greater control over the delivery services'⁶⁵, through a de-amalgamation from the Victoria Daly Shire Council:

This is what more than 100 Indigenous Territorians representing clan groups from Peppimenarti, Daly, Wadeye, Palumpa, Nauiyu and surrounding homelands and outstations have told us they want. ... they want their own council, and that is what our government is giving them.⁶⁶

Subsequently established in 2014, the West Daly Regional Council includes the communities of Peppimenarti, Palumpa, Wadeye and associated homelands.

2.40 Provisions relating to local authorities were further amended as part of the 2019 Local Government Bill which repealed the *Local Government Act 2008*. Acknowledging the importance of 'enhancing local decision-making', the proposed legislation sought to give the role local authorities play in local decision making more prominence in the legislation. In presenting the Bill, the Minister noted that:

Community-led decision making is fundamental to local government. This bill strengthens local decision-making by ensuring that regional councils seek advice and recommendations from local authorities regarding local government services and activities in the local authority area and must consider this advice as part of their planning processes. Local authorities will advise their regional council regarding budget allocations, priorities for

⁶² Northern Territory, Legislative Assembly, *Debates*, 21 August 2013, p. 1995, <https://territorystories.nt.gov.au/10070/438533>

⁶³ Northern Territory, Legislative Assembly, *Debates*, 27 November 2013, p. 2867, <https://territorystories.nt.gov.au/10070/438527>

⁶⁴ *Local Government Amendment Act 2013*, Part 5.1A

⁶⁵ Northern Territory, Legislative Assembly, *Debates*, 27 November 2013, p. 2868, <https://territorystories.nt.gov.au/10070/438527>

⁶⁶ Northern Territory, Legislative Assembly, *Debates*, 27 November 2013, p. 2868, <https://territorystories.nt.gov.au/10070/438527>

expenditure, service delivery, regional plans, strategic direction, cemeteries and funding of projects.

Regional councils will ensure that their strategies and plans are informed by the visions and priorities of local authorities and work with local authorities to foster constructive working relationships amongst council members, local residents and local organisations.⁶⁷

2.41 However, as the Northern Territory Treaty Commission noted:

These changes do not give remote communities decision-making power in their local government jurisdiction. This is because local authorities (1) must comply with guidelines of the minister, and (2) a local authority is subject to control and direction by the council (s79). The changes merely provide obligations for consultation ... the reforms have not created a mechanism for First Nations communities to have meaningful decision-making power. They also do not provide for governance systems, boundaries, representative structures, or powers and functions that recognise and empower traditional owner interests, or general First Nations interests...

A clear and consistent message from our consultations across the NT is that First Nations peoples in remote areas want greater decision-making control over matters affecting their lives, and that they are unhappy with the design and operation of local government.

The balance between regional and local interests in the current system of local government does not support remote communities. In the context of treaty-making in the NT, government cannot continue to exclude Aboriginal people from meaningful decision-making power. The overwhelming evidence is that measurable outcomes improve when First Nations people have meaningful control over matters affecting their lives. The 2019 Act does not reflect this because it does not put substantive decision-making power in the hands of local communities as important parts of a regional governance model.⁶⁸

2.42 As these comments illustrate, the dissatisfaction and frustration with local governance structures in remote communities is an ongoing issue of concern for Aboriginal people; and one that was raised with the Committee during the course of its inquiry. The extent to which it remains an issue of concern is probably best illustrated in relation to the Aboriginal communities of the Groote Archipelago. Having voiced significant opposition to the amalgamation of community councils, the Committee heard that a key priority for the Anindilyakwa people in their LDM agreement was the establishment of an Anindilyakwa Regional Local Government Council through a de-amalgamation from the East Arnhem Regional Council.

Northern Territory National Emergency Response

2.43 The Northern Territory National Emergency Response introduced by the Commonwealth Government in August 2007 also had a significant impact on the governance capacity of remote communities:

Though they were separate processes, initiated and implemented by separate governments, many communities didn't distinguish between this

⁶⁷ Northern Territory, Legislative Assembly, *Debates*, 18 September 2019, p. 7033, <https://territorystories.nt.gov.au/10070/788866>

⁶⁸ Northern Territory Treaty Commission, *Final Report*, p. 157.

difference and the impact has been felt as being one single assault by government.⁶⁹

2.44 The catalyst for the Intervention was the findings of the *Ampe Akelyernemane Meke Mekarle (Little Children are Sacred)* report, published on 15 June 2007. Following concerns by Aboriginal organisations, government agencies and the judiciary regarding the incidence of child sexual abuse in Aboriginal communities, in August 2006 the NT Government commissioned an inquiry into the Protection of Aboriginal Children from Sexual Abuse.⁷⁰ The Board of Inquiry's *Little Children are Sacred* report made a total of 97 recommendations, the first of which recommended that:

Aboriginal child sexual abuse in the Northern Territory be designated as an issue of urgent national significance by both Australian and Northern Territory Governments, and both governments immediately establish a collaborative partnership with a Memorandum of Understanding to specifically address the protection of Aboriginal children from sexual abuse. It is critical that both governments commit to genuine consultation with Aboriginal people in designing initiatives for Aboriginal communities.⁷¹

2.45 In response, on 21 June 2007 the Commonwealth Government announced a series of far-reaching measures to address 'the national emergency confronting the welfare of Aboriginal children in relation to child abuse and family violence.'⁷² Targeting 73 remote Aboriginal communities across the Northern Territory, the initial phase of the Intervention was due to last for up to five years.⁷³ With the Australian Defence Force engaged to assist with logistics, the measures included:

- Introducing widespread alcohol restrictions on Northern Territory Aboriginal land.
- Introducing welfare reforms to stem the flow of cash going toward substance abuse and to ensure funds meant to be for children's welfare are used for that purpose
- Enforcing school attendance by linking income support and family assistance payments to school attendance for all people living on Aboriginal land and providing meals for children at school at parents' cost
- Introducing compulsory health checks for all Aboriginal children to identify and treat health problems and any effects of abuse
- Acquiring townships prescribed by the Australian Government through five year leases including payment of just terms compensation
- As part of the immediate emergency response, increasing policing levels in prescribed communities, including requesting secondments from other jurisdictions to supplement NT resources, funded by the Australian Government.

⁶⁹ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2012*, p. 140.

⁷⁰ Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, *Ampe Akelyernemane Meke Mekarle "Little Children are Sacred"*, Northern Territory Government, Darwin, 2007, pp. 4-7.

⁷¹ Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, *Ampe Akelyernemane Meke Mekarle "Little Children are Sacred"*, p. 22.

⁷² Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2007*, p. 199.

⁷³ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2007*, p. 200.

- Requiring intensified on ground clean up and repair of communities to make them safer and healthier by marshalling local workforces through work-for-the-dole
- Improving housing and reforming community living arrangements in prescribed communities including the introduction of market based rents and normal tenancy arrangements
- Banning the possession of X-rated pornography and introducing audits of all publicly funded computers to identify illegal material
- Scrapping the permit system for common areas, road corridors and airstrips for prescribed communities on Aboriginal land, and;
- Improving governance by appointing managers of all government business in prescribed communities.⁷⁴

2.46 In addition, the NT Government was expected to:

- Increase its efforts and resources to ensure the servicing and protection of its citizen in the range of areas of State and Territory responsibility and support, within the scope of its resources, the national emergency response
- Develop a comprehensive strategy to tackle the 'rivers of grog' across the Territory
- Resume all special leases over town camps in the major urban areas where lease conditions have been breached. The Australian Government will act in this area if the NTG fails to do so
- Remove customary law as a mitigating factor for sentencing and bail conditions.⁷⁵

2.47 Given the nature of the measures, and the way in which they were implemented, the *Northern Territory National Emergency Response Act 2007* (Cth) has been described as 'incredibly disempowering [and] disenfranchising'.⁷⁶ As the Aboriginal and Torres Strait Islander Social Justice Commissioner pointed out at the time, despite the recommendations of the *Little Children are Sacred* report, a significant problem with the new arrangements was the:

lack of capacity for engagement and participation of Indigenous peoples. This manifests as a lack of connection between the local and regional level, up to the state and national level; and as a disconnect between the making of policy and its implementation ...

Indigenous peoples are treated as problems to be solved, not as partners and active participants in creating a positive life vision for the generations of Indigenous people still to come.

The greatest irony of this is that it fosters a passive system of policy development and service delivery while at the same time criticising Indigenous peoples for being passive recipients of government services!⁷⁷

⁷⁴ M Brough, (Minister for Families, Community Services and Indigenous Affairs), *National emergency response to protect children in the NT*, Media Release, 21 June 2007, https://formerministers.dss.gov.au/3581/emergency_21june07/

⁷⁵ M Brough, (Minister for Families, Community Services and Indigenous Affairs), *National emergency response to protect children in the NT*.

⁷⁶ Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Inquiry into community safety, support services and job opportunities in the Northern Territory*, p. 5.

⁷⁷ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2007*, p. 226.

- 2.48 Following a review of the legislation, in 2012 the *Northern Territory National Emergency Response Act 2007* (Cth) was repealed and replaced by the 'Stronger Futures' legislative package. While reinstating the *Racial Discrimination Act 1975* (Cth), the *Stronger Futures in the Northern Territory Act 2012* (Cth) maintained a number of the strategies put in place under the Intervention and:

continued the Commonwealth Government's legislative involvement in managing land reform, food security, alcohol management, and prohibited materials within Aboriginal communities in the NT.⁷⁸

Closing the Gap

- 2.49 On 20 March 2008, representatives from the Commonwealth Government, the peak Indigenous and mainstream health bodies, and the Aboriginal and Torres Strait Islander Social Justice Commissioner signed a Statement of Intent to 'work together to achieve equality in health status and life expectancy between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians by the year 2030.'⁷⁹

- 2.50 Underpinned by principles of empowerment and self-determination, the Closing the Gap initiative created seven targets to improve outcomes for Aboriginal and Torres Strait Islander peoples in relation to health, education and employment.⁸⁰

Acknowledging the failure of past policy settings, Closing the Gap sought to re-set the relationship with Indigenous Australians:

Fundamental to the government's strategy is a new partnership with Indigenous Australians. This partnership must be respectful and collaborative, and involve open communication with Indigenous Australians. Indigenous Australians have the capacity to bring about lasting change in their lives and those of their communities. Without a strong relationship with Indigenous Australians, based on mutual respect, mutual resolve and mutual responsibility we cannot hope to Close the Gap.⁸¹

- 2.51 However, in the absence of the necessary structural changes in the way governments worked with Indigenous people, successive governments inevitably resorted to the implementation of paternalistic, top-down policies in an effort to achieve key deliverables.

- 2.52 In 2016, ahead of the tenth anniversary of Closing the Gap, the Council of Australian Governments (COAG) agreed to refresh the Closing the Gap Agenda. Recognising the need for a strengths-based approach that ensured Aboriginal and Torres Strait Islander peoples were at the heart of the development and implementation of the next phase of Closing the Gap, in its 2018 Statement on the Closing Gap Refresh, COAG noted that:

⁷⁸ Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Inquiry into community safety, support services and job opportunities in the Northern Territory*, p. 6.

⁷⁹ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2008*, Australian Human Rights Commission, Sydney, 2008, p. 208.

⁸⁰ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2008*, p. 212.

⁸¹ Australian Government, *Closing the Gap on Indigenous Disadvantage: The Challenge for Australia*, Australian Government, Canberra, February 2009, p. 5.

One of the lessons governments have learned over the last ten years is that effective programs and services need to be designed, developed and implemented in partnership with Aboriginal and Torres Strait Islander peoples. We must place collaboration, transparency, and accountability at the centre of the way we do business with Aboriginal and Torres Strait Islander Australia. Working in genuine partnership with Aboriginal and Torres Strait Islander peoples is fundamental to Closing the Gap.

All governments are committed to broadening and deepening their partnerships with Aboriginal and Torres Strait Islander peoples and communities over the lifetime of the refreshed agenda. This includes strengthening mechanisms to ensure Aboriginal and Torres Strait Islander peoples have an integral role in decision making and accountability processes at the national, regional and local levels, building on existing arrangements and directions within different jurisdictions.⁸²

- 2.53 To this end, on 22 March 2019, a formal Partnership Agreement on Closing the Gap 2019-2029 was established between all Australian governments, the Coalition of Aboriginal and Torres Strait Islander Peak Bodies, and the Australian Local Government Association.⁸³ A new *National Agreement on Closing the Gap* was subsequently developed through this partnership agreement, coming into effect on 27 July 2020. Importantly, in addition to 17 socio-economic targets, the new National Agreement includes four Priority Reforms that seek to:

change the way governments work to accelerate improvements in the lives of Aboriginal and Torres Strait Islander people. The Priority Reforms have arisen from the Partnership between Governments and the Coalition of Peaks; they respond to the voices and aspirations of Aboriginal and Torres Strait Islander people; and were overwhelmingly supported during the formal engagements on this Agreement in 2019.⁸⁴

- 2.54 Reflecting the key objectives of the Northern Territory's *Everyone Together Aboriginal Affairs Strategy* and LDM, the Closing the Gap Priority Reforms aim to:

- Strengthen and establish formal partnerships and shared decision-making
- Build the Aboriginal and Torres Strait Islander community-controlled sector
- Transform government organisations so they work better for Aboriginal and Torres Strait Islander people
- Improve and share access to data and information to enable Aboriginal and Torres Strait Islander communities make informed decisions.⁸⁵

⁸² Council of Australian Governments, *COAG Statement on the Closing the Gap Refresh*, 12 December 2018, p. 4, <https://www.closingthegap.gov.au/resources/history>

⁸³ Australian Government, *Partnership Agreement on Closing the Gap 2019-2029*, 22 March 2019, <https://federation.gov.au/about/agreements/closing-gap-partnership-agreement>

⁸⁴ Australian Government, *National Agreement on Closing the Gap*, July 2020, p. 5, <https://www.closingthegap.gov.au/national-agreement/national-agreement-closing-the-gap>

⁸⁵ Australian Government, *National Agreement on Closing the Gap: At a Glance*, <https://www.closingthegap.gov.au/national-agreement>

- 2.55 As noted by the NT Government, in this respect, the refreshed Closing the Gap aligns with the *Everyone Together Aboriginal Affairs Strategy*, and is ‘vital to our work in achieving outcomes.’⁸⁶

Concluding Comments

- 2.56 As the preceding discussion illustrates, the complex legacy of past policies has both shaped and continues to inform the LDM operational environment. Facilitating local decision making while balancing the aspirations of communities with government priorities and economies of scale is necessarily challenging.
- 2.57 Recognising that genuine collaboration with Aboriginal people is necessary to achieve real and lasting progress towards equality, the refreshed Closing the Gap in conjunction with the *Everyone Together Aboriginal Affairs Strategy* and LDM seeks to provide the mechanisms required to empower Aboriginal people to determine their own futures.
- 2.58 However, as noted by the Aboriginal and Torres Strait Islander Social Justice Commissioner in relation to lessons to be learnt from the Intervention and local government reform, the extent to which the objectives of these ambitious policies are achieved will be dependent upon ‘governance capacity-building of both communities and governments.’⁸⁷

⁸⁶ Office of Aboriginal Affairs, *Everyone Together Aboriginal Affairs Strategy 2019-2029*, p. 8.

⁸⁷ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2012*, p. 150.

3 Local Decision Making Framework

- 3.1 In the lead up to the 2016 Northern Territory General Election, the Labor Opposition made an election commitment to:

deliver the most extensive return of local decision making to Indigenous communities since self-government. Labor will introduce a 10 year roadmap and Local Decisions Oversight Board made up of Indigenous Leaders from around the Territory that will see Indigenous communities take control over:

- Housing
- Local Government
- Education and Training
- Health
- Looking after children and
- Law and Justice.

In devolving decision making Labor will be guided by the principles outlined in the Aboriginal Peak Organisation's Partnership Principles.⁸⁸

- 3.2 In August 2017, the Chief Minister, the Hon Michael Gunner MLA, delivered The Jabiru Statement which affirmed the Government's commitment to transform its relationship with Aboriginal people through empowerment and self-determination:

Underpinning it all is Local Decision Making – if not the most significant Aboriginal Affairs reform of this generation it is, at least, the most decent.

The degradation and humiliation of the Intervention convinced me 10 years ago meaningful progress, engagement, reconciliation and protection of culture lay not in taking power but returning power.

My team and I believe this today more strongly than ever. We will partner with Aboriginal communities and organisations to determine the shape and control of local healthcare, schools, justice systems, local governments, housing, and how to grow happy and healthy kids. Instead of government telling communities how it will be, communities will tell government. This could be how to best nurture the kids who have slipped through the gaps, because we know governments can fall short.

Returning decision making is not only decent, it is smart. Because history shows us when a wrong decision is made in Darwin it's hard to fix. And when a wrong decision is made in Canberra, it's even harder to fix. Local decisions are the best decisions.

I understand there is not one homogenous Aboriginal Northern Territory and so each community will take on only what they are comfortable taking on and when they are comfortable doing so. We will move at your manner and pace. This is big reform and it will not happen overnight.⁸⁹

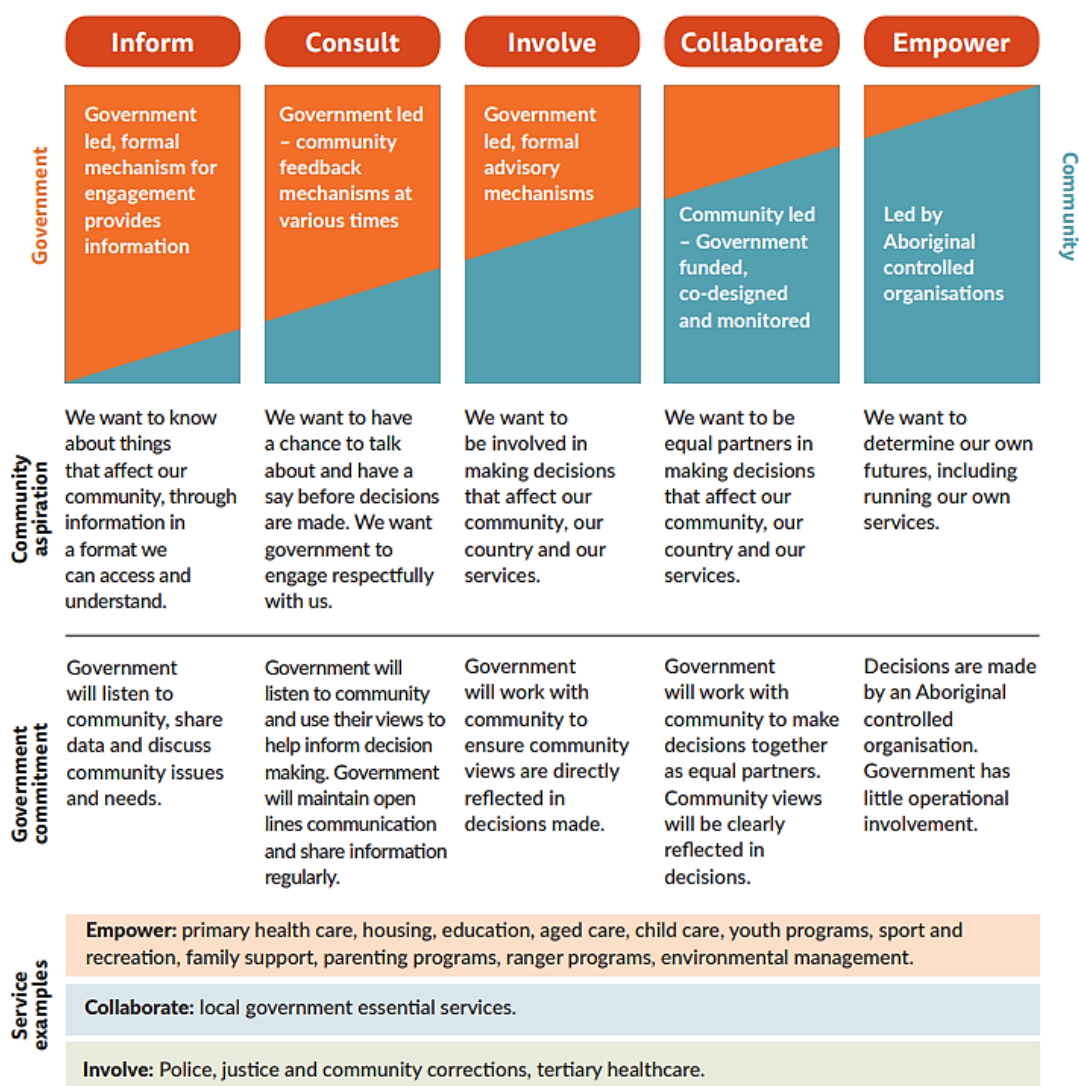
- 3.3 The LDM Framework consists of two interconnected documents, the LDM Policy which describes the 'why' and 'what', and the LDM Guidelines which describe the 'how', 'who' and 'where'. The LDM Policy was endorsed by the Aboriginal Affairs Sub-Committee of Cabinet in August 2018.

⁸⁸ HawkerBritton, *Northern Territory Election: NT Labor's election policies*, August 2016, p. 5 <https://www.hawkerbritton.com/wp-content/uploads/2017/03/Northern%20Territory%20Election%202016%20-%20policies.pdf>

⁸⁹ Northern Territory Government, *Local Decision Making Framework Policy*, p. 5.

- 3.4 LDM is underpinned by five key principles: self-determination; place-based; flexible; co-design; and community control. These principles support communities to have a greater say in what happens in their community and service delivery. LDM is place-based to recognise that communities will have different needs, priorities and aspirations. The pace of LDM engagement is to be driven by the community, not the Government. Communities may decide not to participate in LDM processes or seek to enter into LDM agreements.
- 3.5 The level of involvement each community wishes to have in service delivery will vary; some communities will want greater input into how government delivers services, whereas other communities will aspire for government services to be transitioned to and delivered by an Aboriginal community controlled organisation. The differing levels of involvement are illustrated in the Community Control Continuum shown in figure 1.

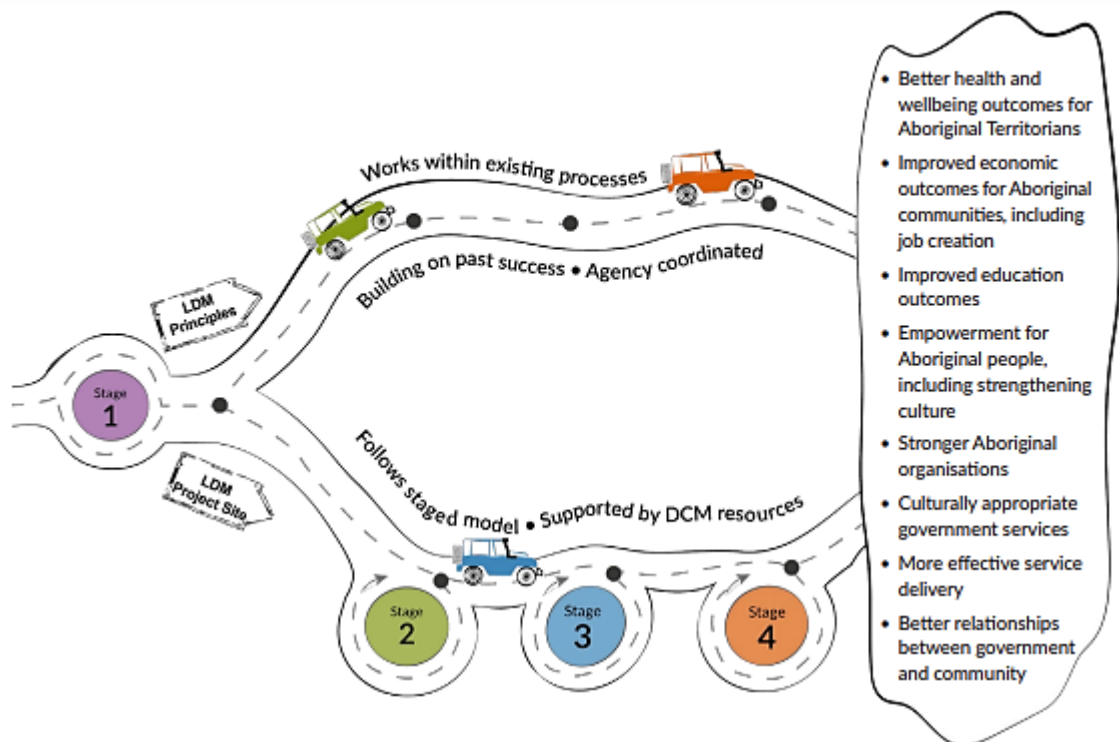
Figure 1: Community Control Continuum⁹⁰



⁹⁰ Northern Territory Government, *Local Decision Making Framework Policy*, p. 18.

- 3.6 The LDM *Service Delivery Fact Sheet* details government service delivery responsibilities which may be considered under LDM for greater involvement by the community or transfer to community control: housing; local government; education, training and jobs; health; children and families; and law and justice. The fact sheet also lists other programs and services that communities may want to focus on such as sport and recreation; youth programs; women's programs; men's programs; land and sea management; and business.⁹¹
- 3.7 The LDM Policy acknowledges that LDM is not a new idea. The LDM Framework is intended to be flexible and provide guidance to transform LDM from a concept to practical actions that achieve real changes on the ground for communities. There is not a single model or pathway towards LDM. Figure 2 illustrates the implementation roadmap with different options to achieve outcomes based on the breadth of a community's aspirations.

⁹¹ Department of the Chief Minister, Local Decision Making Service Delivery,
https://ldm.nt.gov.au/_data/assets/pdf_file/0008/791342/ldm-priority-areas-ngo-audience.pdf

Figure 2: Roadmap for Implementation of Local Decision Making⁹²

Embedded, adaptive monitoring and evaluation



3.8 The LDM Policy describes the pathways depicted in the implementation roadmap:

LDM can deliver better outcomes for Aboriginal Territorians, yet there is no one path to get to those outcomes, shown by the two roads.

The 'top road' relates to a single issue or service, or LDM Principles. It can fit within existing processes, for example transitioning a health service to community control. It will be primarily coordinated by the relevant government agency. Regional staff from DCM [Department of the Chief Minister] will be informed of the process, and can offer support if requested.

⁹² Northern Territory Government, *Local Decision Making Framework Policy*, p. 20.

The 'bottom road' relates to LDM Projects which are place-based, coordinated by DCM and supported by specific resources...⁹³

Potential LDM Project Sites are where community aspiration is broader and relates to multiple priorities, issues or services.⁹⁴

- 3.9 LDM Project Sites are those where communities negotiate to enter into a formal LDM agreement and implementation plan. The flexibility of LDM allows the community, or a regional collective of communities, to determine the most appropriate governance structure to be involved in LDM negotiations and implementation:

The LDM process in the community can be done through Traditional Owners, community leaders, cultural authorities, organisations or any other nominated groups. It is important the community comes together to talk about government service delivery priorities then determine, in partnership with government, which agencies will need to be involved.⁹⁵

- 3.10 Communities will determine their priorities and identify if there are services they want to transition to community control. The Government will assess the readiness of communities and organisations to take on responsibility for service delivery. Where communities and organisations are deemed unready to take on service delivery, government support will be provided to strengthen leadership, governance and organisational capacity:

Government services will only be transitioned to local organisations that have strong community and organisational governance systems in place. This is to ensure [sic] service delivery standards are maintained and the community's readiness for the transition process.⁹⁶

⁹³ Northern Territory Government, *Local Decision Making Framework Policy*, p. 21.

⁹⁴ Northern Territory Government, *Local Decision Making Framework Policy*, p. 23.

⁹⁵ Northern Territory Government, *Local Decision Making Guidelines for Community*, 2018, p. 2, https://ldm.nt.gov.au/_data/assets/pdf_file/0011/799184/ldm-guidelines-for-community.pdf

⁹⁶ Northern Territory Government, *Local Decision Making Guidelines for Community*, p. 2.

4 Local Decision Making Agreements Across the NT

- 4.1 This chapter provides an overview of the LDM agreements and implementation plans in place across the Northern Territory at the time of report drafting. It also details the community visits undertaken by the Committee over the course of the inquiry and the evidence provided to the Committee about the community's experiences with LDM.
- 4.2 At the final public hearing of the inquiry in February 2023, DCMC informed the Committee 'we've got 11 signed agreements under way in various stages of implementation. We've got a further 20 agreements in the pipeline working with remote communities all over the Northern Territory.'⁹⁷
- 4.3 The pace of LDM negotiations can be influenced by a number of factors including leadership and governance strength; organisational capacity; community cohesiveness; and the ability to identify and agree on priorities and aspirations.
- 4.4 DCMC emphasised the importance of LDM negotiations being driven by the community:
- With Local Decision Making we will employ a consultant and the community will choose who they work with and then they will work out the list of priorities, doing that consultation across their area and their leadership as they define it.
- Then when they're ready they come back and we meet back with government at that point, and that's a really different process than us leading the conversation. Or actually coming out and having a conversation about the things government wants to talk to community about.⁹⁸
- 4.5 Table 1 provides an overview of the 11 LDM agreements in place and details partners to the agreement, the term of the agreement and priority areas identified by the community.⁹⁹

⁹⁷ DCMC, Committee Transcript, 17 February 2023, p. 25.

⁹⁸ DCMC, Committee Transcript, 17 February 2023, p. 28.

⁹⁹ Note: LDM Agreements and Implementation Plans are published by region on the Government's LDM website <https://ldm.nt.gov.au/>

Table 1: Overview of Local Decision Making Agreements

<p>Green River Aboriginal Corporation¹⁰⁰</p> <p>Location: Nauiyu, Top End Region</p> <p>Partners: Green River Aboriginal Corporation, NT Government, National Indigenous Australians Agency and Catholic Diocese of Darwin.</p> <p>Agreement and Implementation Plan (IP) Status: Agreement signed July 2022. IPs will be developed and specify monitoring and evaluation processes. To date, no IPs have been published. Agreement and IPs expire on 30 June 2026.</p> <p>Priority Areas:</p> <ul style="list-style-type: none"> • Arrangements for Land Tenure and Future Land Use Planning • Community Housing • Economic Development Opportunities, Local Jobs and Training • Community Health and Wellbeing
<p>Mulyung Aboriginal Corporation¹⁰¹</p> <p>Location: Nganambala (Emu Point) Homeland, Top End Region</p> <p>Partners: Mulyung Aboriginal Corporation and NT Government.</p> <p>Agreement and Implementation Plan (IP) Status: Agreement signed August 2022. IPs will be developed and specify monitoring and evaluation processes. To date, no IPs have been published. Agreement and IPs expire on 30 June 2026.</p> <p>Priority Areas:</p> <ul style="list-style-type: none"> • Transition from a Homeland to a Community of a Homeland funded like a Community • Housing • Health • Education • Community Wellbeing
<p>Djalkiripuyngu Aboriginal Corporation¹⁰²</p> <p>Location: Blue Mud Bay Homelands, East Arnhem Region</p> <p>Partners: Djalkiripuyngu <i>Bäparru</i> (clan) leaders, as represented by the Djalkiripuyngu Aboriginal Corporation, NT Government and Laynhapuy Homelands Aboriginal Corporation.</p> <p>Agreement and Implementation Plan (IP) Status: Agreement signed July 2022. Review to be conducted three years from commencement and agreement expires after five years unless extended by the parties. The agreement stipulates which priorities require IPs and timeframes for development. To date, no IPs have been published.</p> <p>Priority Areas:</p> <ul style="list-style-type: none"> • Capacity and Capability Building and Agreement Support • Infrastructure and Essential Services • Housing • Community Safety and Resilience • Business and Jobs • Country, Culture and Heritage • Community, Health and Family Wellbeing • Education

¹⁰⁰ https://ldm.nt.gov.au/_data/assets/pdf_file/0017/1220561/grac-local-decision-making-agreement-2022-2026.pdf

¹⁰¹ https://ldm.nt.gov.au/_data/assets/pdf_file/0018/1220562/mac-local-decision-making-agreement-2022-2026.pdf

¹⁰² https://ldm.nt.gov.au/_data/assets/pdf_file/0008/1126646/djalkiripuyngu-agreement.pdf

Anindilyakwa Land Council¹⁰³

Location: Groote Archipelago, East Arnhem Region

Partners: Anindilyakwa Land Council and NT Government.

Agreement and Implementation Plan (IP) Status: Agreement signed November 2018. Review to be conducted three years from commencement and agreement expires after nine years unless extended by the parties. IPs are required for all priority areas and the timeframe for development is stipulated in the agreement.

Priority Areas:

- Housing – IP signed June 2019
- Economic Development – IP signed June 2019
- Law, Justice and Rehabilitation – IP signed June 2019
- Education – IP signed April 2020
- Health and Wellbeing – IP signed November 2022
- Local Government
- Sustainable Long Term Power Solution
- Regional Control of Other Services
- Future of Alyangula

Bagala Traditional Owners¹⁰⁴

Location: Barunga and Wugularr communities, Big Rivers Region

Partners: Bagala Traditional Owners represented by the Bagala Aboriginal Corporation, NT Government, Jawoyn Association Aboriginal Corporation, Northern Land Council, Roper Gulf Regional Council and National Indigenous Australians Agency.

Agreement and Implementation Plan (IP) Status: Agreement signed December 2022. The agreement and IP expire after three years at which point the parties should meet again to formalise a new IP. Execution of the IP to be formally reviewed annually.

Priority Areas:

- Economic Development
- Health and Community Wellbeing
- Infrastructure and Housing
- Culture and Heritage

Werenbun Homeland¹⁰⁵

Location: Werenbun, Big Rivers Region

Partners: Jawoyn Association Aboriginal Corporation, NT Government, Roper Gulf Regional Council, Nitmiluk Tours, Sunrise Health Service, Wurli-Wurlinjang Health Service and National Indigenous Australians Agency.

Agreement and Implementation Plan (IP) Status: Agreement signed January 2022. The agreement and IP expire after five years at which point the parties should meet again to formalise a new IP. Execution of the IP to be formally reviewed annually.

Priority Areas:

- Economic Development (Employment, Education and Training)
- Health and Community Wellbeing
- Infrastructure and Housing
- Culture and Heritage

¹⁰³ https://ldm.nt.gov.au/_data/assets/pdf_file/0010/791317/groote-archipelago-ldm-agreement.pdf

¹⁰⁴ https://ldm.nt.gov.au/_data/assets/pdf_file/0004/1178860/bagala-todm-agreement-implementation-plan-2022-25.pdf

¹⁰⁵ https://ldm.nt.gov.au/_data/assets/pdf_file/0019/1083403/werenbun-homeland-ald-agreement-2022-27.pdf

Yugul Mangi Development Aboriginal Corporation¹⁰⁶

Location: Ngukurr, Big Rivers Region

Partners: Yugul Mangi Development Aboriginal Corporation, NT Government (multiple agencies), Department of the Prime Minister and Cabinet 2018-2020 and National Indigenous Australians Agency 2021-2023.

Agreement and Implementation Plan (IP) Status: Multi Agency Partnership signed May 2018. First IP 2018-2020 signed May 2018. Second IP 2021-2023 signed August 2021.

Priority Areas 2018-2020:

- Business Development and Contracting
- Local Jobs and Training
- Community-Based Service Delivery

Priority Areas 2021-2023:

- Cultural Strength and Respect
- Governance and Capacity
- Community Wellbeing
- Economic Empowerment
- Local Jobs for Local People

Gurindji Aboriginal Corporation¹⁰⁷

Location: Kalkaringi, Big Rivers Region

Partners: Gurindji Aboriginal Corporation, NT Government (multiple agencies), Department of the Prime Minister and Cabinet 2018-2020 and National Indigenous Australians Agency 2021-2023.

Agreement and Implementation Plan (IP) Status: Multi Agency Partnership signed November 2018. Original IP 2018-2020 signed November 2018. Second IP 2021-2023 signed November 2021.

Priority Areas 2018-2020:

- Preserving Gurindji Culture and Heritage
- Business Development and Contracting
- Local Jobs and Training
- Land, Community Infrastructure, Housing and Service Delivery

Priority Areas 2021-2023:

- Cultural Strength and Respect
- Business Development and Contracting (governance and capacity)
- Youth Services, Child and Family
- Community Housing
- Local Jobs and Training (for Local People)
- Community Recreation Facilities

¹⁰⁶ https://ldm.nt.gov.au/_data/assets/pdf_file/0003/791328/multi-agency-partnership-implementation-ymdac.pdf

https://ldm.nt.gov.au/_data/assets/pdf_file/0016/1042261/ymdac-ldm-implementation-plan2021-23.pdf

¹⁰⁷ https://ldm.nt.gov.au/_data/assets/pdf_file/0010/1141012/multi-agency-partnership-implementation-plan-gurindji-2018-20.pdf

https://ldm.nt.gov.au/_data/assets/pdf_file/0003/1065927/gac-ldm-implementation-plan2021-23.pdf

Jawoyn Association Aboriginal Corporation¹⁰⁸

Location: Katherine and surrounding Jawoyn Country, Big Rivers Region

Partners: Jawoyn Association Aboriginal Corporation, NT Government (multiple agencies), Roper Gulf Regional Council, Department of the Prime Minister and Cabinet 2018-2020 and National Indigenous Australians Agency 2021-2023.

Agreement and Implementation Plan (IP) Status: Multi Agency Partnership signed November 2018. Original IP 2018-2020 signed November 2018. Second IP 2021-2023 signed October 2021.

Priority Areas 2018-2020:

- Preserving Jawoyn Culture and Heritage
- Business Development and Contracting
- Local Jobs and Training
- Community Development and Member Services

Priority Areas 2021-2023:

- Preserving Jawoyn Culture and Heritage
- Housing/Civil Construction Programs and Opportunities
- Local Jobs and Training

Julalikari Council Aboriginal Corporation¹⁰⁹

Location: Tennant Creek Community Living Areas, Barkly Region

Partners: Julalikari Council Aboriginal Corporation, NT Government and National Indigenous Australians Agency.

Agreement and Implementation Plan (IP) Status: Agreement signed March 2022. Review to be conducted three years from commencement and agreement expires after nine years unless extended by the parties. IPs for each priority to be developed by June 2022.

Priority Areas:

- Housing for Independence, Health and Wellbeing
- Economic Growth and Viability
- Strong Community and Social Services

Tangentyere Council Aboriginal Corporation¹¹⁰

Location: Alice Springs Town Camps, Central Australia Region

Partners: Tangentyere Council Aboriginal Corporation and NT Government.

Agreement and Implementation Plan (IP) Status: Agreement signed July 2020. Reviews to be conducted every three years. Agreement expires after nine years and can be extended for three years prior to its expiry. IPs to be developed for each priority area.

Priority Areas:

- Shelter and Housing – IP developed in 2020
- Keeping Our Country
- Community
- Healing Mind, Body and Soul
- Knowledge
- Community Leadership
- Identity

¹⁰⁸ https://ldm.nt.gov.au/_data/assets/pdf_file/0011/791327/multi-agency-partnership-implementation-plan-jawoyn.pdf

https://ldm.nt.gov.au/_data/assets/pdf_file/0009/1058616/jawoyn-ldm-implementation-plan2021-23.pdf

¹⁰⁹ https://ldm.nt.gov.au/_data/assets/pdf_file/0019/1203283/jcac-ldm-agreement.pdf

¹¹⁰ https://ldm.nt.gov.au/_data/assets/pdf_file/0005/932126/cm-tcac-asp-town-camps-ldm-heads-of-agreement.pdf

Communities Visited by Committee

- 4.6 From the outset of the inquiry, the Committee understood the importance of travelling to communities to gain insight into how Aboriginal organisations, regional councils and, in particular, community members understood the LDM Framework; challenges encountered in negotiating and implementing agreements; and, most importantly, how the Government and other stakeholders could respond to address those challenges and improve LDM.
- 4.7 The Committee travelled to and met with stakeholders and community members in Alice Springs, Kintore, Yirrkala and Alyangula. As previously noted, the Committee had intended to visit more remote communities across each of the regions, however, the ability to do so was hindered by COVID-19 related travel restrictions and unexpected sorry business.
- 4.8 The remainder of this chapter contains ‘case studies’ of each community the Committee visited. These case studies detail the community’s experiences with LDM and illustrate how the progress in negotiating and implementing LDM agreements can be influenced by a range of factors including the strength of community and organisational leadership and governance; community cohesiveness or discord; common goal aspirations; and the ability to self-fund aspirations and drive economic projects.

Alice Springs

- 4.9 The Committee travelled to Alice Springs in October 2021 to hold public hearings with Aboriginal organisations, regional councils and DCMC. As part of the visit, the Committee also met privately with the Tangentyere Council Local Decision Making Subcommittee and was taken on a tour of a number of the Alice Springs Town Camps.
- 4.10 Tangentyere Council was established in the 1970s as an umbrella organisation for the Alice Springs Town Camps Housing Associations to advocate on behalf of residents of the town camps and provide frontline services to town camps on behalf of government.
- 4.11 In July 2019, the Government signed a *Commitment Agreement for Local Decision Making* with the Tangentyere Council. The agreement was an undertaking to partner together to identify services that town camp residents wished to have greater control over and to develop a framework with timeframes for the transition of agreed services to community control.
- 4.12 In July 2020, the Government and Tangentyere Council signed the *Local Decision Making Heads of Agreement*. The Tangentyere Council self-funded a project to determine priorities to improve town camper wellness. Through consultations with the Board of Directors and town camp senior representatives, the ‘Wellness Framework’ was developed which encompasses seven ‘Wellness Domains’ that are the priority service delivery areas to be transitioned to community control within nine years. The Wellness Domains are Shelter and Housing; Keeping Our Country; Community; Healing Mind, Body and Soul;

Knowledge; Community Leadership; and Identity. An implementation plan has been developed and is underway for the Shelter and Housing domain.

- 4.13 Tangentyere Council provided positive feedback about their experiences with the LDM process and highlighted some of the factors that enhanced their ability to negotiate and implement an agreement:

Our LDM approach is unique. Tangentyere Council has two roles throughout this process. First, as a frontline service provider, we are in the strong position to hear from community members and stakeholders about the daily opportunities for local decision making. We are, therefore, incorporating a place based focus, with localised town camp specific workshops, priority outcomes and planning. Second, as a peak for town camps, representing 16 town camps in the Alice Springs region, we are also taking a regional and sector wide approach.

Through the LDM process, we have initiated a robust consultation with town campers to determine localised priorities to improve town camper wellness based on our framework. Consultation includes a detailed survey tool to measure the wellness of town campers—more than 30 workshops to date in 16 town camps, with an additional 32 planned—master planning and safety mapping in partnership with residents at each location, as well as general feedback through all of our existing programs, services and our town camp AGMs.¹¹¹

- 4.14 The Committee heard that persistence and regular consultation was required to get community buy in:

we are getting really strong engagement. In all honesty, it took about 12 months to convince people to come along to some of these consultations because people did not really believe that the policy would mean anything for them or that they would be heard. We have continued to work the program anyway and work the project for the last 18 months on top of that, even throughout COVID-19.¹¹²

- 4.15 Tangentyere Council emphasised the importance of realistic timeframes to achieve outcomes through LDM:

It is about looking at a realistic plan over an eight year period. We, by no means, have any intention of asking for community control of every government service in the next 12 months. It is unrealistic and it will set us up for failure—you are right. We want to make sure we are working with the relevant Northern Territory Government agency, to be able to develop a realistic implementation plan and that we are working together on the program.¹¹³

- 4.16 In addition to realistic timeframes, Tangentyere Council informed the Committee that a comprehensive and holistic approach is required to transition government services to community control:

When we look at the issue of housing moving forward and the transition of housing services, we need to consider everything. We need to consider things like the National Construction Code and the National Indigenous Housing Guide. With the built environment of the town camps, which we do not currently have control over, we need to consider things like the Alice Springs Town Council subdivision guidelines. We need to consider issues

¹¹¹ Tangentyere Council Aboriginal Corporation, Committee Transcript, 4 October 2021, pp. 2-3.

¹¹² Tangentyere Council Aboriginal Corporation, Committee Transcript, 4 October 2021, p. 5.

¹¹³ Tangentyere Council Aboriginal Corporation, Committee Transcript, 4 October 2021, p. 7.

like crime prevention through environmental design and health, and what the expectations on infrastructure and managing those spaces and housing are.

We need to consider issues such as national accreditation in terms of housing management, we are looking at ISO accreditation. We have to look and do these things holistically. One of the most important things when we talk about transitioning housing is to look at the condition of the assets, for example, where do they currently sit and where they should be sitting moving forward...

We also look at the standards, what we should expect and what our members and residents should also expect. We look at these issues holistically.¹¹⁴

4.17 When asked about how LDM processes could be improved, Tangentyere Council advised the Committee that they had requested the NT Government and National Indigenous Australians Agency undertake 'service mapping' to provide a clear understanding of what services could potentially be transitioned to community control to enable Tangentyere Council and town camp residents to consider what these services might look like under community control, however, this information had not been provided in the year since the request had been made.

4.18 Ingkerreke Services was established in 1985 to deliver housing maintenance and municipal and essential services to homelands across a vast geographical footprint in Central Australia. Ingkerreke Services advised the Committee they had been in discussions with the Government about how LDM might work in homelands in the region and the role of a homelands service provider within LDM:

We need to work out what our LDM would look like, to be able to then go to the ground where the people are who we are servicing, to be able to get that voice in. It is quite different to how others have been able to get theirs to work pretty much straightaway. That is where we need to talk with the people in government to give us some direction on what is the best way to approach ours. There is no real answer to that yet.¹¹⁵

4.19 In addition to delivering homelands services, Ingkerreke Services provides municipal and essential services to 11 of the town camps in Alice Springs. Tangentyere Council advised the Committee that, in the context of LDM, they aspire to take responsibility for the delivery of municipal and essential services to all of the town camps. In response to questions about the potential for Ingkerreke Services to lose the municipal and essential services contract to town camps under LDM and the viability impact, the Committee was advised:

We need to talk with the government—which is our next plan—to inform our board and management of how we can embrace this, because it is here. Because our governance footprint is so small but our service provision is so big, we need the bigger service provision to be able to survive, we need to have some conversations about how it would look.¹¹⁶

4.20 The Central Desert Regional Council, MacDonnell Regional Council and Central Australian Aboriginal Congress also appeared at the public hearings in Alice

¹¹⁴ Tangentyere Council Aboriginal Corporation, Committee Transcript, 4 October 2021, p. 7.

¹¹⁵ Ingkerreke Services, Committee Transcript, 4 October 2021, p. 12.

¹¹⁶ Ingkerreke Services, Committee Transcript, 4 October 2021, p. 13.

Springs. Their evidence will be discussed in Chapter 5 as it does not relate specifically to the LDM agreement for the Alice Springs Town Camps.

Kintore

- 4.21 At the invitation of the Pintupi Homelands Health Service Board of Directors, in October 2021 the Committee travelled to Kintore to meet with the Board and community members. Kintore is one of the Territory's most remote communities, located approximately 530km west of Alice Springs and 40km east of the Western Australia border.
- 4.22 When the Committee met with the Board and explained that the purpose of the visit was to discuss the community's experiences with LDM, the Board told the Committee that they were not aware of the LDM Framework and advised that government representatives had not discussed LDM when they have visited Kintore.
- 4.23 It was evident that the Intervention was perceived as being directly linked and the precursor to the local government reforms which resulted in the change from community councils to shire/regional councils and this was associated with a loss of community control. The Board Directors were unanimous in calling for a return to community councils as a means of empowering the community to regain control of decision making.
- 4.24 The Board considered improved infrastructure as a priority for both Kintore and surrounding outstations, in particular power and water supply; better roads; access to telecommunications especially for younger people; and upgrades to existing housing as well as additional new housing to alleviate overcrowding.
- 4.25 The Board further stressed the importance of education for young people and a strong desire for the reintroduction of language led learning with an emphasis on culture and language. There is also a need for adult education classes to assist young adults who missed out on school aged education to provide them with opportunities in Kintore and more broadly across the country.
- 4.26 The Board expressed concerns about the lack of employment opportunities for young people within the community with employment limited to services such as the health clinic, ranger program being established by the Central Land Council and services delivered by the MacDonnell Regional Council. The Board stated that since the establishment of regional councils, many services have been outsourced which has further limited employment opportunities for local people.
- 4.27 The frustrations about interactions with government agencies and a perceived failure to deliver on commitments was evident to the Committee, with comments to the effect that 'too often government comes to talk to us and write things down but nothing ever happens'.
- 4.28 While in Kintore the Committee also visited the aged care centre, arts centre and community store. A community barbeque was held which allowed the Committee to consult more broadly with community members about LDM who echoed concerns and aspirations raised by the Board. Following the barbeque,

Traditional Owners and staff from MacDonnell Regional Council took the Committee to visit the nearby Ngutjil outstation.

- 4.29 During the visit to Kintore, community members mentioned that the then Attorney-General and Minister for Justice, the Hon Selena Uibo MLA, was due to visit Kintore in the coming days. Two weeks after the Committee's visit, the Hon Selena Uibo MLA announced that Kintore would be the first Central Australian community to form a government supported Law and Justice Group following the launch of the Aboriginal Justice Agreement (AJA). The media release stated:

Law and Justice Groups will play a key role in establishing Community Courts, as well as providing assistance to government agencies and service providers that deliver outside of the justice system in areas such as health, housing, kinship care and child protection.

Other benefits of Law and Justice Groups include breaking down language and cultural barriers, improving the delivery of services to communities, and increased participation of partnering Aboriginal people as stakeholders in decisions made by Government.¹¹⁷

- 4.30 The Committee notes that the announcement about the Law and Justice Group was framed solely in terms of the AJA, however, its role reflects the functions of a local decision making group. The creation of Law and Justice Groups in other communities have been referred to as LDM initiatives and on the Groote Archipelago is part of the LDM Agreement.
- 4.31 Two of the themes raised consistently throughout the inquiry were the overlap of Aboriginal Affairs policies and the confusion about the policy differences and where programs and initiatives sit in the crowded policy landscape. The Committee considers that the example provided above highlights how this confusion can be generated.
- 4.32 As previously mentioned, the Board were of the view that no government agencies had discussed the LDM Framework with them or their aspirations under LDM. The Committee has heard evidence from DCMC on a number of occasions that when government representatives consult with communities, they do not frame conversations in terms of 'do you want a local decision making agreement', but rather ask about problems in the community and how the Government can work with them to fix the problems or make changes in the community.
- 4.33 This may offer some explanation as to why the Board and community members in Kintore were unaware of LDM as a government policy, however, it also highlights the potential for confusion about whether consultations and subsequent initiatives are taking place within the scope of the LDM Framework.

¹¹⁷ S Uibo, (Attorney-General and Minister for Justice), *Law and Justice Groups in Central Australia*, Media Release, 19 October 2021, <https://newsroom.nt.gov.au/article/?nocache?id=28aecc6716d90941cc20704249836a77>

Yirrkala

- 4.34 The Committee travelled to Yirrkala in North East Arnhem Land in October 2022 to hold public hearings with stakeholder organisations and speak with community members about their experiences with LDM. While the public hearings were formal proceedings, community members who were not representatives of the organisations appearing before the Committee also participated in the discussions. Following the public hearings, the Committee hosted a community lunch which provided further opportunity to speak informally with community members and hear the views of those who had not had the opportunity to speak during the hearings.
- 4.35 The high level of participation resulted in the hearing sessions running overtime and consequently the East Arnhem representatives from DCMC did not appear at the Yirrkala hearings. The Committee held a subsequent public hearing with these representatives via videoconference in December 2022 to allow them the opportunity to provide their evidence to the Committee and comment on the evidence provided in Yirrkala.
- 4.36 In May 2019, the *Yolngu Region Local Decision Making Partnership Commitment* (Partnership Commitment) was signed by the NT Government, Department of the Prime Minister and Cabinet, East Arnhem Regional Council, Arnhem Land Progress Aboriginal Corporation, Laynhapuy Homelands Aboriginal Corporation, Miwatj Health Aboriginal Corporation and Aboriginal Resource and Development Services Aboriginal Corporation (ARDS).
- 4.37 The Partnership Commitment was the result of three workshops conducted in the East Arnhem region in 2017 and 2018 to formalise the parties' commitment to working collaboratively to develop an approach for engaging local communities across the region and create a multi-agency Yolngu Region Local Decision Making Partnership Agreement. The Partnership Commitment lapsed in May 2021 without the intended Partnership Agreement being negotiated.
- 4.38 To understand the LDM journey in the context of the East Arnhem region, it is important to recognise that there is considerable diversity across the region, but also significant connections within:

The Yolngu nations, around 10,000 people strong, there are many clans and language groups and whilst Yolngu live in larger communities, regional centres and homelands, they are strongly connected through the kinship systems. Yolngu have an unbroken connection to language, cultural law and seas, and whilst living across larger communities remain strongly connected.

There are strong Yolngu-led organisations who operate at the regional and national level—organisations like Miwatj Health, ALPA, Laynhapuy, Gumatj, Rirratjingu and Yothu Yindi and others. The leaders who we engage with—have the privilege to engage with—are those who led the homelands movement in 1970s who are the direct descendants of leaders who signed the Bark Petition and led historic land and sea rights cases.

... there is no one or single Yolngu body politic organised or reflected under balanda (or Western) recognised governance systems. However, a common thread across our consultations to date, which is also consistent with the witnesses—with most witnesses—at the Yirrkala hearing is that *bäpurru* or clan and *gurrutu* or kinship centred approaches to the LDM should be

followed. This important context has guided, at a high level and more detailed level, our approach to LDM in the East Arnhem region. We are learning along the way and trying to improve our ways of working.¹¹⁸

- 4.39 It quickly became evident to the Committee that the term ‘local decision making’ has a particular meaning to Yolngu people and refers to their traditional practice of making decisions, not a government policy. One witness told the Committee:

local decision making has always been something that we practised over time, for many years. Our forefathers were doing it and passing it on to generations and so on. We are still doing it today, but the government does not seem to recognise that.¹¹⁹

- 4.40 This sentiment was echoed by another witness who stated:

local decision was here before time. It was here by our forefathers and it was authority that was nourishing the deed and the manifestation of the people living in Arnhem Land; our ancestors and the ancestors before them. So when we talk about this decision making, local decision making, it was here in former days.¹²⁰

- 4.41 The evidence from written submissions and the Yirrkala hearings demonstrated there are significant concerns about the way LDM consultations have been conducted by the Government in the region. ARDS, an organisation engaged by the Government to facilitate consultation in East Arnhem, informed the Committee that Yolngu people have well-established systems of decision making and these cannot be disregarded when undertaking consultations:

We know—and you have heard so strongly—that there is a system of decision making, it’s a very effective system of decision making and strong system of decision making, but how to let that system integrate with the dominant culture system of decision making in a way that doesn’t create intentional or unintentional gatekeepers.¹²¹

- 4.42 The Committee heard from multiple witnesses and organisations that Aboriginal organisations should be used to facilitate LDM consultations, not to make decisions, as the cultural authority for consensus decision making is well-established within Yolngu culture and governance structures and does not sit with the organisations. One witness told the Committee:

All these people here, all these people here we represent the organisation we work with. We work with all different organisations. We don’t want those organisations to tell us what to do. Don’t tell us what to do. This is the time for the grassroots people to make the decisions, making our own decisions. Those organisations that we work with, they can help us.¹²²

- 4.43 Another witness expressed similar frustrations with the Government consulting with organisations instead of clan groups:

Government is directing Yolngu people on how it should work and how it should happen. That is the thing that frustrates me and also the fact that government is working with organisations instead of focusing on the Yolngu people on the ground—the grassroots people. That is my frustration.

¹¹⁸ DCMC, Committee Transcript, 2 December 2022, p. 4.

¹¹⁹ Laynhapuy Homelands Aboriginal Corporation, Committee Transcript, 27 October 2022, p. 3.

¹²⁰ Lapulung Dhamarrandji, Committee Transcript, 27 October 2022, p. 10.

¹²¹ ARDS, Committee Transcript, 27 October 2022, p. 29.

¹²² Dhangatji Mununggurr, Committee Transcript, 27 October 2022, p. 16.

Government shouldn't be doing that, talking to organisations to have a local decision making agreement. They should be talking to the people, the clan groups.¹²³

- 4.44 ARDS emphasised that this frustration has been discussed repeatedly when they have been facilitating LDM discussions:

A big point of discussion was do Aboriginal corporations represent Yolngu authority or do they not represent Yolngu authority. Very consistently, almost without exception our people have told us that Aboriginal corporations don't represent Yolngu authority. Yolngu authority exists separately and exists outside of Aboriginal corporations or outside of any organisations and to the extent that agencies and organisations need to be involved, they need to be involved as a supporting, serving role, not in the drivers, leading role. That, generally speaking, has been very consistent.¹²⁴

- 4.45 The Arnhem Land Progress Aboriginal Corporation reiterated the importance of engaging with communities according to their protocols, not those of the Government:

At the most recent ALPA board meeting in September 2022, the ALPA Board of Directors reaffirmed their position that local decision making must be undertaken through *bäpurru mala* and *gurruthu* clan and family structures and that local decision making should only be navigated and decided on through these structures not by organisations and not by government bodies.

In the words of our Chairman, Rev Dr Djiniyini Gondarra OAM, this is how Yolngu have reached consensus on complex decisions for thousands of years and in our view, it is the only way that these decisions can be made, with full integrity and buy in from our communities. It is the only way to engage the right people in the right way.¹²⁵

- 4.46 Another issue raised with the Committee was the challenge faced by community members who work for or represent multiple Aboriginal organisations and the conflicts of interest that people need to manage:

So one of the big things that came up very early on was what's the right balance and what's the role of Aboriginal corporations or organisations and where does Yolngu authority come from and how is Yolngu authority reflected in Aboriginal corporations and organisations. There's been a lot of discussion on that and one of the reasons why that has been a big point of discussion—I think you've again heard that this morning- is increasingly you heard the phrase, 'we wear many hats, Yolngu wear many hats'. Often people will be on multiple boards, they'll be part of many different organisations and all of those can pull people in different directions.¹²⁶

- 4.47 Concerns were expressed that the LDM processes that had been undertaken within the region had the effect of pitting organisations and clans against each other:

Currently, to be honest, we are not satisfied with how things are going with local decision making. We are not satisfied, we are not happy. The way I see it government hasn't been listening to us. Government is working with organisations, not the people. Government is creating disputes amongst the people. Then Yolngu all across the region we have different mindsets and

¹²³ Laynhapuy Homelands Aboriginal Corporation, Committee Transcript, 27 October 2022, p. 3.

¹²⁴ ARDS, Committee Transcript, 27 October 2022, p. 26.

¹²⁵ Arnhem Land Progress Aboriginal Corporation, Committee Transcript, 27 October 2022, pp. 20-21.

¹²⁶ ARDS, Committee Transcript, 27 October 2022, p. 26.

then we are competing with each other.¹²⁷

- 4.48 There are a large number of Aboriginal organisations operating across the region who receive funding to deliver a broad range of services on behalf of all levels of government. LDM has the potential to change the status quo in terms of who will deliver services which can exacerbate the existing sense of competition for funding and distrust amongst organisations:

A really common point of frustration is that the lack of transparency around funding of programs and funding of Aboriginal Corporations. What that means then is that organisations often feel like they are in competition with each other and they don't know why some people get money and why they don't get money. They don't know what the process is for some organisations getting chosen to be given funding. This then creates distrust amongst organisations so rather than being able to work together in partnership, it creates an environment of competition. What that then means is that people who are on the boards or employees of those different organisations can often get pulled into that same distrust which then, as we have heard in many discussions, that then breaks down *gurrutu*—breaks down kinship—breaks down then normal way of doing things and can be very damaging to that.

That, of course, makes a challenge for LDM because government traditionally has signed agreements and contracts with corporations and what are the mechanisms to sign agreements with clan leaders who are not recognised as a legal entity? So that fundamentally has created some of these questions about how do you balance the desire—like we've heard today and like we've consistently heard in our meetings—to have a direct link between Yolngu authority and government with no middle person, no middle organisation, nobody controlling the flow of information and yet government doesn't have capacity to give funding or to sign agreements absent an entity that has a legal presence. So that's fundamentally an issue that keeps coming up and it causes a lot of these tensions that we've been seeing.¹²⁸

- 4.49 In July 2022, the *Djalkiripuyngu Local Decision Making Agreement* was signed which covers all of the Djalkiripuyngu homelands located in the Blue Mud Bay area in the East Arnhem region. The agreement is between the NT Government and the Djalkiripuyngu clan leaders (represented by the Djalkiripuyngu Aboriginal Corporation), with Laynhapuy Homeland Aboriginal Corporation as a 'foundation partner' whose role is to work collaboratively to achieve the outcomes sought by the agreement.
- 4.50 There were differing views presented at the hearings about whether LDM agreements should be regional or subregional level. Some witnesses advocated for individual agreements for each community or homeland, while others proposed that agreements should include numerous homelands. It was evident that despite ongoing LDM discussions, reaching consensus on whether agreements should be regional or subregional remained a challenge.

¹²⁷ Laynhapuy Homelands Aboriginal Corporation, Committee Transcript, 27 October 2022, p. 6.

¹²⁸ ARDS, Committee Transcript, 27 October 2022, p. 26.

Alyangula

- 4.51 Following the hearings in Yirrkala, the Committee travelled to Alyangula on Groote Eylandt to hold public hearings with representatives from the Anindilyakwa Land Council (ALC), DCMC and a number of Aboriginal corporations established specifically to implement the key priorities contained in the *Groote Archipelago Local Decision Making Agreement* signed in November 2018.
- 4.52 The Groote Archipelago agreement contains nine priorities which have been categorised based on their implementation timeframes. Implementation plans are in place for each of the five short term priorities and under negotiation for the medium term priorities.
- Short term: housing; economic development; law, justice and rehabilitation; education; and health services.
 - Medium term: local government; and sustainable long term power solution.
 - Long term: regional control of other services; and future of Alyangula.
- 4.53 The discussions with stakeholders at the public hearings focussed primarily on the five short term priorities as well as the local government medium term priority. The stakeholders were overwhelmingly positive about their LDM experiences and progress of implementing the agreement. An overview of each of the priority areas discussed and evidence provided to the Committee at the hearings are detailed below.

Housing

- 4.54 Housing is the most progressed of the priority areas. In 2018, the ALC established the Anindilyakwa Housing Aboriginal Corporation (AHAC) which employs predominantly local staff and the board comprises Traditional Owners, community representatives and independent experts. The AHAC has been awarded tenders to deliver tenancy management support services and remote housing maintenance services on behalf of government agencies for around 350-400 houses. Longer term goals of the implementation plan include joint investment between the NT Government and ALC to reduce overcrowding through extensions and refurbishment of existing housing stock and new builds. It is intended that over time AHAC will take ownership and responsibility for management of all community housing.¹²⁹

Education

- 4.55 The education implementation plan contains a number of key priorities which include building an independent boarding school on Bickerton Island; developing a bilingual curriculum to be implemented at the boarding school and the Groote Eylandt community schools; establishing a program to develop local education

¹²⁹ Northern Territory Government and Anindilyakwa Land Council, *Groote Archipelago Local Decision Making Agreement Progress Report 2018-2022*, p. 12.

workers to engage with preschool and school aged children not attending school; prioritising early childhood development; and developing a community led governance model.¹³⁰

4.56 Grant funding was provided by the former Aboriginal Benefit Account to build the boarding school. The Groote Eylandt Bickerton Island Primary College Aboriginal Corporation (GEBIPCAC), established as part of the LDM process, will own and operate the independent boarding school. GEBIPCAC supports Anindilyakwa children attending local community schools and boarding schools in Darwin and Queensland by assisting with expenses including school shoes, uniforms and lunch money.¹³¹

4.57 The Committee heard that ‘we’d be lucky if 10% of the kids that should be going to school are going to school.’¹³² One of the barriers identified to improving school attendance is the English curriculum:

it’s gotta be a bilingual curriculum; these kids grow up speaking Anindilyakwa. A lot of little kids and even young men, really can’t speak a lot of English. It has to be a bilingual curriculum. It’s obvious. Without a language you’ve lost your culture.¹³³

4.58 GEBIPCAC is in the process of obtaining independent school registration and it is anticipated that it will open in 2024 with 24 students across years 3-6 and will later expand to 48 students. The Department of Education is supporting GEBIPCAC to develop the bilingual curriculum to be piloted in 2023.¹³⁴

Economic Development

4.59 The Anindilyakwa people have an ambitious and comprehensive economic development masterplan to transition from a mining royalty dependent economy to a culturally rich and sustainable economy. The masterplan to diversify the economy will provide short and long term training and employment opportunities for the Anindilyakwa people.

4.60 The Groote Holdings Aboriginal Corporation was established to deliver the masterplan with Sitzler contracted to provide project management support. The masterplan includes the establishment of a manganese mine on Winchelsea Island and the Little Paradise development on Groote Eylandt which will include:

- Luxury eco resort
- Marine harbour serving as a transportation hub for mining, education and tourism, and a biosecurity compound
- Logistics and base camp

¹³⁰ Northern Territory Government and Anindilyakwa Land Council, *Groote Archipelago Local Decision Making Agreement Schedule 3.4 – Education Implementation Plan*, 2020.

¹³¹ Groote Eylandt Bickerton Island Primary College Aboriginal Corporation, Committee Transcript, 28 October 2022, p. 9.

¹³² Anindilyakwa Land Council, Committee Transcript, 28 October 2022, p. 3.

¹³³ Anindilyakwa Land Council, Committee Transcript, 28 October 2022, p. 3.

¹³⁴ Northern Territory Government and Anindilyakwa Land Council, *Groote Archipelago Local Decision Making Agreement Progress Report 2018-2022*, pp. 18-19.

- Aquaculture facilities
- Hospitality complex with accommodation, dining facilities, bistro sports club and a general store
- Timber industries precinct for wood processing and plant nursery
- Workers village with accommodation and mess facilities
- Solar farm micro grids to power industry and community
- Residential estate with mixed style modern housing
- Vehicle centre for micro businesses.¹³⁵

Law, Justice and Rehabilitation

4.61 The two key actions to achieve law, justice and rehabilitation outcomes are the establishment of a Community Justice Group and an Alternative to Custody Facility which are being overseen by a steering group comprising the ALC, DCMC and the Department of the Attorney-General and Justice.

4.62 The Community Justice Group is designed to provide a holistic approach to law and justice and comprises Anindilyakwa leaders whose role is to:

identify the priority areas for Anindilyakwa people around law, justice and rehabilitation. Whether that is being more actively involved in the court system or being more actively involved in the domestic and family violence space or child protection. So it is up to the community members to identify their priority areas and then they have a community justice manager that will support them to progress those areas in that space.¹³⁶

4.63 The Alternative to Custody Facility will be built on a remote part of Groote Eylandt to provide courts with an alternative option to imprisonment in a traditional correctional facility and provide eligible male offenders with culturally appropriate rehabilitation and support services while remaining on country. The Committee was advised that the facility will:

quite literally be an alternative to sentencing. So cultural programs and support programs in there. We are still working through exactly what that will look like. The Community Justice Group, which has Anindilyakwa leaders in that, they will provide important advice around how those programs should be delivered and what that service should actually look like.¹³⁷

Health and Wellbeing

4.64 The Warnumamalya Health Services Aboriginal Corporation was established in November 2021 with the intention that it will take responsibility for the delivery of health services on the Groote Archipelago when it has sufficient capability to do so. However, as the Committee was advised, the shorter term aspirations are focussed on increasing involvement in how services are delivered and building

¹³⁵ Anindilyakwa Land Council and Groote Holdings Aboriginal Corporation, *Invested in Our Future Groote*, <https://anindilyakwa.com.au/app/uploads/2022/06/Invested-in-Our-Future-Groote.pdf>

¹³⁶ DCMC, Committee Transcript, 28 October 2022, pp. 16-17.

¹³⁷ DCMC, Committee Transcript, 28 October 2022, p. 16.

local capacity within the health care sector:

obviously NT Health have been here for a long time; there are a lot of people being employed by NT Health they've been here for a long time as well too so the idea is to work with them because they have experience and they have the knowledge... we need their help; we need their expertise on this field. But later on, when the young people here have been in that field and gone to university and become a doctor or a nurse or whatever, the goal is to get them to come back here and work in this field. Right now it's pretty much trial work, our goal is to work closely with NT Health to give us their knowledge.¹³⁸

- 4.65 Access to medical care and health services varies across the communities on the Groote Archipelago and several communities do not have nurses living in them. Stakeholders told the Committee that they hope to improve the provision of health services in all communities through the LDM agreement.

Local Government

- 4.66 The Groote Archipelago sits within the boundaries of the East Arnhem Regional Council which services nine remote communities across the region, three of which are located on the Archipelago. A key priority for the Anindilyakwa people in the LDM agreement is to take responsibility for local government on the Groote Archipelago through the establishment of a separate Anindilyakwa Regional Local Government Council.
- 4.67 The existing council boundaries were established under the 2008 local government reforms with the East Arnhem Regional Council headquarters based in Nhulunbuy. The Committee heard from a former councillor that, in his experience, commitments made to funding requests by the Bickerton Island Local Authority were not delivered on by the Council.¹³⁹
- 4.68 In submissions to the inquiry, both the Local Government Association of the Northern Territory (LGANT) and the East Arnhem Regional Council opposed the creation of a new regional council, citing concerns about setting a precedent for de-amalgamation of regional councils and its impact on the viability and sustainability of service delivery. The Committee was advised by the ALC that over time local leaders had discussed the idea of a new council and the proposal was now supported:

it has come a long way since last year but what actually happened was there was a request from Anindilyakwa leaders and Yolngu leaders to say we do not want any balanda [white people] in the room. They locked the door and nuttered it out for about an hour and a half and they walked out of that comfortable. Yolngu leaders said that we want to respect what Anindilyakwa people are doing... That is how we got to this point. So that was so special. That was the key moment to get to where we are and subsequently East Arnhem then resolved to support us moving forward.¹⁴⁰

¹³⁸ Warnumamalya Health Services Aboriginal Corporation, Committee Transcript, 28 October 2022, p. 12.

¹³⁹ Anindilyakwa Land Council, Committee Transcript, 28 October 2022, p. 3.

¹⁴⁰ Anindilyakwa Land Council, Committee Transcript, 28 October 2022, p. 20.

Observations from Community Visits

- 4.69 The Committee found the visits to each community to be very informative and helped to build a picture of how the LDM journey is unique to each community. Speaking directly with community members on country provided the Committee with insights that could not have been gained through reading submissions or holding public hearings in Darwin with government agencies and representatives of large Darwin based Aboriginal organisations.
- 4.70 The differences in the LDM journey and experiences for each community were stark. In Kintore the Committee heard that the Government had not held discussions about LDM with the community and they were unaware of the LDM Framework. In Yirrkala it was clear that there had been considerable LDM discussions held, however, there were strong criticisms of how the consultations had been conducted by the Government and there was confusion about LDM. The feedback in Alice Springs from Tangentyere Council was predominantly positive about their experience with LDM in the town camps, however, other stakeholders such as regional councils were critical of the Government regarding the level of inclusion of local government in LDM discussions. In Alyangula the Committee was told of the tangible outcomes that had been achieved in certain priority areas and actions that were underway in other priority areas.
- 4.71 The Committee considers that caution should be exercised when making comparisons about communities in the LDM context. There is vast diversity across Aboriginal communities and each community is unique. The characteristics and circumstances specific to each community will influence their LDM journey, however, so will the Government's approach towards LDM consultation and negotiation and whether they 'get it right' at the start.
- 4.72 The Groote Archipelago LDM agreement has been considered to be the 'gold standard' by some commentators and stakeholders. The Committee considers that it is important to acknowledge that there are factors and circumstances specific to Groote Eylandt that have enabled the development and implementation of this LDM agreement.
- 4.73 In their submission to the inquiry, the Northern Territory Treaty Commission noted:

There are many reasons why the Anindilyakwa LDM is considered to be the benchmark:

- The Anindilyakwa have a natural, uncontested boundary that is not contiguous with another land boundary;
- The Anindilyakwa have access to financial resources;
- The Anindilyakwa have a strong cultural foundation;
- There is already strong Aboriginal leadership on the archipelago with a strong vision for the future;
- The role of the Land Council and its authority are widely accepted – meaning a First Nation ethos already exists; and
- The response to LDM was driven by the community. They saw an opportunity when LDM was launched and tailored that opportunity to

their own aspirations.

These success factors need to be understood and then applied to other areas. Although all of the above are important, the fact that the Anindilyakwa are a cohesive group who had a vision for their First Nation is particularly instructive as to what needs to be in place in order to achieve effective LDM implementation.¹⁴¹

- 4.74 The Aboriginal Peak Organisation of the Northern Territory (APO NT) made similar observations about Groote Eylandt and the need to recognise the differences between communities:

the leadership at Anindilyakwa was very strong and I know the chairman is strong about community leading, making decisions at that regional level. I think the uniqueness of the Anindilyakwa stuff is it's on its own, it's got its own island—a bit similar to Tiwi and other communities where there is no other key major stakeholder influencing the processes and decisions. That's a positive...

I think it's all about, and this is what I said earlier, relationships and strong local leadership on the ground that have the appropriate support and community investments. Let's not beat around the bush; Groote Eylandt with the mine and its activities have more resources. I think they have another financial situation but I imagine they would have some additional support that other communities do not have.

These are the challenges. That is why we need to look at these as not one size will fit all. We must remember that as well. We cannot dream up something either in Canberra or Darwin and expect that to work in communities, particularly remote communities.

This is why we need to go back at that regional—allow our mob, our community members, to decide what that footprint might look like. Member for Mulka might say no, this mob here want this sort of model of approach to community decision making or whatever decision making process. Others through the Northern Territory will have different ideas.¹⁴²

- 4.75 The community visits clearly illustrated to the Committee that each community will have its own unique experience with LDM and their journeys will be influenced by a wide range of factors. The Committee considers that it is unwise to try to compare LDM agreements between communities or label a community or agreement as the gold standard. What is important is that LDM processes and agreements meet the individual needs of each community and respect their cultural and decision making practices.

- 4.76 One of the takeaway messages for the Committee was the need for governments and Aboriginal communities to not only work together, but to learn from each other as well:

If you go out fishing, you've got hook, sinker. If that hook and sinker all gone, what is the next thing you can catch the fish? Nothing. Come and get the teaching from the Yolngu. Hey? When you have no hook, no sinker, you have the special very important material with you—it's the spear. Hey?

That is how we have to work together. If you are on your own and you will see the fish swim, how can I get that because I have no hook here and no sinker? How will I get the fish? That is why you will have to come and get the

¹⁴¹ Northern Territory Treaty Commission, Submission No. 17, 2021, p. 4.

¹⁴² APO NT, Committee Transcript, 17 February 2023, pp. 15-16.

teaching from the Yolngu. They will show you how to make that spear. That is your next thing to catch the fish.¹⁴³

- 4.77 The Committee expresses its sincere thanks to all the community members and organisations that participated in the hearings and discussions and appreciates their willingness to share their experiences through frank and open discussions.

¹⁴³ Yolngu Nations Assembly, Committee Transcript, 27 October 2022, p. 12.

5 Issues Raised in Evidence to the Committee

- 5.1 It was evident to the Committee throughout the inquiry that there is overwhelming support for the principles underpinning the LDM Framework and its aim of empowering Aboriginal people through greater input into and control over program and service delivery in their communities. However, the evidence provided in submissions and at public hearings demonstrated there are a broad range of concerns about the Framework, its implementation and its ability to deliver real change to the lives of Aboriginal people.
- 5.2 This chapter will detail the issues and concerns raised throughout the inquiry which are broadly categorised as:
- Support for LDM Principles
 - Stakeholder Understanding of LDM
 - Consultation and Engagement
 - Capacity and Governance of Aboriginal Organisations;
 - Local Government
 - Funding for LDM
 - Monitoring, Evaluation and Reporting.

Support for Local Decision Making Principles

- 5.3 Aboriginal Affairs policies since colonisation have had a devastating effect on Aboriginal communities resulting in disempowerment of Aboriginal people and a deep-seated mistrust of governments. While some policies were undoubtedly well-intentioned, the implementation of these policies has caused significant damage and affected the well-established decision making structures that have existed in Aboriginal communities for thousands of years. These policies, coupled with local government reforms, have also diminished the governance and organisational capacity of Aboriginal communities which has affected their ability to deliver services and address their needs.
- 5.4 Most stakeholders who provided evidence to the Committee expressed their support for the LDM principles. LGANT advised the Committee:
- LGANT and the local government sector supports the key principles on which LDM is based, including empowering Aboriginal people in decision making that impacts them, supporting decision making by Aboriginal communities to have greater say in how government services are delivered and applying service delivery models that work best for their community and region.¹⁴⁴
- 5.5 The Arnhem Land Progress Aboriginal Corporation expressed support for the change in the Government's approach to working with remote communities:

¹⁴⁴ LGANT, Committee Transcript, 17 February 2023, p. 2.

There is strong support for the principles of LDM of self-determination, place-based, flexible, co-design and community control as well as the LDM Community Control Continuum and the commitment to two-way learning and capacity building. The ALPA Board believe that each of these elements are important in the creation of significant, sustainable and authentic improvements in the wellbeing of the communities. They represent a shift in how challenges in remote communities have historically been approached and provide communities a chance to take control of their futures in many important areas.¹⁴⁵

- 5.6 The Central Australian Aboriginal Congress commended the Government for developing the LDM Framework, however, it also recommended a number of reforms to it based on their extensive experience in the transition of health services to community control:

The LDM approach accords with the evidence that Aboriginal community control is the most effective and responsive governance platform for service delivery in Aboriginal Australia...

The LDM approach program also is in accordance with the rights to self-determination of Aboriginal peoples as established under international agreements to which Australia is a signatory, including the *United Nations Declaration on the Rights of Indigenous Peoples*.

Congress therefore commends the Northern Territory Government for establishing the Local Decision Making (LDM) framework and strongly supports its aim of partnering with Aboriginal communities to progress the transition of government services and programs to Aboriginal community control.

However, based on our extensive evidence-informed policy and practical experience of community control and Aboriginal empowerment, we have a number of suggested reforms to support the LDM approach...¹⁴⁶

- 5.7 In 2018, APO NT developed an LDM Issues Paper in which they expressed in-principle support for the LDM Framework:

The LDM Framework recognises the Government's commitment to supporting Aboriginal self-determination and the vital role of effective governance to enable Aboriginal people to govern and make decisions about how their affairs are managed. It also acknowledges the imperative for the NT Government to transform the way it works, and to align LDM principles and practices with related Government initiatives, including discussions about a potential treaty and commitment to partner with Aboriginal communities to implement recommendations of the Royal Commission into youth detention and child protection.

APO NT considers that the LDM Framework provides opportunities for Government to support the local capacity of Aboriginal communities and transform its way of working: to coordinate across all levels of government, to provide direction and support for behavioural change within its departments and agencies, and to implement funding and accountability arrangements which promote realistic, Aboriginal-driven outcomes.

To do this, LDM must be designed in partnership with Aboriginal people and facilitate a genuine power shift in decision-making power and not merely service delivery control.¹⁴⁷

¹⁴⁵ Arnhem Land Progress Aboriginal Corporation, Submission No. 15, 2021, p. 2.

¹⁴⁶ Central Australian Aboriginal Congress, Submission No. 21, 2021, pp. 3-4.

¹⁴⁷ APO NT, Submission No. 20, 2021, p. 3.

- 5.8 The APO NT Issues Paper also detailed concerns about the Framework and provided recommendations on how it could be strengthened. APO NT stated that the Government did not respond to the concerns raised in the Issues Paper and the organisation ‘withdrew its engagement with LDM in July 2019 citing ‘fatigue from policies that don’t live up to the promise of real change or reform’ and a loss of confidence and trust in the process.’¹⁴⁸ At the final public hearing in February 2023, APO NT informed the Committee it is ready to work with the Government to review the LDM policy in line with recommendations from this inquiry and the evaluation that has been completed by Charles Darwin University.

Stakeholder Understanding of Local Decision Making

- 5.9 One of the key themes throughout the inquiry was a lack of understanding about the LDM Framework including the scope of what can be included in LDM agreements; which services that can be transitioned to community control; and the alignment and overlap of LDM with other Aboriginal Affairs policies.

What’s in a Name?

- 5.10 It became apparent that the Framework’s title has caused confusion in some communities resulting from difficulties in distinguishing the difference between ‘Local Decision Making’ as a government policy and ‘local decision making’ as a practice that Aboriginal people have been undertaking for thousands of years within their communities. This was particularly the case in the East Arnhem region as mentioned in the Yirrkala case study in the previous chapter. Yolngu people feel very strongly about their concept of, and connection to, local decision making as illustrated by a witness who told the Committee:

We come with the local decision making within the family and the tribe. That is our local decision making; it is happening and it happened way back when, way back, many years ago. It is not new. We had that within our spirit. We carry that with our own spirit. We are people that contain our spirit. We have picture in our spirit and we know who we are and how we need to make it into a space that has to be balanced, has to come together.

Don’t think like that, that we are nobody. We are people of destiny. We are people of vision. If you come to my community, you can’t make my local decision making. You can’t demonstrate my role, my culture, my ceremony—you do not know. It is me; it is my people, my clan.¹⁴⁹

- 5.11 The Committee notes that conflation of LDM as a government policy and as an Aboriginal practice of decision making was not expressed by stakeholders on Groote Eylandt or the Tangentyere Council Local Decision Making Subcommittee. This may be due to different decision making practices in each Aboriginal community or their use and understanding of the term ‘local decision making’. Alternatively, it may be because these communities are relatively well advanced in their LDM journey and consequently are very familiar with the government policy and the context in which the term is used.

¹⁴⁸ APO NT, Submission No. 20, 2021, p. 2.

¹⁴⁹ Yolngu Nations Assembly, Committee Transcript, 27 October 2022, p. 12.

- 5.12 Further, the Committee is aware that on 25 August 2021 the Yugul Mangi Development Aboriginal Corporation officially opened the 'Local Decision Making Boardroom and Offices' in Ngukurr to coincide with the signing of their second three year implementation plan.¹⁵⁰
- 5.13 As noted in the Kintore case study, DCMC informed the Committee:
- We do not walk into a community and say, 'Would you like an LDM agreement?' or 'What do you want in your LDM agreement?' We do not even have a conversation about LDM.
- We try to say, 'What should your community look like? What are the things that are really problematic for you? What are the things you would like to work with government to change?' That is always our starting premise.¹⁵¹
- 5.14 The Committee considers it would be beneficial for the Government to work with communities to improve their understanding of LDM as a government policy, the possible outcomes that can be achieved under the Framework, and how these can complement, not replace, local decision making practices.

Policy Scope and Clarity

- 5.15 The LDM Framework provides a high level conceptual overview of the principles underpinning LDM as a government policy and how the Government intends to transform the way it works with Aboriginal communities and organisations, particularly in regards to program and service delivery. However, stakeholders consistently advised the Committee that there is a lack of understanding about what the policy means; uncertainty about which services can be transitioned to community control; how and who they can be transitioned to; and what non service delivery aspirations can be included in LDM agreements.
- 5.16 Examples of commentary about the lack of clarity on what can be achieved under the LDM Framework are detailed below.
- 5.17 The Arnhem Land Progress Aboriginal Corporation noted the importance of explaining LDM as a policy concept before meaningful conversations can commence:
- A concept such as LDM requires significant discussion to ensure that all parties understand the premise, prior to discussions within the communities themselves being undertaken... There has been some confusion highlighted by the community leadership on who they are working with to negotiate an agreement, as well as by whom it will be implemented. LDM is a Northern Territory Government (NTG) initiative and the engagement of the "three levels of government" has generated some confusion around the process. There is an opportunity to make this clearer in future consultations.¹⁵²
- 5.18 The Northern Territory Treaty Commission commented on the inconsistency between the Framework's emphasis on delivery of government services and the contents of LDM agreements which include priorities such as community and

¹⁵⁰ Big Rivers Region Local Decision Making, <https://ldm.nt.gov.au/about-ldm/big-rivers>

¹⁵¹ DCMC, Committee Transcript, 16 September 2021, p. 11.

¹⁵² Arnhem Land Progress Aboriginal Corporation, Submission No. 15, 2021, p. 3.

economic development:

If LDM is about the transfer of government service delivery to Aboriginal communities, then LDM outcomes to date [2021] are disappointing as we are not aware of any transfer of services that was already in train prior to LDM (eg the transfer of the Maningrida Health service was already in the planning stage prior to LDM being implemented).

Other than on Groote Eylandt, the LDM agreements signed to date are not consistent with the transfer of government service delivery to community control – but instead document initiatives aimed at community development.¹⁵³

- 5.19 LGANT questioned what ‘local government’ means in the context of LDM and which services currently provided by regional councils are intended to be transferred to Aboriginal organisations:

It is unclear what is meant by ‘local government’ in this context. Does this refer to the potential transfer of services currently provided on a contractual basis on behalf of Territory or Commonwealth Government agencies (e.g., Homeland maintenance, Centrelink)? Does it refer to longstanding services traditionally provided by Local Government councils such as local road management or waste management? Does it also refer to the entire council and its functions? A lack of clarity about what is meant by ‘local government’ in the context of LDM contributes to a sense of apprehension within the Local Government sector.

In addition to traditional Local Government roles (e.g., local roads and waste management), regional councils in the NT provide a range of key services and community-based programs on behalf of NT Government and Commonwealth Government agencies. These are funded through a combination of interagency contracts for services and grants for community programs.¹⁵⁴

- 5.20 In response to the criticisms about the Framework’s lack of prescriptiveness, DCMC advised the Committee at the inquiry’s first public hearing in September 2021:

We have had feedback that the policy is a little vague. That is very deliberate because we want it to be everything it can be. We do not want to define and say, ‘This is all you can do.’ We want people to be visionary and really clear about what it is they would like to see for their community and what their aspirations are. The more you tighten a policy, the less likely you are to get that outcome. When we sit down and work together through it, often that worry goes.¹⁵⁵

- 5.21 At the final public hearing in February 2023, APO NT informed the Committee that the feedback they were receiving was that there was still a lack of understanding about LDM in some communities:

One thing we hear about local decision making, and I’m not saying they’re all dysfunctional or not working, there are pockets throughout the Northern Territory that I understand are pretty well effective. I believe a lot of that has to do with personal relationships and people who manage and lead those processes. Elsewhere, I hear stories where plane or car loads of bureaucrats go into these communities and they meet—I don’t know how many local community members attend those meetings. Local community mob keep

¹⁵³ Northern Territory Treaty Commission, Submission No. 17, 2021, p. 2.

¹⁵⁴ LGANT, Submission No. 8, 2021, p. 2.

¹⁵⁵ DCMC, Committee Transcript, 16 September 2021, p. 4.

saying to me that they don't have a sense of decision making. Bureaucrats are coming in and telling them this thing and that thing, explaining it and having a bit of a yarn, and then jump on their planes and motorcar and leave and that's it you know.¹⁵⁶

- 5.22 DCMC reaffirmed at the final public hearing that any priorities and aspirations of a community that the NT Government has responsibility for are up for discussion, however, noted that some aspirations cannot be accommodated:

What we've said is that this is open to the priorities of the community—anything that the NT Government owns is on the table for discussion. It is a negotiation at that point, like if it's something that's not viable or possible—some of the examples there, people are wanting to have customary law included in a law and justice agreement, for instance, which is just something that we acknowledge their aspiration but don't sign up to in our current legislative system.¹⁵⁷

- 5.23 The Committee understands the Government's position that they do not want to stifle LDM discussions and the opportunity to explore community aspirations though a rigid policy framework. However, LDM is a ten year policy commitment and at the halfway point there is still considerable uncertainty about what it means and what it can achieve. The Committee considers that further work is required to provide clarity and educate organisations, Aboriginal communities and the general public about the LDM Framework.

Alignment and Overlap of Aboriginal Affairs Policies

- 5.24 Understanding the scope of LDM is further complicated by the multitude of Aboriginal Affairs policies, strategies and initiatives which are based on the same underlying principles and seek to improve the lives of Aboriginal people through empowerment and self-determination. Chapter 2 provided an overview of the *Everyone Together Aboriginal Affairs Strategy* and Closing the Gap. Other Aboriginal Affairs policies that align and overlap with LDM are the NT Aboriginal Justice Agreement, Treaty, Truth-Telling and the Voice.
- 5.25 The *Everyone Together Aboriginal Affairs Strategy* is intended to provide 'the overarching whole-of-government framework that unifies the work'¹⁵⁸ of numerous Territory and Commonwealth policies, initiatives and strategies and explain how they differ, align and overlap. However, this high level strategy does not distil them in a manner that is easily understandable for organisations involved in their implementation or Aboriginal people living in regional and remote communities, who are the very people that these policies are designed to empower.
- 5.26 Many stakeholders informed the Committee that Aboriginal Affairs is a crowded and confused policy space. There is little understanding about the differences between individual policies and how they fit together into the bigger picture of Aboriginal advancement and empowerment. In their submission to the inquiry,

¹⁵⁶ APO NT, Committee Transcript, 17 February 2023, p. 13.

¹⁵⁷ DCMC, Committee Transcript, 17 February 2023, p. 28.

¹⁵⁸ Office of Aboriginal Affairs, *Everyone Together Aboriginal Affairs Strategy 2019-2029*, p. 4.

LGANT stated:

The recent proliferation of these separate yet potentially overlapping processes can be confusing for stakeholders including Local Government Councils. It is important that it is made clear to stakeholders how these processes differ and how they might fit together. For example, both Local Indigenous Voice and LDM are place-based initiatives. If a Local or Regional Indigenous Voice structure was put in place where there was also a LDM project, how would that affect stakeholder engagement and decision making?¹⁵⁹

5.27 DCMC acknowledged the challenges and risks associated with a congested policy environment, stating that the:

empowerment agenda is a crowded space. The risk of confusion and dividing leaders is very significant. Between the LDM Framework..., policies and legislation on local government and local authorities, Commonwealth Local and Regional Voice and Empowered Communities and other local or regional initiatives, create a very crowded and sometimes contested environment. It is difficult to address this, but I think governments, through the Closing the Gap Agreement, have a clear responsibility to be joined up and consistent where possible, and clear if there are points of difference.¹⁶⁰

5.28 The linkages between LDM and Treaty were discussed by a number of stakeholders, with the Anindilyakwa Land Council perceiving LDM as the pathway to a legally binding Treaty:

The ultimate vision for the Anindilyakwa people is self-determination. The ALC sees this vision being fulfilled through a treaty, a legally binding instrument that will recognise the Anindilyakwa people as the sovereign owners of the Groote Archipelago and provide for substantive self-governance. The bridge to self-determination and a treaty is through the LDMA [LDM Agreement].¹⁶¹

5.29 However, the Northern Territory Treaty Commission considered that it would be problematic for LDM in its current format to pave the way to Treaty:

The NTTC Treaty framework to be proposed will be based upon agreements between an individual First Nation (or a group of First Nations) and the NT government. However, with a couple of exceptions, LDM Agreements have been with organisations. This will make transition from LDM to Treaty problematic. Following on from the previous point, an alternative approach for LDM would have been to spend the first few years helping First Nations to formally establish themselves, build their capacity and then for LDM agreements to be negotiated with them...

For both initiatives to be successful in the NT, it is important that they are seen as interlinked parts of the same puzzle that need to be aligned and that have smooth transition points.¹⁶²

5.30 In the context of the upcoming constitutional referendum on a Voice to Parliament, DCMC advised the Committee that LDM, as a grassroots level policy, will build capacity and lay foundations to provide a voice for Aboriginal people:

All these policy matters have a part to play in really improving Aboriginal disadvantage out there and their voice, making sure the voices of Aboriginal

¹⁵⁹ LGANT, Submission No. 8, 2021, p. 5.

¹⁶⁰ DCMC, Committee Transcript, 2 December 2022, p. 8.

¹⁶¹ Anindilyakwa Land Council, Submission No. 18, 2021, p. 1.

¹⁶² Northern Territory Treaty Commission, Submission No. 17, 2021, pp. 4-5.

people are being heard. LDM is a mechanism to really get the foundational bricks happening by building up the capability of Aboriginal people but also government as well to enable that to happen. Having that voice and sharing in the decision making so locally and place-based. It is really important.

The next step is that connection, parallel to that is having a Voice at the national level to be able to really provide advice and input into legislation and policies that impact Aboriginal people. It is important to connect it up from a local level, Territory level and national level as well.¹⁶³

Effective Consultation Processes

- 5.31 The presence of both the Territory and Commonwealth governments in Aboriginal Affairs adds another layer of complexity and presents challenges due to the manner in which consultations are undertaken with separate meetings held to discuss individual policies and initiatives. ARDS told the Committee:

A few of the challenges, more on the government side, one you have already heard and we have to say it because it is causing problems, we have so many similar programs. We've got the Voice, we've got Empowered Communities and they're all effectively saying the same thing and they're all running similar or different consultation processes. So sometimes it is simply the case that if another consultation process comes in from a federal government level, you can't continue to have that conversation for at least another month or two in order to make sure there's proper understanding about the difference between those two programs or people have simply talked too much and are sitting in too many meetings. The idea of too many meetings, too many requests to consult and too many similar overlapping problems means that it is very hard to create enough time and space to have the depth of conversations that are needed for LDM.¹⁶⁴

- 5.32 Organisations and community members told the Committee that it is difficult to distinguish which policy is being discussed and who is conducting the consultation. Suggestions were made by several stakeholders that it would be more effective to hold a single consultation with representatives from both levels of government and all policy initiatives presented at the one meeting. MacDonnell Regional Council stated:

In regards to Treaty, Truth-Telling, Voice and LDM development, the Council were in agreement that there is confusion because of the multiple initiatives and their complexity. The Council requested that more thought is put into assisting communities to understand what is exactly the same and what is different between the initiatives, and this should be done at the one time, rather than there being multiple visits to community from the different initiative representatives.¹⁶⁵

- 5.33 ARDS explained the challenges of knowing which level of government or agency community members needed to talk to about specific programs or services. ARDS organised a meeting with government representatives from all levels of government, however, found it did not result in meaningful discussions:

To understand the difference, if you want to talk about ranger programs you talk to the federal government don't talk to the NT government; but if you want to talk to CDP, you talk to the federal government; but if you want to

¹⁶³ DCMC, Committee Transcript, 17 February 2023, p. 32.

¹⁶⁴ ARDS, Committee Transcript, 27 October 2022, p. 28.

¹⁶⁵ MacDonnell Regional Council, Submission No. 7, 2021, p. 3.

talk about roads, who do you talk to? We did, on one five day meeting, on the fourth day of the meeting we asked all three levels of government to join in with the idea that you bring all three levels of government together but simply, there are too many agendas in the three levels of government to bring it all in together at one time. We didn't find that to be a particularly successful model. In theory it sounded nice but when you actually bring three levels of government with competing agendas, it's very hard to have the depth of discussion on any one particular issue. That's just the reality of multiple levels of government all with different programs and agendas at the same time.¹⁶⁶

Policy Coordination and Collaboration

5.34 A number of stakeholders informed the Committee that the lack of policy coordination is detrimental to achieving actual outcomes for Aboriginal people, with LGANT telling the Committee that:

The Aboriginal advancement policy space is crowded with everyone trying to do the right thing but more often than not tripping over each other and positive outcomes not being realised. This leads to mistrust, despair and apathy.¹⁶⁷

5.35 The Northern Territory Treaty Commission was critical of the lack of cohesiveness in the Aboriginal Affairs policy space and its ability to achieve meaningful change for Aboriginal people:

Aboriginal Affairs policy development and delivery, both nationally and in the NT, is piecemeal, disjointed and not cohesive. There are lots of creatively named initiatives that keep people busy and generate lots of activity, but in the long run do not lead to sustainable (or any) improvements to the lives of Aboriginal Territorians...

Rather than adding more programs to this congested agenda, if LDM is to be sustainable and is to improve the social, cultural and economic well-being of Aboriginal Territorians, we need to get down and deal with the basics:

- We need to get the governance right – by creating First Nations governance now;
- Capacity building of First Nations leaders so that they have the capacity to accept the transfer of services needs to occur;
- First Nations need to develop their own visions and aspirations;
- First Nations need to drive the agenda on the basis of their free, prior and informed consent; and
- A targeted, structured and accountable change management program needs to be implemented across the NTPS.¹⁶⁸

5.36 LGANT informed the Committee that organisations need to work collaboratively to address problems in the Aboriginal Affairs policy space:

It is really hard to hear from, properly, all those who need to be heard. That is the crux of this; there is confused public policy marketplace. There is more confusion, perhaps, coming—again, well meaning.

... Let us get all of us in a room and ask, 'What is the problem we are trying

¹⁶⁶ ARDS, Committee Transcript, 27 October 2022, p. 28

¹⁶⁷ LGANT, Committee Transcript, 17 February 2023, p. 3.

¹⁶⁸ Northern Territory Treaty Commission, Submission No. 17, 2021, p. 5.

to solve?’ It is addressing Aboriginal disadvantage? Okay, what are the mechanisms to do that?’ That is the bit I would love to see. The old saying for anybody who has worked in education, it takes a village to teach the child. Well, it will take the village to solve this issue, not everybody working in isolation.¹⁶⁹

- 5.37 LGANT also emphasised that regional councils want to play an active role in addressing Aboriginal disadvantage:

it is everybody coming in the room and leaving titles and egos at the door and saying, ‘Okay, so what are we trying to solve?’ It is back to basics with that—consult. That will be confronting for some people, probably including our sector, but we want to be part of that answer. We want to be better armed to work in that area and help to improve Aboriginal disadvantage.

Money is not everything. It is a big part of it, but it is the coordination and effort. Roper Gulf Council has raised this before, as have MacDonnell Regional Council and others. These are very much about the coordination of the effort, particularly in the social space. They are seeing an awful lot of resources put into very similar cohorts by three levels of government at least and NGOs.¹⁷⁰

- 5.38 APO NT commented on the perception of competition between different levels of government and the need to review the various frameworks and policies to achieve better coordination and reduce duplication:

I believe we need to get the relevant stakeholders around the table to see what all these national frameworks, jurisdictional frameworks, local frameworks are all doing and what they’re delivering and their responsibilities and see where we can hopefully come up—what really gets under my goat is this competitive—I don’t know whether it’s real or factual or what, but from my experience working with our mob and experiencing—I don’t know, there seems to be this competition between the feds and state and Territory governments about wanting to outdo one another and delivering this and that.

We’ve got duplication happening all over the place. No wonder we haven’t closed any gaps to date. So it’s about time to sit down with all the relevant key stakeholders to work out what is our relationship, where are the duplication of services, what are peak organisations delivering, how can we add value, how can we complement to hopefully address those pressing issues in communities. I think that’s a real priority...¹⁷¹

- 5.39 The evidence provided to the Committee suggests there is considerable work to be undertaken by all levels of government and non-government organisations to improve collaboration and coordination in the Aboriginal Affairs policy sphere and reduce duplication of effort and service delivery.

Whole-of-Government Approach

- 5.40 DCMC are responsible for leading and coordinating LDM processes to identify community aspirations; assess leadership, governance and capacity of communities and Aboriginal corporations; and develop LDM agreements and implementation plans. Government signatories to LDM agreements may be a

¹⁶⁹ LGANT, Committee Transcript, 17 February 2023, p. 8.

¹⁷⁰ LGANT, Committee Transcript, 17 February 2023, p. 8.

¹⁷¹ APO NT, Committee Transcript, 17 February 2023, p. 14.

single agency (DCMC) or multiple agencies, for example, the LDM agreements in the Big Rivers region.

- 5.41 The LDM Framework clearly articulates that all agencies are expected to embed the LDM principles into their work with Aboriginal communities and in the delivery of services and programs, irrespective of whether there is a LDM agreement in place. This expectation was confirmed by DCMC who stated that LDM:

is definitely a whole-of-government policy and all the different agencies participating in that. And we see in that as we work through the Closing the Gap priorities, particularly transforming government agencies, certainly we see LDM playing a key role in not just communities being ready to engage but government's doing things different—engaging at different levels as well.¹⁷²

- 5.42 The Northern Territory Treaty Commission criticised the failure of some public service agencies to embed the LDM principles and change how they work with Aboriginal people:

LDM represents a transformational change not only in the way that the NTPS operates, but in the way it needs to think. Transformational change of this nature requires a focused and structured change management program – and that has not happened. There is little doubt that DCMC is committed to the changes. However, the same cannot be said of the main service delivery agencies including the departments responsible for health, housing, education and children.

If transformational change is to happen, Departmental CEOs need to be made accountable, staff competency and capability models need to be set up, extensive training in the “new world” needs to occur and there needs to be consequences for those who do not move with the times.¹⁷³

- 5.43 The Government's submission acknowledged that further work is required to get agencies to embed the principles and change the way they operate:

where agencies are not party to a LDM Agreement, they are still expected to use the LDM Principles when working with or in Aboriginal communities. In theory, this should see improvements in the way government delivers programs and works with Aboriginal communities. The reality is that many agencies have simply ‘rebadged’ their consultation or engagement models with LDM without actually changing the way they operate. The feedback NTG has received from some stakeholders is that they feel LDM is only working when it is being led by DCMC. These stakeholders believe that all NTG agencies need to do more of their own LDM Agreements but can still use their current processes as long as they align with LDM. More work needs to be done to ensure agencies fully understand the LDM Policy and its intentions, then commit to these for every program delivered in communities or impacting Aboriginal people.¹⁷⁴

- 5.44 The Committee considers that the Government needs to do more work and invest in whole-of-government change management to ensure all agencies embed LDM principles in policy development, program management and service delivery.

¹⁷² DCMC, Committee Transcript, 17 February 2023, p. 25.

¹⁷³ Northern Territory Treaty Commission, Submission No. 17, 2021, p. 3.

¹⁷⁴ Northern Territory Government, Submission No. 24, 2021, p. 10.

Consultation and Engagement

- 5.45 The Committee received considerable feedback about the Government's approach to consultation and engagement. Concerns raised include cross-cultural communication and competency; the pace of LDM consultations; and recognition and understanding of governance structures and cultural decision making authority.

Cross-Cultural Communication and Competency

- 5.46 The *Everyone Together Aboriginal Affairs Strategy* 'recognises the critical importance of language, culture and connection to country to Aboriginal Territorians, and it acknowledges how these elements are integral to individual and community capacity to engage in society.'¹⁷⁵
- 5.47 Aboriginal people are not a single homogenous group. There are more than 100 Aboriginal languages and dialects spoken within the Northern Territory. There is extensive diversity between Aboriginal communities in regards to cultural practices and protocols, family and kinship systems, and Aboriginal lore. This linguistic and cultural diversity creates language and communication barriers between the Government and Aboriginal organisations and people, particularly in regional and remote communities.
- 5.48 Overcoming language and communication barriers requires culturally competent government representatives who understand appropriate methods and modes of communication and the importance of using qualified interpreters for effective consultation.
- 5.49 Feedback was provided to the Committee about the lack of cultural competency of government staff which, combined with their inability to speak the local language, guarantees a communication void and failure to effectively translate ideas and concepts.¹⁷⁶
- 5.50 The Australian Red Cross explained that there are many factors to be considered to facilitate effective communication with Aboriginal communities:

Relationships built on trust first and foremost require mutual understanding. One of the critical pieces of understanding is that Local Decision Making is happening within a different and complex cultural system and world view. If mutual understanding is lacking, the actions of one party may seem ingenuine, hidden, or completely counter to what may have been discussed in collaboration. Bureaucratic talk and language can create barriers to getting through to the core of an issue. Conversation needs to occur in a clear and plain manner, so clear solutions can follow. Protocols for LDM's and for visitors are helpful to set clear expectations of respectful behaviours.

Ensuring that actions align with words is not simply 'doing what you say you will do' but ensuring that the other party understands what you mean, so your actions are expected. The attitudes and beliefs shared in the theory of the work, not only needs to be visible in the practice and implementation of the work, but that these sentiments are understood from the community's

¹⁷⁵ Office of Aboriginal Affairs, *Everyone Together Aboriginal Affairs Strategy 2019-2029*, p. 5.

¹⁷⁶ Yolngu Nations Assembly, Submission No. 11, 2021, pp. 3-4.

perspective.

This requires effective cross-cultural communication, time and effort spent in developing trust within relationships, building strong communication avenues, and creating a safe space where thoughts and feelings can be expressed without condemnation or judgement. Government and sector stakeholders need to ensure their actions align with how their words are understood; that change in community moves beyond simply talking, and that communities understand exactly what is intended prior to undergoing work. If we continue saying the right things, but not holding ourselves accountable to taking each step through the right process we impede the opportunity for community change.¹⁷⁷

5.51 ARDS told the Committee that the manner in which consultations and meetings are facilitated by the Government can have a significant impact on the power distribution between officials, Aboriginal organisations and community members:

Effectively some of the things people have been saying, it's usually the balanda [white person] who decide the time and place of the meeting, it's usually the balanda who set the agenda of what will be talked about at the meeting; it's usually balanda who have all of the background information and choose what information gets given to people and whether it gets given to people in advance or not; usually balanda who are in control of the money and get to decide who flies there, who gets accommodation, whether people get paid for their time, whether they don't get paid for their time. All those things mean that before the meeting even starts, there is a huge amount of control sitting with balanda rather than Yolngu.

Then in the meetings, there are a number of things that can happen which shift control and power back to balanda. Sometimes it can be language—most of our discussions today have been in English. Often balanda will do most of the talking; balanda information and ideas are the things that are being presented to people, so it is the balanda story which takes up the time. Or you just have balanda who are too pushy in the meetings and aren't listening.

All of that can then impact on Yolngu decision making and then after the meeting there is balanda control as well which comes in the form of usually it's balanda who write the minutes, who say what happened, balanda who will email out to other organisations or agencies to say what the outcomes of the meetings are. Often balanda workers are the ones who implement the decision, and the people who made the decision may not have any capacity to correct or say, 'No that's not what we meant and that's not what we actually talked about'.¹⁷⁸

5.52 DCMC acknowledged concerns about cross-cultural incompetency:

ineffective cross-cultural communication is a real risk. Misunderstanding each other is a real risk with very different world views and language barriers. Engagement of specialists and independent cross-cultural facilitators with language capabilities can significantly reduce that risk.¹⁷⁹

5.53 Having identified this problem, DCMC has implemented strategies to mitigate it:

we identified a clear need to upskill our own agency to be more culturally competent. We engaged with ARDS Aboriginal Corporation who are expert cultural facilitators—cross-cultural facilitators—to develop an online and face to face training program. It took two years to develop and some significant

¹⁷⁷ Australian Red Cross, Submission No. 10, 2021, p. 4.

¹⁷⁸ ARDS, Committee Transcript, 27 October 2022, p. 29.

¹⁷⁹ DCMC, Committee Transcript, 2 December 2022, p. 8.

investment, but it is now mandated for all Northern Territory Public Service agency staff, and about half of the regionally based NT public servants have now completed this course. It is a central plank of our LDM implementation strategy.¹⁸⁰

- 5.54 The Committee considers that understanding cultural nuances is integral to effectively communicating with Aboriginal organisations and people. The Government should ensure that government staff have appropriate cultural competency training and skills before working in regional and remote communities and continue to engage expert cultural facilitators, not only in LDM discussions, but also in other consultations where required.

Pace of Consultation and Agreement Negotiations

- 5.55 There has been criticism of the progress of LDM consultations and the number of LDM agreements that have been entered into since the LDM Framework was endorsed in 2018. In their submission to the inquiry, APO NT commented:

There is a perception that the delivery of LDM on the ground has been slow to progress – particularly in Central Australia where there are fewer LDM agreements in place and progress on the majority of these has been minimal. Feedback also suggests that the low visibility of LDM means there is a low level of clarity amongst Aboriginal communities as to what LDM is and the benefits it can offer. As such – it is APO NT's view that the practical outcomes of LDM have not had a chance to be proven and this is due to both limitations of the policy itself and a lack of capacity and resources made available by the government.¹⁸¹

- 5.56 The LDM Framework emphasises consultations and reform outcomes must occur at a pace at which the community is comfortable. DCMC reiterated the importance of meaningful engagement driven by communities and that the success of LDM should not be evaluated solely on the number of signed agreements:

Governments often go to KPIs and targets, but if you did that you would get a piece of paper. I could get you 14 LDM agreements tomorrow if that was my target. If you want real growth and change and if you want communities to be really involved in the planning, that is always going to take time. We are seeing now that there will be a number emerge at the same time and build numbers. The time we have spent over the last three years engaging with communities and working through those processes is meaningful. We could not have done it differently. If the outcome you want is for communities to be leading this work—for us it is—if you do not want an LDM agreement, that is fine. No-one has an issue with that except some of our critics that say we should have more.

It has to be a community-led process to make it worthwhile. I am happy with the pace it is working at, I am confident that our teams are out there having the right conversations and it is preparing agencies for better growth at the same time. This is real reform, the agreements we have are real reform. It lets business see the intention of government and give it time to look at their planning. The change of pace is right.¹⁸²

¹⁸⁰ DCMC, Committee Transcript, 2 December 2022, p. 5.

¹⁸¹ APO NT, Submission No. 20, 2021, p. 3.

¹⁸² DCMC, Committee Transcript, 16 September 2021, p. 13.

- 5.57 Building trust and respect is integral to developing meaningful relationships with Aboriginal communities. The effects of paternalistic Aboriginal Affairs policies since colonisation such as segregation, displacement and the separation of families, combined with a continual failure to deliver on commitments, has contributed to the mistrust held by Aboriginal people towards governments and their representatives. The Arnhem Land Progress Aboriginal Corporation noted that building trust is as critical through the process as the end result:

It is important that this process continues to progress at a speed that communities and leaders are comfortable with. The process is as important in building the trust and engagement of the community as the end goal of the drafted agreements. Working at a speed in which the community is able to engage with will ensure that outcomes achieved are mutually shared and the agreements will have been co-designed with high levels of consideration and ultimately be fit-for-purpose for each community.¹⁸³

- 5.58 ARDS acknowledged LDM processes require significant groundwork, however, expressed concerns about the potential impact of changes to government policy over time:

to do this properly does takes a lot of work and it will not be quick. One of the things that is asked a lot is why should we go through, do all this work to try to come up with LDM if government will change in three years, if government will change in six years? It will take that long to do it properly at least, and then there is no confidence that we don't start again with the new government and with new government policy. That's an experience people have had over and over again so to even pass that first hurdle of saying it's worth the effort, when all of this could be pulled away from us at any moment, it's very hard for people to buy in. You've seen the desire for self-determination, but there's a strong mistrust that government will actually follow through with the amount of time that it might take to do this properly.¹⁸⁴

Cultural Decision Making Authority

- 5.59 Aboriginal communities have their own individual and well-established cultural authority structures and decision making practices which dictate who has the authority to make decisions. The cultural authority to make decisions may be held by different groups depending on the subject matter and decision making is different in each community. It can be challenging to identify who are the 'right' or 'appropriate' people or groups to consult with about LDM, or any other matter, and the legitimacy of consultation or decisions may be questioned depending on who was engaged in consultation.
- 5.60 The Yirrkala case study illustrates the complexities of determining who the 'correct' people are to speak with and the associated challenge with agreements being entered into with Aboriginal organisations when the community may deem them to not have cultural decision making authority.
- 5.61 A number of organisations raised concerns about the Government's understanding of leadership and decision making structures in communities, as well as the lack of representation of the entire community in LDM processes and

¹⁸³ Arnhem Land Progress Aboriginal Corporation, Submission No. 15, 2021, p. 3.

¹⁸⁴ ARDS, Committee Transcript, 27 October 2022, pp. 27-28.

the risk of some groups being marginalised through consultation processes. The East Arnhem Regional Council commented that the 'number and diversity of both traditional Aboriginal authority structures, corporations and organisations represents both an opportunity and challenge in supporting stronger Local Decision Making.'¹⁸⁵

5.62 The Central Desert Regional Council expressed concerns that consultation does not include all sectors of a community and there is a tendency to negotiate with 'power groups' such as Traditional Owners and Elders. However, some families may not be represented by these groups, therefore their views may not be taken into account in LDM processes.¹⁸⁶

5.63 The Australian Red Cross shared their learnings from working within Aboriginal communities about the diversity of leadership and authority models and importance of speaking with the right people or body:

Communities are formed by several bodies which have leadership, authority, and responsibilities across different facets of the local region. Whilst having no prescribed structure across different communities, each community relies on the knowledge, expertise and wisdom of different groups and individuals to conduct business in a way that is best for the community, through communication, consultation, and collaboration...

Engaging in these structures is essential to build a Local Decision-Making system that is representative, effective, and supported throughout communities. Therefore, it is the responsibility of those outside to engage with these structures, and not subvert, avoid, or attempt to manage them. This is a reality for working in different Aboriginal communities. Finding the 'right mob' is critical to the success of this project. Without this, a nominated Local Decision-Making body may not represent the community, in the truest sense of the word. The loudest voice is not always the most representative voice, and the most representative voice must be identified and established if true change, and effective and sustainable decision making is to be had.¹⁸⁷

5.64 APO NT advised the Committee there had been instances where groups lacking cultural authority had been involved in LDM discussions:

APO NT members have raised concerns regarding the means by which 'communities' are represented in LDM negotiations and the difficulty or failure of LDM processes to effectively recognise and engage with existing and emerging Aboriginal leadership and governance structures. In some instances we have noted that LDM engagement has occurred with groups lacking cultural authority or appropriate decision making power. In some instances, we have observed a reliance on Regional Councils or Local Authorities (with a narrow mandate and limited authority) as the representative body in LDM engagements. This presents the risk that traditional decision-making structures that already exist in communities (by way of the traditional Aboriginal owners) are potentially being bypassed creating conflict in communities. It also raises the risk that community aspirations for an alternative community controlled structure or organisation are not accommodated.¹⁸⁸

5.65 The Northern Territory Treaty Commission considered that governance and

¹⁸⁵ East Arnhem Regional Council, Submission No. 13, 2021, p. 7.

¹⁸⁶ Central Desert Regional Council, Submission No. 1, 2021, p. 1.

¹⁸⁷ Australian Red Cross, Submission No. 10, 2021, pp. 2-3.

¹⁸⁸ APO NT, Submission No. 20, 2021, p. 4.

leadership issues should have been addressed in communities prior to LDM:

There are also foundational governance issues that should have been addressed in communities before implementation of LDM occurred. At the core is that leadership and governance in most communities is fractured and it is difficult to take an integrated whole of community approach.

There is no legitimate single point of contact for “the community”. Community governance models therefore need to be revised to facilitate the whole of community approach needed to successfully implement LDM in an integrated and holistic manner.¹⁸⁹

- 5.66 The Committee recognises the need for government representatives to understand the structures of the communities they work with to ensure that decisions are made with cultural authority while also ensuring that they reflect the aspirations of a broad sector of the community, not simply a small power group.

Capacity and Governance of Aboriginal Organisations

- 5.67 As discussed in Chapter 2, the 2008 local government reforms and the Intervention disempowered Aboriginal communities and diminished their governance and service delivery capacity. The amalgamation of community councils into large regional councils resulted in jobs that were previously performed by people living within the community being outsourced to outside contractors. The impact of this is reduced skills within the community and fewer employment opportunities. The Committee heard from APO NT that this continues to be a problem:

Municipal services, roads, repairs and maintenance—all the things that we take for granted that Aboriginal people at community level could do themselves. Instead of flying in contractors for \$3,000 to \$5,000 or whatever it costs to change a washer in a tap. Little maintenance jobs that can be done at local community level if the appropriate structures, empowerment, resourcing, finance and training is provided to them. We have a lot of work in that space.¹⁹⁰

- 5.68 Support is required to build governance and operational capacity of Aboriginal organisations to enable them to assume responsibility for delivering services that are transferred from the NT Government or regional councils. LGANT expressed concerns about the consequences of Aboriginal organisations taking over delivery of services if they are underprepared and do not have the capability to successfully deliver those services:

LDM documents make the important point that local Aboriginal communities and Aboriginal controlled organisations need to be ready to take on the responsibility of service delivery. Some member councils have expressed concern that some communities and Aboriginal controlled organisations are being encouraged to take on service delivery responsibilities before they have the capability to do so successfully. It has been suggested that LDM decision making may be too driven by ideology with insufficient weight being given to making certain that the organisations that would be responsible for

¹⁸⁹ Northern Territory Treaty Commission, Submission No. 17, 2021, p. 3.

¹⁹⁰ APO NT, Committee Transcript, 17 February 2023, p. 15.

the transferred services are ready to be successful.

This is not to say that Aboriginal controlled organisations cannot be successful in delivering services. There are plenty of examples of such successes with Aboriginal Community Controlled Healthcare Services an acknowledged leader in this area. Yet, there are also instances of Aboriginal controlled organisations failing, including instances of their going into administration. If an Aboriginal controlled organisation is not successful in delivering a transferred service due to insufficient governance or inadequate capacity, it is the community it serves that suffers. This only further sets back already disadvantaged communities.¹⁹¹

5.69 In their submission to the Committee, APO NT stated that it had observed that:

there is a tendency for LDM to selectively favour regional councils, local government authorities or larger Aboriginal organisations with existing resources and capacity...

the majority of LDM agreements to date are with large, well-resourced Aboriginal organisations. Furthermore, feedback suggests that LDM priority setting has worked well for those organisations that have self-generated funds and the ability to resource their own targets and aspirations. APO NT therefore notes some concern that smaller organisations with lesser resourcing and capacity or those very complex and diverse communities continue to be excluded from the opportunities and benefits that LDM may deliver.¹⁹²

5.70 The Committee considers that it is critical that Aboriginal organisations are supported by the Government to build their leadership and operational capacity and that organisations have strong governance systems in place before they take responsibility for service delivery.

Local Government

5.71 Regional councils deliver a broad range of services to regional and remote communities which are spread across a vast geographical footprint. The services provided extend well beyond the old adage of 'rubbish, roads and rates'. There is a misconception that there is a prescribed list of 'core services' that local governments are required to provide in accordance with local government legislation. The *Local Government Act 2019* does not contain a prescribed list of core services. The now repealed *Local Government Act 2008* required councils to develop a regional management plan which stipulated the core services that councils within that region must provide.

5.72 The services provided by regional councils vary across the Territory. Services can be broadly categorised as municipal services (often referred to as core services); agency services which councils agree to deliver on behalf of other government agencies on a fee for service basis; and commercial services which councils choose to provide on a for profit basis to improve their financial viability and for the benefit of constituents. Detailed below is a non-exhaustive list of the types of services within each category.

¹⁹¹ LGANT, Submission No. 8, 2021, pp. 3-4.

¹⁹² APO NT, Submission No. 20, 2021, pp. 4-5.

- Municipal services: maintenance of roads, parks, sporting facilities and cemeteries; waste management; animal welfare and control; library and cultural heritage; public and street lighting; traffic management; weed control and fire hazard reduction.
- Agency services: Centrelink; National Disability Insurance Scheme; aged care; night patrol; sports and recreation programs; child care.
- Commercial services: Australia Post; power, water and sewerage; airstrip maintenance; visitor accommodation and tourism information.

5.73 Both East Arnhem Regional Council and LGANT emphasised the role that local authorities play representing the community and providing input into regional council decisions:

For regional councils, Local Authorities (LAs) also play an important role with respect to good governance and community accountability. Local Authorities were formally established in 2014 under the NT's *Local Government Act 2008* to provide a conduit for remote community members to have a structured way to advocate for their community. It provides an important pathway for community members to have a say in, and obtain information about, their respective council's planning and service delivery in their community. The recently enacted *Local Government Act 2019* has further strengthened the role of Local Authorities within the Local Government system.

Regional councils point out that they engage in local decision making through their Local Authorities whose members are overwhelmingly Aboriginal. Each community has an elected Local Authority comprised of community members who are familiar with community issues and concerns and are best placed to inform Council of any actions. They have direct input to a range of Council business, including budgets, community priorities, community development activities and a Local Authority project fund.

In carrying out their roles, regional councils and the Local Authorities that directly advise them, demonstrate great respect for local voices. This is linked to strong ongoing recognition and respect of Clans, Traditional Owners and connections between them.¹⁹³

5.74 LGANT expressed concerns that local authorities are being disregarded through LDM processes and advocated for them to have greater involvement in LDM discussions and agreements.

Engagement with Local Government

5.75 The LDM Framework contains a single reference to the role of regional councils in LDM which states 'The NT Government is leading LDM in the Territory, however the Commonwealth Government, local governments and regional councils are key partners with a role in helping LDM succeed in benefiting communities.'¹⁹⁴

5.76 Criticism has been levelled against the Government by LGANT, Barkly Regional Council, MacDonnell Regional Council and Central Desert Regional Council

¹⁹³ LGANT, Submission No. 8, 2021, p. 3.

¹⁹⁴ Northern Territory Government, *Local Decision Making Framework Policy*, p. 12.

claiming that regional councils have been largely excluded from LDM meetings and consultations. LGANT informed the Committee that they consider:

local government councils are the epitome of local decision making by their very existence, but they are being side stepped by the NT Government's Local Decision Making policy when it need not. The answer is clearer delineation and communication of who does what, when, how and why.¹⁹⁵

5.77 LGANT acknowledged that the experiences of regional councils with LDM is varied. The East Arnhem Regional Council was a signatory to the now lapsed *Yolngu Region Local Decision Making Partnership Commitment* and continues to be involved with LDM discussions in the East Arnhem region. The Roper Gulf Regional Council did not make a submission to the inquiry, however, is a signatory to three LDM agreements in the Big Rivers region.

5.78 LGANT emphasised that regional councils are key players in delivering services in regional and remote communities and should be considered integral to achieving LDM outcomes:

To foster community and leadership interest in and commitment to new LDM agreements, local government councils and local authorities need to be a major part of the answer. This needs to include clear recognition that local authorities have a legislative role and responsibility in local decision making. A fresh look at LDM, if it is to survive and thrive, needs not to be a way around local government councils and local authorities, rather true partnerships with the third sphere of government will give LDMs the gravitas and resourcing it needs.¹⁹⁶

5.79 LGANT also advocated the need for closer partnerships with local government from a resourcing perspective:

We do feel as though we are on the outer looking in, in most cases. We think for the success of LDM we need to have a much closer relationship. Given the resources we have got and the lack of resources the NT has by virtue of its size, it makes sense that we work closer together to achieve the aims of LDM.¹⁹⁷

5.80 DCMC informed the Committee that it is not possible to clearly define the boundaries between regional councils and where they sit in regards to the LDM Framework and their inclusion in LDM agreements:

That is the complexity of the work that we do, it is different all around the Territory. You will find different regional councils will have a different position on that. Even in the discussion with APO NT today, some of their members have signed up to LDM agreements. It is really the intent and making sure that this is actually making change on the ground; transformative change with local people being involved in decision making. Some of our councils have got really clear leadership, in other areas they don't. That is probably our observation.

Nowhere I go says we don't want local government. I think that is really important to note, that local government is a respected, important tier of government and the conversations about how they would like it to work a little bit differently. That differs across the Territory. You have to spend quite

¹⁹⁵ LGANT, Committee Transcript, 17 February 2023, p. 4.

¹⁹⁶ LGANT, Committee Transcript, 17 February 2023, p. 3.

¹⁹⁷ LGANT, Committee Transcript, 17 February 2023, p. 5.

a bit of time working through it.¹⁹⁸

Service Delivery and Financial Sustainability

5.81 As previously mentioned, the lack of clarity about what ‘local government’ means in the context of LDM and which services provided by regional councils can be transitioned to community control is causing significant concern for some regional councils and LGANT.

5.82 DCMC told the Committee that any services that the NT Government is responsible for delivering are open for discussion in terms of LDM. Regional councils provide services on behalf of the Territory and Commonwealth governments and the parameters around which services delivered by regional councils are ‘on the table’ for transfer to community control remains unclear. At the final public hearing, DCMC stated:

The local government is a legislated authority that has its own core responsibilities that don’t get caught up in an LDM agreement. Where LDM agreements work really well is where they all come together and each person understands their role. One of the issues we’ve had ... is around who is the voice for community, and there is some tension between different entities in communities about who that is, and so being really clear about the different roles that people play and then how that may come together in a local decision making agreement, is something we have been working towards. You’ll see that reflected in some, particularly around the Big Rivers region.

It is something we will keep working through and provide—a lot of the criticism we hear of this policy is just a lack of understanding.¹⁹⁹

5.83 Concerns about the transfer of services to community control are in part driven by regional councils’ reliance on funding from the Commonwealth and Territory governments to deliver services in regional and remote communities. LGANT informed the Committee:

in one of our councils 84% of its budget is funds that comes through grants and funding. For the rest, it is just about 90% to 100%. They have no own source revenue or slush fund to do the—provide the services that they would like to, and yet there’s money for local decision making to do the things that if you gave it to the council they could do. So, you’re causing a rift where there doesn’t need to be one.²⁰⁰

5.84 LGANT outlined the concerns of regional councils about the impact of transferring service delivery and consequential uncertainty about financial viability and sustainability:

The transfer of a service from a Local Government council leaves a gap that can be hard to fill by a regional council whose financial sustainability is already fragile.

Unlike their municipal counterparts, regional councils have a very limited ability to raise revenue through rates. They are dependent to a significant extent on a combination of contracts for service provision on behalf of Territory Government and Commonwealth Government service plus grant funding of community-based programs. The loss of service contracts can

¹⁹⁸ DCMC, Committee Transcript, 17 February 2023, p. 26.

¹⁹⁹ DCMC, Committee Transcript, 17 February 2023, p. 25.

²⁰⁰ LGANT, Committee Transcript, 17 February 2023, p. 7.

threaten the financial sustainability of a regional council.

Uncertainty about how LDM projects could impact on council service delivery just adds more stress onto an already highly constrained planning environment. The short-term nature of service contracts and program funding creates a lot of uncertainty for our regional councils. Year to year they worry about whether contracts and funding will be renewed. It makes it difficult for regional councils to plan for service provision and make investments in staff, facilities and equipment. The prospect of losing services through LDM processes is one more uncertainty. There is a negative cumulative effect.²⁰¹

- 5.85 Barkly Regional Council also expressed concerns about weakening the sustainability of local government:

The LDM process historically and at present, seems to be indicative of the approach of other NTG initiatives that further weaken the sustainability of Local Government - cost-shifting to the Local Government sector while potentially stripping funding to pass onto Indigenous corporations. It is making Local Government even more unsustainable and decreasing financial viability. Regional and Shire Councils appear to be at the greatest risk.²⁰²

- 5.86 DCMC acknowledged the expansive role of regional councils and that there may be a reluctance to transfer services to Aboriginal organisations:

They are very diverse and I think they have grown into areas that they are not fully responsible for as well and they have got into grants, whether through the Commonwealth or NT government, and taken on youth activities or women's' stuff. It is broad. It is getting back to having a look and, as Bridgette said, no-one doesn't want local government but it is around building up the capabilities on community if they want to actually maybe take on the youth program instead of the regional council and things like that as well. It is varied and some regional councils want to keep being in that space as well.²⁰³

- 5.87 In their submission to the Committee, the Green River Aboriginal Corporation (GRAC) detailed the challenges they experienced with the transfer of sports and recreation and after school programs from the Victoria Daly Regional Council to GRAC. These services are funded by the Commonwealth Government and the National Indigenous Australians Agency was used to mediate between the two parties and a memorandum of understanding was drafted to facilitate the transfer of services, equipment and funding to GRAC.²⁰⁴

- 5.88 This case study illustrates to the Committee the importance of better engagement with regional councils about LDM and improved collaboration between all levels of government and Aboriginal organisations to facilitate the transfer of services from regional councils to Aboriginal organisations.

Definition of Aboriginal Community Controlled Organisations

- 5.89 The Committee received evidence from a number of submitters that most

²⁰¹ LGANT, Submission No. 8, 2021, p. 4.

²⁰² Barkly Regional Council, Submission No. 12, 2021, p. 3.

²⁰³ DCMC, Committee Transcript, 17 February 2023, p. 26.

²⁰⁴ Green River Aboriginal Corporation, Submission No. 6, 2021, pp. 1-2.;

regional councils consider themselves to be Aboriginal controlled organisations as the majority of elected members are Aboriginal, however, they are specifically excluded from the NT Government's definition which prevents them from applying for particular grant funding and tendering opportunities.²⁰⁵

5.90 The definition of Aboriginal Community Controlled Organisations in the *Aboriginal Economic Participation Framework* stipulates that local government councils are not considered to be ACCOs.²⁰⁶

5.91 East Arnhem Regional Council and LGANT advocated for regional councils with majority Aboriginal elected members to be included within the definition of ACCOs. At the June 2021 Australian Local Government Association National General Assembly, the East Arnhem Regional Council put forward the following motion:

The National General Assembly (NGA) calls on the Federal, State and Territory Governments to commit to nationally consistent recognition of Indigenous Local Government Councils as an Aboriginal controlled entity across Australia at all levels of Government. Indigenous Local Government Council being a Local Government Council with a majority representation of both Elected Officials and Constituency of Indigenous Australians.²⁰⁷

5.92 The motion was unanimously endorsed by delegates from the 537 member councils from across Australia.²⁰⁸

Local Government De-Amalgamation

5.93 As discussed in the Alyangula case study, a priority in the Groote Archipelago LDM agreement is the establishment of a separate Anindilyakwa Regional Local Government Council to deliver local government services on the Groote Archipelago. The Government agreed in principle to the proposed de-amalgamation from East Arnhem Regional Council subject to a number of assessments and considerations by the Government, Anindilyakwa Land Council and other stakeholders.

5.94 In their submissions to the Committee in 2021, East Arnhem Regional Council and LGANT raised significant concerns about the proposed de-amalgamation. East Arnhem Regional Council expressed concerns about the viability and sustainability of creating a separate local government council given the range and complexity of services currently delivered by the Council; the small population on the Archipelago (estimates to be between 1450-2000); and 'the high risk of service and governance failure, and the significant negative impact

²⁰⁵ LGANT, Submission No. 9, 2021, p. 2; Barkly Regional Council, Submission No. 12, 2021, p. 1; Peter Holt, Submission No. 16, 2021, p. 3; East Arnhem Regional Council, Submission No. 13, 2021, p. 1.

²⁰⁶ Department of the Chief Minister and Cabinet, *Aboriginal Economic Participation Framework - Local Government Councils*, Fact Sheet, 30 May 2022, pp. 2-3.

²⁰⁷ Australian Local Government Association, *27th National General Assembly Business Papers*, 20-23 June 2021, Canberra, p. 60, <https://www.conferenceco.com.au/newsletter/2021NGA-Business-Papers-WEB2.pdf>

²⁰⁸ LGANT, Submission No. 8, 2021, pp. 2-3; East Arnhem Regional Council, Submission No. 13, 2021, p. 1.

on community members that would have.²⁰⁹ The Council's concerns about viability and sustainability also extended to the impact the proposed change would have on its own financial position.

- 5.95 LGANT stated that 'political statements by ministers have given the impression that de-amalgamation is a fait accompli with respect to the Groote Archipelago.'²¹⁰ LGANT questioned whether community consultation on the proposed changes had included all of the affected communities. LGANT also expressed the concern that in-principle agreement may set a precedent in local government de-amalgamation:

In 2008, the Local Government sector underwent major reform resulting in the establishment of the current 17 councils including the nine regional councils. There are fears that the LDM decision regarding Groote Archipelago represents the thin edge of the wedge with more fragmentation of regional councils to come through LDM. There is concern this will lead to a collapse of the current Local Government system in regional areas and see a return to a less sustainable system - the type of system which the 2008 Local Government reforms sought to redress.²¹¹

- 5.96 The Committee was advised by the Chief Executive Officer of the East Arnhem Regional Council, during an out of session conversation after the Yirrkala hearings, that the Council's views have changed over time and it now supported the creation of a separate local government council for the Groote Archipelago. This was corroborated by the ALC who confirmed that through private discussions the Anindilyakwa leaders and Yolngu leaders had come to an agreement for East Arnhem Regional Council to support the de-amalgamation and creation of a new regional council.

- 5.97 DCMC informed the Committee that work is underway with stakeholders to consider how to resolve viability issues:

East Arnhem council has moved in time with their position. Through our transition arrangements they are supporting in-principle the ALC LDM Agreement, noting that there are some viability issues that need to be worked through. That is the work that is under way now...

In the last transition meeting—we have a working group that contains members of all the different partners, separating out councils. That is not finalised at this point as well.

It really is about how they keep their viability as a council rather than wanting to control. The ALC has a very firm position that it is local services, local people and they should determine those. That is their purpose in doing it. East Arnhem is perhaps accepting of that. It is probably a question for them rather than me, to be completely honest.²¹²

- 5.98 At the time of the public hearing, although the Government has given in-principle support to the proposal, a Cabinet decision had not yet been made regarding the de-amalgamation and establishment of a new Anindilyakwa Regional Local Government Council.

²⁰⁹ East Arnhem Regional Council, Submission No. 13, 2021, p. 5.

²¹⁰ LGANT, Submission No. 8, 2021, p. 5.

²¹¹ LGANT, Submission No. 8, 2021, p. 5.

²¹² DCMC, Committee Transcript, 17 February 2023, p. 26.

Funding for Local Decision Making

5.99 The Committee was advised by DCMC in 2021 that \$500,000 had been allocated to LDM each financial year for the previous three years. The flexible funding could be used for expenses such as grants to Aboriginal organisations, paying consultants to work with communities to explore LDM aspirations, and travel expenses to bring leaders together for regional consultations. The Committee was further advised that there were two dedicated full time LDM project officers (ECO1 and AO7 level) employed within DCMC. Other staff employed within DCMC are involved in LDM within their roles, for example, there are regional executive directors in each of the six regions who are responsible for overseeing LDM within their region. The Committee spoke with three of the regional executive directors at public hearings conducted in regional and remote areas.

5.100 LDM consultations are reliant on the involvement of Aboriginal organisations. While they may not be deemed to have the authority to make decisions, they are integral in facilitating culturally appropriate consultations, organising logistics and providing a central point of communication for the Government. Aboriginal organisations receive funding from a variety of sources to deliver specific services and programs. However, they can be expected to facilitate consultation with communities, provide advice to governments and participate in policy and program reviews for which they do not receive funding. This can create significant resourcing challenges for organisations and within government agencies as noted by APO NT:

widespread feedback from our members in relation to the 'complete lack of realistic resourcing' towards effective delivery of the LDM model. This includes a lack of staffing and funding, both within the NTG and available for Aboriginal organisations, towards consultation, facilitation and of utmost importance the implementation to enact the transition of services and the longer term sustainability of those services.²¹³

5.101 APO NT advised the Committee that the Commonwealth Government provides limited funding and resourcing for policy advice in regards to Closing the Gap, however, the NT Government has not committed funding for the upcoming LDM review:

What we do know is Closing the Gap has not had major funding commitments federally since it was agreed, and that's been a challenge, because APO NT's position is really about putting the priority reforms under Closing the Gap into practice through partnerships with government and effective decision making so that policy advice or, you know, funding can be in the places it needs to be.

We have structures now that are new through the NT Exec Council for Aboriginal Affairs that provides that overarching governance to oversee how the actual targets can be realised because they've not been. There's definitely a lot of work ahead on with how the Closing the Gap targets can be achieved.

The resourcing that's been provided from the government so far has come through the federal government, so it's quite limited. We've been talking

²¹³ APO NT, Submission No. 20, 2021, p. 5.

about a whole reshape on how we work to achieve those targets through those mechanisms like an implementation plan which has been worked on through APO NT members, with government, with LGANT at the table as well and there's no resourcing committed to that, which is a challenge. And we referenced in our statement that there are commitments around LDM to improve and build on the strengths of LDM, but again, there's no resourcing components to that to see those improvements realised.²¹⁴

5.102 The Central Australian Aboriginal Congress recommended:

The Northern Territory Government should establish and resource a formal, ongoing Aboriginal partnership structure with senior representation from the Aboriginal community/organisations and the Australian and Northern Territory Governments, to advise and lead the LDM process and to monitor implementation of LDM policies and programs, as per existing commitments under the National Agreement on Closing the Gap.²¹⁵

5.103 The Committee considers that it is essential that organisations are appropriately resourced to not only deliver programs and services, but also to participate in policy development and the implementation of Aboriginal Affairs policies. It is also imperative that government agencies are appropriately resourced to undertake meaningful LDM consultations with both community members and Aboriginal organisations.

Competition for Funding

5.104 The Committee heard evidence from a range of stakeholders that LDM is creating competition for funding and pitting regional councils, Aboriginal organisations and community groups against each other. LGANT informed the Committee:

There are also concerns that the LDM process creates competitors of regional councils and Aboriginal corporations. It is creating a zero sum game. This is the opposite to what needs to happen. Given the limited resources on all sides and the magnitude and severity of the problem of Aboriginal disadvantage, we all need to be working more collaboratively to make the funding pie bigger rather than competing for the same piece of the pie.²¹⁶

5.105 ARDS advised the Committee that organisations in the East Arnhem region feel they are competing for funding as a result of LDM:

The last thing I will say about the local context of facilitating LDM discussions and its related to the feeling that organisations are in competition with each other is then organisations are worried about the impact that LDM will have on their funding situation. There is a certain aspect where people understand the balance as it currently is, but LDM has the potential to significantly change funding for different organisations and so it creates a risk simply because it is unknown.

So at an organisational level, organisations can be quite worried about what are the implications of LDM on what work they are given to do, what contracts they are given to do and the amount of funding they are given. There is risk to organisations which then feeds back into that loop we talked about at the start about Yolngu authority coming from clans versus Yolngu authority being

²¹⁴ APO NT, Committee Transcript, 17 February 2023, p. 14.

²¹⁵ Central Australian Aboriginal Congress, Submission No. 21, 2021, p. 6.

²¹⁶ LGANT, Submission No. 8, 2021, p. 4.

expressed through organisations.²¹⁷

5.106 In response to claims that LDM is creating competition and conflict between organisations, DCMC advised the Committee:

I think in isolated incidents we have seen a bit of that, but because we are working with the local people in all the ones we are negotiating or have signed, they have a clear view of who the service provider will be and it is making sure the service provider has the capability and the viability to do that. I am not seeing that conflict in any of the signed agreements that we have to date.

There is some discussion about organisations driving LDMs rather than local people and we are aware of that and having our own internal discussions about how we best manage that. I think for all the criticism that we have heard through some of the submissions, and in other rooms, people are moving to sign up because they see the advantages of it. It will be tricky at times, there is no doubt about that. I think the best thing for us is to keep engaged. We work closely with the land councils about who are the right people in the region and I think we do our best to get that right.²¹⁸

Monitoring, Evaluation and Reporting

5.107 Monitoring and evaluation are critical for understanding the effectiveness of a program or policy in achieving its objectives. A number of stakeholders commented on the need for monitoring and evaluation to be undertaken to assess the effectiveness of the LDM Framework. The Northern Territory Treaty Commission noted that evaluating LDM will be difficult as there are no performance targets or other planning or accountability mechanisms on which to assess the success of the Framework. In their submission APO NT stated:

The lack of visibility of LDM is further affected by the lack of targets associated with the model and a lack of cohesive monitoring, evaluation and reporting mechanisms for LDM outcomes. We have observed that few agreements set outcome targets and that LDM processes are opaque and hard to track.²¹⁹

5.108 The LDM Policy describes an ‘embedded monitoring and evaluation’ process:

Effective monitoring and evaluation is vital to the success of LDM. Monitoring and evaluation is flexible and does not reflect ‘monitoring and evaluation’ in a traditional sense. For each Project Site it is different, as each project is different. If the goals of a single Project Site change and evolve over time, this should not be considered failure.

Crucial to the success of monitoring and evaluation is flexibility and two-way communication. The use of the language of monitoring and evaluation is very important in LDM as it is about ‘continuing the conversation’ or ‘two-way checking in’ rather than making people feel they are being tested or monitored. The focus is how the project is going, not targets or data.²²⁰

5.109 In respect to the monitoring and evaluation processes outlined in the LDM Policy, LGANT stated in their submission:

traditional evaluation is also important. We want to avoid cherry-picking

²¹⁷ ARDS, Committee Transcript, 27 October 2022, p. 28.

²¹⁸ DCMC, Committee Transcript, 17 February 2023, p. 29.

²¹⁹ APO NT, Submission No. 20, 2021, p. 3.

²²⁰ Northern Territory Government, *Local Decision Making Framework Policy*, p. 24.

winners and ignoring problems. It is a false dichotomy to suggest that traditional monitoring and evaluation cannot occur side by side with the 'two-way checking' approach described in the Framework.

Process is critically important but so too are outcomes. Monitoring and evaluation should be used to assist, to inform, to teach rather than to punish. Effective evaluation is needed to ascertain what is working, what is not and provide insights as to how any weaknesses can be overcome. It is about informing how to do it better. If we don't know what is working or not working, then we run the risk of throwing good money after bad (i.e., sunk cost fallacy). In the absence of monitoring and evaluation, the public is left to judge LDM through 'evaluation by media' which tends to sensationalise both successes and failures.²²¹

5.110 The Government engaged Charles Darwin University's (CDU) Northern Institute to conduct a 'Ground Up Monitoring and Evaluation' research project across five locations with LDM agreements in place: Ngukurr, Kalkaringi, Alice Springs Town Camps, the Jawoyn Region, and the Groote Archipelago. The project was conducted using CDU's methodology which engages with local researchers and community members to ascertain the community's perspective on how LDM is working for them. The *Northern Territory Government Local Decision Making: Ground Up Monitoring and Evaluation - Final Report* was published in August 2022.²²²

5.111 The majority of LDM agreements and implementation plans require parties to formally review and report on progress of actions, and address emerging barriers to successful implementation. A four year progress report on the Groote Archipelago was completed in late 2022 which details progress and outcomes for each priority area and incorporates the findings from the *Northern Territory Government Local Decision Making: Ground Up Monitoring and Evaluation - Final Report*. The Committee is not aware of reviews of other LDM agreements that have been made public.

5.112 In the absence of published reviews of LDM agreements in place, it is difficult to assess whether they are on track to achieve outcomes in accordance with milestones and timeframes contained in implementation plans. At the final public hearing, LGANT informed the Committee:

The progress achievements, challenges and future potential LDM implementation across the Northern Territory very much depends upon to whom you speak, when, where and why. LDMs progress and achievements are difficult to assess as consistent benchmark and program management control and evaluation mechanisms appear not to be a strong point. I would argue against that, even if the appropriate level of rigor had been applied, it is too early in its lifecycle to properly assess. Its challenges lie in its apparent under resourcing and a rapidly changing national narrative on how Aboriginal people can be heard and that influence on the modes of service delivery yet to be communicated.²²³

²²¹ LGANT, Submission No. 8, 2021, pp. 6-7.

²²² M Spencer, M Christie and A Boyle, *Northern Territory Government Local Decision Making: Ground Up Monitoring and Evaluation - Final Report*, The Northern Institute, Charles Darwin University, 2022, http://groundup.cdu.edu.au/wp-content/uploads/2023/02/LDM_Ground-Up-ME_Final-Report2022_Print-version.pdf

²²³ LGANT, Committee Transcript, 17 February 2023, p. 2.

5.113 There are a number of LDM agreements and implementation plans that are ‘multi-agency partnerships’ which have multiple government agencies as signatories to the agreement. For example, the signatories to the Yugul Mangi Development Aboriginal Corporation 2021-23 Implementation Plan for Ngukurr include the departments of: Chief Minister and Cabinet; Infrastructure, Planning and Logistics; Industry, Tourism and Trade; Territory Families, Housing and Communities; Attorney-General and Justice; Education; and NT Police, Fire and Emergency Services.

5.114 A review of agency annual reports revealed that while the DCMC annual report included key achievements and future priorities regarding LDM, other agency annual reports contained little or no mention of LDM. The Committee considers that agency annual reports should contain details of work undertaken by the agency in relation to LDM and it would be beneficial if the Government published an annual update on the progress of LDM across the whole of government.

Commitment to Review the Local Decision Making Framework

5.115 The *Closing the Gap Northern Territory Implementation Plan* (Implementation Plan) details the actions that will be taken to give effect to the commitments made in the *National Agreement on Closing the Gap 2019-2029* against the four priority reform areas:

- Priority Reform 1: Formal partnerships and shared decision-making
- Priority Reform 2: Building the community-controlled sector
- Priority Reform 3: Transforming government organisations
- Priority Reform 4: Shared access to data and information at a regional level

5.116 In accordance with the Implementation Plan, the Northern Territory Executive Council on Aboriginal Affairs (NT Executive Council) comprising representatives from the NT Government, APO NT and LGANT was established in 2021 as the overarching governing body responsible for overseeing the implementation of the National Agreement in the NT. As per Jurisdictional Action 1.2 of the Implementation Plan:

The Council will take into account the Public Accounts Committee’s Inquiry and report on the implementation and future of the Local Decision Making Framework.

Following NT Executive Council consideration of the report, NT Government will work with APO NT to review LDM in line with the strong partnership elements in Priority Reform One and all other priority reform areas.²²⁴

5.117 This action was due to be completed by July 2022, however, as the inquiry was deferred due to travel restrictions associated with COVID-19, this review will commence following the tabling of this report.

²²⁴ Northern Territory Government, *Closing the Gap Northern Territory Implementation Plan*, 2021, p. 16, https://aboriginalaffairs.nt.gov.au/data/assets/pdf_file/0008/1039814/closing-the-gap-implementation-plan-web.pdf

5.118 APO NT informed the Committee it is committed to participating in the LDM review taking into account this inquiry's report and the findings from the Ground Up Monitoring and Evaluation undertaken by Charles Darwin University:

As this action remains uncompleted, it will carry over to the coming implementation plan. We will look forward to seeing the final version of the ground-up evaluation done by Charles Darwin University on LDM and hope that any relevant findings are implemented are part of this refresh and review process.

APO NT is ready to work in partnership with the Northern Territory Government to revise the LDM policy in line with the recommendations from this inquiry and the evaluation that has been undertaken by CDU. It is our firm belief that Aboriginal and Torres Strait Islander people are the key agents of change and must be granted agency in the development and implementation of policies and programs that impact on our lives. It is to this end that APO NT seek a commitment from the Northern Territory Government to revise the LDM model in genuine partnership with APO NT.²²⁵

5.119 LDM is a ten year policy commitment by the Government. The Committee considers that it is appropriate a review be conducted as it is at the halfway point and the feedback provided to the Committee over the course of this inquiry has demonstrated that improvements can be made to both the policy underlying the Framework and the implementation of LDM.

²²⁵ APO NT, Committee Transcript, 17 February 2023, p. 12.

6 Conclusion

- 6.1 It is clear to the Committee that there is overwhelming support for the LDM Framework and the principles underpinning it. The implementation of LDM agreements demonstrates that tangible outcomes can be achieved in communities and make improvements to the lives of Aboriginal people. The feedback provided to the Committee over the course of the inquiry has led the Committee to form the opinion that there are a number of ways that the LDM Framework can be improved and implemented in a more effective manner. This chapter contains the Committee's recommendations to the Government based on consideration of all the evidence provided to the Committee during the inquiry.

Review of the Local Decision Making Framework

- 6.2 From the outset of the inquiry, the Committee has had to grapple with understanding the LDM Framework and how the high level conceptual principles underpinning LDM as a government policy translate on the ground to LDM agreements and empowering Aboriginal people in remote communities.
- 6.3 Evidence provided through numerous public hearings with government representatives, peak organisations, regional councils, Aboriginal organisations and members of remote communities has provided some clarity about the scope of LDM and what can potentially be achieved through it. The evidence has also demonstrated that there is still considerable confusion about LDM as a government policy and a lack of understanding about how it aligns, overlaps and interacts with other Aboriginal Affairs policies that sit within this congested policy arena.
- 6.4 While the Committee understands the Government's intention to avoid being prescriptive about LDM to allow communities to explore and define their own aspirations, it considers the confusion and misunderstandings surrounding LDM need to be addressed if the full potential of LDM is to be realised.
- 6.5 Following the tabling of this report, a joint review of the LDM Framework will be conducted by the Government and APO NT in accordance with the commitment in the *Closing the Gap Northern Territory Implementation Plan*. This provides an ideal opportunity to review and update the publicly available resources to provide clarity around the scope of LDM and examples of what can be included in LDM agreements, drawing from the agreements already in place. The resources should also include information about the role of regional councils and local authorities, how they interact with LDM, and provide more guidance about which services delivered by regional councils can be transferred to Aboriginal controlled community organisations.

Recommendation 1

The Committee recommends that the Government publish the findings of the joint review of the Local Decision Making Framework to be conducted by the Government and the Aboriginal Peak Organisations of the Northern Territory.

Recommendation 2

The Committee recommends that, as part of the review of the Local Decision Making Framework, the Government update the Local Decision Making resources so that they better assist public stakeholders' understanding of the Framework.

Improving Engagement with Local Government

- 6.6 The *National Agreement on Closing the Gap 2019-2029* represents a fundamental change by bringing together all three levels of government in partnership to change the way governments work to close the gap. The inclusion of local governments in the partnership recognises that this level of government has a critical role to play in delivering better life outcomes for Aboriginal and Torres Strait Islander peoples.
- 6.7 The evidence provided by LGANT and regional councils to this inquiry made it clear that they felt excluded from LDM consultations and sidelined by the processes. The Committee understands that the experience of regional councils is varied and some councils, such as the Roper Gulf Regional Council, have been actively involved in LDM and are signatories to LDM agreements.
- 6.8 Regional councils play an important role in remote communities by delivering not only 'local government' services, but also delivering a broad range of services and programs on behalf of the Territory and Commonwealth governments.
- 6.9 The Committee considers that regional councils have a critical role to play in empowering Aboriginal communities, promoting shared decision making and rebuilding capacity within communities. The Government needs to better engage with regional councils in the Aboriginal Affairs policy space and the implementation of LDM so that the full potential of LDM can be realised.
- 6.10 Evidence provided during the inquiry demonstrated that some communities felt that the 2008 local government reforms, which replaced community councils with geographically large shire/regional councils, disempowered Aboriginal people by effectively stripping decision making power from within the community and limiting their ability to have input into decisions affecting them on a daily basis. The Committee considers that there is potential to improve local government structures to address the loss of community control and empower Aboriginal people to have input into matters that directly impact on their community and daily lives.

Recommendation 3

The Committee recommends that the Government improve engagement with the Local Government Association of the Northern Territory and regional councils, and define the role of regional councils within Local Decision Making and explore the viability of community councils within the local government structure, to build a stronger collaborative approach in the development and implementation of Local Decision Making agreements.

Improving Coordination and Engagement in Aboriginal Affairs

- 6.11 The evidence provided to the Committee throughout the inquiry illustrated that Aboriginal Affairs in a crowded policy space with both Territory and Commonwealth policies overlapping and the same key players involved in development and implementation of policies. The Committee considers that there is considerable work to be undertaken by all levels of government and non-government organisations to improve collaboration and coordination, and reduce duplication of effort and service delivery.
- 6.12 Stakeholder feedback indicates that government agencies and non-government organisations are inadequately resourced to undertake meaningful engagement in Aboriginal communities to develop and implement LDM agreements and initiatives. The Committee considers that it is critical that government agencies and non-government organisations are appropriately resourced to participate in policy development and reviews, engagement with communities, and the implementation of LDM agreements.

Recommendation 4

The Committee recommends that the Government review Commonwealth and Northern Territory Aboriginal Affairs policies and programs to identify and reduce duplication in responsibilities and service delivery.

Recommendation 5

The Committee recommends that the Government develop a more inclusive governance approach across all levels of government and peak body stakeholders that supports collaborative planning, improved coordination and integration, effective engagement and reduces duplication of effort and community participation fatigue.

Recommendation 6

The Committee recommends that the Government allocate adequate funding to agencies and non-government organisations to more effectively engage with communities to negotiate and implement Local Decision Making agreements.

Whole-of-Government Approach

- 6.13 Empowering Aboriginal communities and achieving outcomes associated with Closing the Gap requires deliberate efforts by all government agencies to transform the way they work with Aboriginal communities and include them in shared decision making. The Government's submission acknowledges that the 'reality is that many agencies have simply 'rebadged' their consultation or engagement models with LDM without actually changing the way they operate.'²²⁶ The Committee considers that the Government should invest in change management across the whole of government to ensure that the principles of LDM are embedded in the policies, programs and service delivery of every agency.
- 6.14 In addition, the Committee considers that it would be beneficial if DCMC published an annual update on the status and progress of LDM negotiations and implementation of agreements including information on the work being undertaken by other government agencies.

Recommendation 7

The Committee recommends that the Government invest in change management across the whole of government to ensure that the principles underpinning Local Decision Making are embedded in the policies, programs and service delivery of every agency.

Recommendation 8

The Committee recommends that the Government publish an annual update detailing the status and progress of Local Decision Making negotiations and implementation of agreements including information on the work being undertaken by all NT government agencies.

²²⁶ Northern Territory Government, Submission No. 24, 2021, p. 10.

Appendix 1: Submissions

1. Central Desert Regional Council
2. Jeff Hulcombe
3. Njanjma Aboriginal Corporation
4. Northern Territory PHN
5. Martin Schahinger
6. Green River Aboriginal Corporation
7. MacDonnell Regional Council
8. Local Government Association of the Northern Territory
9. Country Liberal Party Opposition
10. Australian Red Cross
11. Yolngu Nations Assembly
12. Barkly Regional Council
13. East Arnhem Regional Council
14. Ingkerreke Services
15. Arnhem Land Progress Aboriginal Corporation
16. Peter Holt
17. Northern Territory Treaty Commission
18. Anindilyakwa Land Council
19. Laynhapuy Homelands Aboriginal Corporation
20. Aboriginal Peak Organisations of the Northern Territory
21. Central Australian Aboriginal Congress
22. concerned Australians
23. Empowered Communities
24. Northern Territory Government
25. Yugul Mangi Development Aboriginal Corporation
26. Pintupi Homelands Health Service
27. Tangentyere Council
28. National Indigenous Australians Agency
29. Djalkiripuyngu Aboriginal Corporation

Submissions can be accessed at:

<https://parliament.nt.gov.au/committees/list/PAC/LDM#subs>

Appendix 2: Public Hearings

Darwin – 16 September 2021

Department of the Chief Minister and Cabinet

- Bridgette Bellenger: General Manager, Territory Regional Growth
- Bo Carne: Director, Local Decision Making and Director, Aboriginal Interpreter Service

Department of the Attorney-General and Justice

- Gemma Lake: Acting Chief Executive Officer
- Leanne Liddle: Director Aboriginal Justice Unit

Department of Health

- Dr Frank Daly: Chief Executive
- Rus Nasir: Acting Director, Aboriginal Health Policy

Department of Education

- Aderyn Chatterton: Executive Director, Youth Engagement and Partnerships

Department of Territory Families, Housing and Communities

- Ken Davies PSM: Chief Executive Officer

Hearing Transcript:

https://parliament.nt.gov.au/_data/assets/pdf_file/0017/1053170/Finalised-Transcript-16-September-2021.pdf

Darwin – 17 September 2021

Local Government Association of the Northern Territory

- Dr Jo Ann Beckwith: Senior Policy Adviser

National Indigenous Australians Agency

- Ben Mudaliar: Regional Manager
- Tom Dyer: Senior Advisor
- Fleur Hill: Regional Manager

Northern Territory Treaty Commission

- Ursula Raymond: Deputy Treaty Commissioner
- Steve Rossingh: Director

Hearing Transcript:

https://parliament.nt.gov.au/_data/assets/pdf_file/0018/1053171/Finalised-Transcript-17-Sept-2021.pdf

Alice Springs – 4 October 2021

Tangentyere Council

- Dr Anna Flouris: Executive Officer, Strategic Development
- Michael Klerck: Social Policy and Research Manager

Ingkerreke Services

- Skye Thompson: Chief Executive Officer
- Kathy McConnell: Senior Administrator

Central Desert Regional Council

- Diane Hood: Chief Executive Officer

MacDonnell Regional Council

- Jeff MacLeod: Chief Executive Officer
- Roxanne Kenny: President

Department of the Chief Minister and Cabinet

- Brendan Blandford: Regional Executive Director, Central Australia

Central Australian Aboriginal Congress

- Donna Ah Chee: Chief Executive Officer
- Dr John Boffa: Chief Medical Officer, Public Health

Hearing Transcript:

https://parliament.nt.gov.au/data/assets/pdf_file/0004/1059628/Finalised-Transcript-4-October-2021.pdf

Yirrkala – 27 October 2022

Laynhapuy Homelands Aboriginal Corporation

- Kerry Legge: Chief Executive Officer
- Barayuwa Mununggurr: Chairperson
- Yananymul Mununggurr: Director

Yolngu Nations Assembly Aboriginal Corporation

- Shannon Voss: General Secretary
- Nyomba Gandangu: Vice Chair
- Anthony Hayward-Ryan: Researcher

Arnhem Land Progress Aboriginal Corporation

- Matt Stevenson: Community Development Program Manager
- Faye Matjarra Garrawurra: Board Director

Aboriginal Resource and Development Services Aboriginal Corporation

- Mr Ben Grimes: Chief Executive Officer
- Mr Gawura Wanambi: Chairperson

East Arnhem Regional Council

- Mr Dale Keehne: Chief Executive Officer
- Mr Lapulung Dhamarrandji: President
- Ms Joanne Baker: Local Authority Member

Hearing Transcript:

https://parliament.nt.gov.au/data/assets/pdf_file/0012/1166988/Finalised-Transcript-27-October-2022.pdf

Alyangula – 28 October 2022

- *Anindilyakwa Land Council*
- Mr Mark Hewitt: Chief Executive Officer
- Mr Mark Hautop: Legal and Executive Operations Manager
- Mr Tony Wurramarrba: Chairman
- Mr Elliott Bara: Community Representative (Milyakburra)
- Mr Silas Bara: Community Member
- Mr Lionel Jaragba: Clan Representative

Groote Holdings Aboriginal Corporation and Groote Aqua Aboriginal Corporation

- Mr Sean McCarthy: Sitzler (GHAC Project Manager)
- Mr Lionel Jaragba: GHAC and GAAC Director
- Mr Elliott Barra: GHAC Director

Groote Eylandt Bickerton Island Primary College Aboriginal Corporation

- Mr Elliott Bara: Director and Board Member

Warnumamalya Health Services Aboriginal Corporation

- Mr Atnas Maeko: Deputy Chairman
- Mr Elliott Bara: Community Member

Department of the Chief Minister and Cabinet

- Ms Melissa Beasley: Regional Director – Anindilyakwa Region

Hearing Transcript:

https://parliament.nt.gov.au/_data/assets/pdf_file/0006/1168251/Finalised-Transcript-28-October-2022.pdf

Darwin – 2 December 2022

Department of the Chief Minister and Cabinet

- Jim Rogers: Executive Director – East Arnhem
- Cathryn Moore: Regional Director – Yolngu Region
- Waka Mununggurr: Strategic Cultural Advisor – East Arnhem

Hearing Transcript:

https://parliament.nt.gov.au/_data/assets/pdf_file/0014/1202054/Finalised-Transcript-Darwin-2-December-2022.pdf

Darwin – 17 February 2023

Local Government Association of the Northern Territory

- Sean Holden: Chief Executive Officer

Aboriginal Peak Organisations of the Northern Territory

- Dr John Paterson: Acting Chief Executive Officer, North Australian Aboriginal Justice Agency
- David Cooper: Manager Research Advocacy Policy, Aboriginal Medical Services Alliance Northern Territory
- Seranie Gamble: Manager, Aboriginal Peak Organisations of the Northern Territory

Djalkiripuyngu Aboriginal Corporation

- Waka Mununngurr: Chairperson

Department of the Chief Minister and Cabinet

- Bridgette Bellenger: General Manager, Territory Regional Growth
- Mischa Cartwright: Executive Director, Office of Aboriginal Affairs Strategic Partnerships

Hearing Transcript:

https://parliament.nt.gov.au/_data/assets/pdf_file/0013/1202053/Hearing-Schedule-17-February-2023.pdf

Appendix 3: Site Visits

Tangentyere Council Local Decision Making Subcommittee – 4 October 2021

The Committee met in private with the Tangentyere Council Local Decision Making Subcommittee and was taken on a tour of a number of Alice Springs Town Camps. Members of the Subcommittee present at the meeting:

- Walter Shaw: Chief Executive Officer, Tangentyere Council Aboriginal Corporation
- Geoff Shaw OAM: President, Tangentyere Council Aboriginal Corporation and President of Mt Nancy
- Eileen Hoosan: Vice President of Mt Nancy
- Baydon Kantjira: President of Little Sisters
- Benedict Stevens: Vice President of Tangentyere Council Aboriginal Corporation and President of Hidden Valley
- Maxine Carlton: President of Charles Creek
- Anna Flouris: Executive Officer Strategic Development, Tangentyere Council Aboriginal Corporation
- Michael Klerck: Social Policy and Research Manager

Kintore Community – Pintupi Homelands Health Service – 5 October 2021

The Committee met in private with the Pintupi Homelands Health Service Board of Directors. Directors present at the meeting included:

- Monica Robinson: Chair
- Joe Young
- Lorraine Scobie
- Giselle Barku
- Maureen Wheeler
- Gerrard Giles

The Committee was taken on a tour of Kintore by Kevin Wrigley, Chief Executive Officer of the Pintupi Homelands Health Service. The Committee also participated in a community barbeque. Following the barbeque, Traditional Owners and staff from MacDonnell Regional Council took the Committee to visit the nearby Ngutjul outstation.

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Dissenting Report

DISSENTING REPORT

17th May 2023

By the Member for Araluen, Robyn Lambley

Local Decision Making Inquiry

Public Accounts Committee of the NT Legislative Assembly

A dissenting report or dissenting statement can be provided by a member of a Parliamentary Committee of the NT Legislative Assembly who does not consider that the Final Report of an inquiry or process represents the views of all Committee members. The following is my dissenting report to the **Local Decision Making Inquiry (LDM)** undertaken by the Public Accounts Committee from June 2021 to May 2023.

The Terms of Reference for Local Decision Making Inquiry

The Public Accounts Committee will inquire into and report on the implementation and future of the Local Decision Making (LDM) Framework, having particular regard to:

1. *the progress, achievements, challenges and future potential of LDM implementation across the Northern Territory.*
2. *how to foster community and leadership interest in and commitment to new LDM agreements.*
3. *the impact of technology, Treaty, Truth-Telling and Voice on LDM development.*

The Inquiry and the Process

The key principles underlying Local Decision Making for the purposes of this inquiry were Aboriginal empowerment and Aboriginal self-determination. It is fair to say that all sides of politics value Aboriginal people having control of their future and homelands. There appears to be no division or dispute on this matter within this NT Parliament.

The Public Accounts Committee decided to undertake an inquiry into Local Decision Making in June 2021, after an initial briefing by the NT Government unit responsible for Local Decision Making within the Department of Chief Minister and Cabinet, in May 2021. The inquiry concluded in May 2023. It is extraordinary that any Inquiry undertaken by a NT Legislative Assembly Parliamentary Committee should take several years. This inquiry was very long, fragmented and disrupted in part due to COVID. However months and months passed with little to no progress on the Inquiry, for no apparent reason.

As a member of numerous Parliamentary committees over the duration of my time as a Member of the NT Legislative Assembly, spanning almost 13 years, I have considerable experience in Parliamentary inquiries. As a past Chair of the Public Accounts Committee of the NT Legislative Assembly from 2015 -2016 and a member of the Public Accounts Committee intermittently for many years, I know that full and complex inquiries do not have to extend for years. In the 12 month period before the August 2016 election, when I was

Chair of the Public Accounts Committee, we completed two full inquiries both of which were of a highly controversial nature within 10 months. These two inquiries (listed below) also included considerable community consultation and community visits by the Committee.

- *The Repairs and Maintenance of Housing on Town Camps (Feb 2016 to May 2016)*
- *Funding of Rugby League Facilities in Darwin (Aug 2015 to Nov 2015)*

With the advancement of video and telephone communication there is no plausible reason for any Parliamentary Committee inquiry to take years, as has this Local Decision Making Inquiry 2021-2023.

At this point it is also worth noting that this Public Accounts Committee of the 14th NT Legislative Assembly has only undertaken one inquiry since it was formed in 2020 and that is this Local Decision Making Inquiry. This low rate of productivity and output by the Public Accounts Committee of the 14th NT Parliament is inexplicable.

The cost of operating the Public Accounts Committee is considerable. The Chair of the Public Accounts Committee is paid an allowance of approximately \$32,000 per year. And other Members of the PAC are paid an extra \$16,000 per year. The cost of operating the Public Accounts Committee is over \$100, 000 per year. The Public Accounts Committee must be more accountable in terms of productivity and delivery to the Parliament. Perhaps a Parliamentary inquiry should be undertaken into the value, operation and productivity of this Public Accounts Committee.

The Public Accounts Committee is not a Government Committee. The Public Accounts Committee is an independent Parliamentary Committee. Political affiliations should not play a part in any work of the Public Accounts Committee. The Chair and the Deputy Chair of this 14th NT Legislative Public Accounts Committee are Government members. The Government dominates the Committee by holding three out of the five positions on the committee. The current NT Legislative Assembly Standing Orders states the Public Accounts Committee should consist of 6 members. The NT Labor Government moved a motion in Parliament in 2016 to reduce the number of members to 5, with a majority of three Government members.

Thus, the NT Labor Government have absolute control of the Public Accounts Committee. This stacking of a Parliamentary Committee is not in the spirit or convention of a Parliamentary democracy and is not consistent with how Parliamentary Committees function in the global Commonwealth Westminster system, of which the NT Legislative Assembly is a member.

The Government should never have any direct influence in any Parliamentary Committee. The main purpose of the Public Accounts Committee is it to scrutinise Government. This cannot be done if Government Committee members are being instructed or supported by Government staff or other Government Members of Parliament.

The Local Decision Making Inquiry Report covers off on the main issues raised during the inquiry. However I dissent from the fact that some important, politically unpalatable points have been omitted from this report. The Final Report of this Inquiry does not accurately

reflect my understanding of what was presented to the Committee throughout this 2 year Inquiry. Majority of the background facts and history contained in the Local Decision Making Inquiry report were never provided to or presented to the Committee. Majority of the opinions quoted, referred to and derived from other documents and reports in the Local Decision Making Inquiry Report were never provided to or presented to the Committee. Most of the “reports” referred to in the Local Decision Making Inquiry Report were never provided to the Committee. It is strange to read a report of an investigation or inquiry that refers to “facts”, reports and people that were technically never apart of the investigation or inquiry.

The purpose of this dissenting report is to provide a more balanced perspective to this important Parliamentary inquiry.

This was a Parliamentary Inquiry, not a Government review

It was revealed in the Public Hearing of the Committee held on 17th February 2023 that the NT Government had undertaken to “review” Local Decision Making apparently after the Public Accounts Committee Inquiry Report was completed. In a public session with representatives from the Aboriginal Peak Organisations of the NT (APONT) it was revealed that negotiations and discussions had stalled between APONT and the NT Government on Local Decision Making. The APONT members expressed frustration working with the NT Government on Local Decision Making. They resolved to suspend working with the Government on Local Decision Making until the Public Accounts Committee completed their Local Decision Making “review”. This was new information that came as a shock to me and possibly other Committee members.

Interestingly the NT Government executives employed within the Local Decision Making Unit who had addressed the Public Accounts Committee on Local Decision Making several times had not provided this information. They did not disclose this “contingency plan” of Government. Nor did they mention the tension and apparent temporary breakdown in negotiations with APONT on Local Decision Making. Due to this revelation that came in the final hearing of the Inquiry, I am left wondering whether this omission was deliberate and whether we received the Government censored version of Local Decision Making rather than the full truth. I am also wondering what else we were not told by the NT Government officials.

The tensions that clearly exist between the NT Government and significant stakeholders on the Government’s approach to Local Decision Making is an important fact that must be included and considered very closely in this Parliamentary Committee.

The Inquiry Report includes a section on the “Review of the Local Decision Making Framework” (page 84) but none of this information was actually provided to the Committee during the Inquiry. The only mention made of this was by Mr Cooper (Manager of Research Advocacy Policy with AMSANT, Aboriginal Medical Services Alliance NT) in the Public Hearing in February 2023.

This Inquiry was not a Government “review” as referred to by the APONT members. The Committee was not at any stage informed that this Inquiry was in some way connected to the process of Government negotiations on the matter.

As stated previously, Parliamentary Committees and the process of a Parliamentary inquiries are not extensions of Government business, nor should they be used to further the agenda of a Government. The only aspect of any Parliamentary Inquiry relevant to Government should be the final report.

This is an excerpt from the transcript of the Local Decision Making Public Hearing on 17th February 2023 in which it was revealed that the Government was using the Public Accounts Committee Parliamentary Inquiry into Local Decision Making to effectively stall the negotiations with APONT. This was the only reference made by anyone during the Inquiry to Government tactics relating to Local Decision Making and the Parliamentary Inquiry throughout the duration of the 2 year inquiry.

Mrs LAMBLEY: A point of clarification, Dr Paterson—you said that APO NT withdrew from the LDM process in 2019 because you were feeling a sense of not being heard and disillusioned. What is happening now? Are you back at the table with the Northern Territory Government talking about LDM? Are you negotiating with them?

Dr PATERSON: I might pin that to either Mr Cooper or Ms Gamble.

Mr COOPER: At that point when APO NT stepped back from its direct relationship and engagement in LDM—that was some time ago now and there has been this whole process of reviewing LDM that has been happening. The Closing the Gap agreement and partnership has been developed. There are a number of things that have been happening over that time. Essentially, there has been an agreement underneath the Closing the Gap implementation plan—the first implementation plan—that the government would sit down with APO NT to review LDM following the completion of this inquiry. That is a process that is still to occur. It is one of a number of processes of review that have been happening—and taking quite a long time. The whole Closing the Gap process is like that; it takes a long time to negotiate all these things. It also includes the Aboriginal Affairs strategy of the NT.

The critical next step is the engagement about LDM that will follow this process. That is where we are at the moment.

Mrs LAMBLEY: I advise you—for want of a better word—this is not a government review, this is a parliamentary inquiry. I have been around long enough to know that the recommendations from these parliamentary inquiries usually do not go far at all. Although it is good to remain optimistic, I would also be realistic; these parliamentary inquiries are often completely ignored by government.

Mr COOPER: This was a request of government that we wait until the conclusion of this review ...

Mrs LAMBLEY: Okay, that is interesting.

Mr COOPER: ... before we do that joint review.

The APONT representatives who attended the Inquiry Hearing on 17th February 2023 were Dr John Paterson, Acting Chief Executive Officer of the North Australian Aboriginal Justice Agency; Ms Seranie Gamble, the Manager of the Aboriginal Peak Organisation of the NT; and Mr David Cooper, Manager of Research Advocacy Policy with AMSANT, Aboriginal Medical Services Alliance NT.

Observations of the Inquiry

The general response to the concept of Local Decision Making, revealed through the Public Accounts Committee Inquiry, was “in principle” support. People generally thought Local Decision Making is a good idea.

But there are also clear problems in the way in which Government has rolled out Local Decision Making. These problems centre on:

- Managing the different expectations people have of what the Government is actually offering by a Local Decision Making agreement
- Honesty by Government around the “deal” or “agreement” that is being signed between communities and the NT Government
- A lack of clarity around exactly what Aboriginal communities signing the agreement get out of the Local Decision Making agreement
- Disagreement amongst stakeholders about what is the best model of empowering Aboriginal people through Local Decision Making
- The impact and likely erosion of Local Government through the roll-out of Local Decision Making particularly in remote areas. What is the future of Local Government in the bush?
- Questions around, what is the best way of restoring self-determination in the bush?
- The lack of genuine consultation with Aboriginal peak organisations by the NT Government in Local Decision Making
- The politicisation of Local Decision Making. There seems to be a lot of handshakes, back-slapping and photo opportunities, but not much action on the ground for most communities that have signed up to Local Decision Making
- The signing of the Local Decision Making Agreement is the easy bit. What happens next is the difficult, more important stage that is still being formulated by Government
- The inequity in the roll out of Local Decision Making between different regions of the NT. Some regions are well advanced in developing their Local Decision Making model, for example the Local Decision Making Agreement (LDMA) between the Anindilyakwa Land Council (ALC) and the Northern Territory Government (NTG) was signed on 14 November 2018. The ALC is very advanced in their Local Decision Making development compared to, for example, most Aboriginal communities in Central Australia.
- At this stage (May 2023) there are only 11 Local Decision Making Agreements in the NT. The only Local Decision Making agreement in Central Australia is with Tangentyere Council.

My conclusion from listening, reading and observing during this Local Decision Making Inquiry is that the Government is in most cases not genuinely listening to Aboriginal people on the ground, as to what they want, need and expect from the Local Decision Making process.

Various people the Committee spoke to from Aboriginal Communities, about their Local Decision Making agreement with Government, expressed their disappointment with the lack of resources and genuine commitment by the Government to furthering their goals in Local Decision Making. It appeared that many Aboriginal people saw through the emptiness of the agreement they had signed. They saw that they had entered an agreement in good faith, yet the Government had let them down by not delivering on funding and resources. At the very core, not much can be achieved without money, and the money from the NT Government was not flowing, just empty promises.

The NT Labor Government are clearly using Local Decision Making as a political tool to attempt to endear and win favour with remote Aboriginal communities. It became evident through the inquiry that many leaders of communities that have “signed up” to Local Decision Making with the NT Chief Minister, were not very impressed with the lack of substance to the agreement. It appeared that many community leaders thought that the Local Decision Making Agreement they signed with the Government would involve a far greater commitment from the Government than what has transpired. Putting it bluntly, some leaders were obviously underwhelmed, angry and disappointed with the lack of delivery from the Government in terms of assistance, resources and funding.

Unfortunately Aboriginal people are accustomed to being used as political pawns. They are accustomed to being used for political purposes. It is important Local Decision Making is not used in this demeaning and belittling way. It was clear some communities have formed the view they have been potentially misled and potentially used for political gain by the Government.

The NT Government’s approach to Local Decision Making is like a sideshow or a circus rolling into town. All show and not much substance, in most cases. The Local Decision Making initiative sits within the Department of the Chief Minister and Cabinet, Territory Regional Growth Unit. We were informed the staffing of this unit is two people, with a budget of approximately \$500k per year. The resources within this unit to assist communities to progress their Local Decision Making ideas is zero. Whilst the Public Servants that work in this unit are committed, well-paid and optimistic, the ability to deliver outcomes to most of the many hundreds of Aboriginal communities that aspire to greater Local Decision Making is limited at best.

Rolling into town and selling a concept or an idea with no resources does not constitute a truly genuine commitment by the NT Government.

Treaty, Truth-telling and the Voice

The final Term of Reference for this inquiry was to consider:

The impact of technology, Treaty, Truth-Telling and Voice on LDM development.

The NT Labor Government has recently attempted to use Treaty, Truth Telling and the Voice as a means to politically wedge Members of the NT Legislative Assembly. In the NT Parliament on Thursday 16th February 2023 the Government moved a motion that the NT Legislative Assembly support the Indigenous Voice in the Constitution. An amendment to this motion was put to Parliament by the Independent Member for Mulka, a respected Indigenous Elder, to include Treaty and Truth Telling in this motion. The Government did not support this amendment and therefore made it clear in doing so that they do not support Treaty and Truth Telling. This development has not been included in the Inquiry Report.

The NT Government suspended the NT Treaty process, after the Treaty Commissioner provided his report to Government at the end of 2022. The NT Treaty Commissioner Act

2020 is now defunct, expired and no longer relevant. The future of any of Treaty under the current NT Labor Government is not certain or clear. Neither is the significance of Aboriginal "Truth Telling". These developments were not included in the Inquiry Report.

Given the extreme politicisation of Treaty, Truth-Telling and the Voice by the NT Labor Government over the past few months, I do not think it is appropriate that the Public Accounts Committee enter into the debate of the impact of these Aboriginal movements and initiatives on Local Decision Making development. It is important the Public Accounts Committee deal with facts and evidence.

Conclusion

Any report of a Parliamentary Committee should not contain material that has never been formally documented and presented to the Committee as a part of the actual inquiry. This report is not an accurate reflection of the Local Decision Making Inquiry that I participated in for 2 years. It contains opinions, perspectives and interpretations of history, policy and practice that were never a part of or included in the actual Public Accounts Committee Inquiry. Whilst making a good read, this Local Decision Making Inquiry report is not about what we did, what we heard and what we concluded in this inquiry.

The NT Government, which is over represented on the Public Accounts Committee, would have people believe that they have been the only Government in recent history that have driven policies of Aboriginal self-determination and self-empowerment. This is simply not the case. For example, the process of delivering community control to Aboriginal Health Services commenced well before this Government. This work was continued by the current Labor Government when they came to power in 2016. This accurate and bipartisan history of Local Decision Making in the NT was neither explored nor acknowledged in this Inquiry.

My view is that this Inquiry into Local Decision Making was directly used by the Government controlled and operated Public Accounts Committee to try to promote and publicise the initiative of Local Decision Making. But what it did from my perspective, is expose a flawed policy that will likely benefit only the most functional of NT Aboriginal communities and those that are most likely to achieve positive outcomes for their people despite their empty and under-resourced Local Decision Making agreement with the NT Government.

The Public Accounts Committee visited the community of Kintore in October 2021 as a part of this Inquiry. In stark contrast to the 10 communities in the Top End that have embraced the Government's Local Decision Making policy, the leaders and directors of the Pintupi Homelands Health Services Board that we met with had virtually no knowledge of what the Government's Local Decision Making initiative even was. They explained to the Committee that they had not been informed by any Government officials of the Local Decision Making policy.

The NT Government lauds the success of Local Decision Making, but the reality is that the policy has barely hit the radar of many, if not the majority, of the most disadvantaged NT Aboriginal communities, particularly in Central Australia.

I cannot in good faith abide by the Government's superficial approach to Local Decision Making and condoning Aboriginal communities signing Local Decision Making agreements that are likely to be worthless and lack real commitment to the empowerment and self-determination of Aboriginal people. Whilst in principle Local Decision Making is a good idea, not much progress will be made in most NT Aboriginal communities without genuine commitment by the NT Government.

A handwritten signature in black ink, appearing to read 'Robyn Lambley', followed by a period.

ROBYN LAMBLEY MLA
Member for Araluen
17 May 2023