



Northern Territory
**Treaty
Commission**

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SUBMISSION TO THE INQUIRY INTO LOCAL DECISION MAKING (LDM)

The Northern Territory Treaty Commission (NTTC) thanks the Public Accounts Committee for the opportunity to provide a submission to this inquiry.

Background

There are key links and pathways linking the work of the NTTC and LDM. Both initiatives are underpinned by the principle of self-determination and an understanding, backed by extensive research world-wide, that the lives of Indigenous peoples improve when they are able to make the decisions that affect their daily lives.

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.

It should be noted that any evaluation of LDM is difficult because there are no published KPI's, performance targets, project milestones or other planning or accountability mechanisms against which to compare other than the statement included in the LDM web site resources that:

“Local Decision Making is a 10 year plan that will provide a pathway so that communities can have more control over their own affairs, including service delivery based on a community’s aspirations and needs.”

The LDM initiative was an election commitment of the government leading into the 2016 election. It is now 5 years since the government was elected, so we are now half way through the government’s 10 year plan for LDM. Any review of LDM needs to be understood in that context.

In terms of a context for our comments, the NTTC has been undertaking community consultations across the NT over the last year following the release of its Discussion Paper and has consulted at over 34 discreet communities, with over 50 Aboriginal organisations, travelled over 25,000 air kms and over 6,000 road kms. Community members often shared concerns about LDM during consultations.

Three key principles underpin the NTTC’s work:

- A First Nation approach - Treaties to be between individual First Nations (or a partnership of First Nations) and the NT Government;
- A Self-Government Approach – the key difference between treaties and other agreements and settlements is that they must lead to some form of self-government;
- A Human Rights based approach – the minimum standard for treaties must be the rights contained in UNDRIP and also the UN’s approach to dealing with past atrocities known as the Van Boven/Boussani principles

Response to the Inquiry

The Local Decision Making Overview Fact Sheet published on the LDM website says:

“Local Decision Making (LDM) is a Northern Territory Government commitment to provide opportunities to transfer government service delivery to Aboriginal Territorians and organisations, based on their community aspirations.”

Northern Territory Government agencies will partner with Aboriginal communities to assist the transition of government services and programs to community control.”

If LDM is about the transfer of government service delivery to Aboriginal communities, then LSM outcomes to date 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. Importantly, with limited exceptions, the agreements are not legally enforceable; something that the Chief Minister committed to when announcing the LDM initiative. One of the reasons for this is that in most cases there is no real substance to enforce.

Based on information contained on the LDM web site, there are few sites, other than Groote Eylandt, where substantive progress that is consistent with the stated objectives of LDM has been made. The following four examples are instructive as to some of the problems that the NTTC has observed:

- 1) It is concerning and instructive that the CLC, representing Traditional Owners across almost half of the NT’s land mass, actively campaigns against LDM. Programs that are not supported by the community and their representative bodies are very rarely successful.
- 2) There are clearly issues with the concepts of LDM being embraced outside of the Department of the Chief Minister and Cabinet (DCMC). For example, an important pre LDM self-determination initiative occurred at the Gunbalanya school where the dates of school terms were adjusted to allow for both cultural practice and the wet season. Our consultations with numerous community members indicated that the Maningrida school wanted the same adjustment, but were constantly thwarted by the Principal and the Department of Education. This reflects a breakdown in the LDM ethos and intent as well as their being little or no accountability outside of DCMC.
- 3) While consulting in Central Australia, by chance two senior Housing staff were staying at the same accommodation as us. Over dinner they told us how well their Department was implementing LDM because under the Room to Breathe program they allowed tenants to choose the colour of their walls – even if they didn’t like or agree with the

colours themselves! Ironically, we were taken on a tour of the relevant homelands the following day and were given detailed accounts of the limited housing options offered by the Department as well as the poor workmanship of the final works.

- 4) At a LGANT meeting, one Regional Council CEO gave a presentation of how well LDM was working in his regional council area because Local Authorities were able make recommendations – all of which were accepted by the council – on how small capital grants less than \$1,000 were allocated.

Change Management in the NTPS

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.

Community Governance

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 whole of community approach needed to successfully implement LDM in an integrated and holistic manner.

First Nations Approach

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.

Why has Groote Eylandt's LDM been successful?

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.

Conclusion

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. You could add a number of other initiatives to the congested policy landscape to the list of Treaty, Truth Telling and Voice contained in the Inquiry's terms of reference:

- Closing the Gap Refresh;
- Uluru Statement from the Heart;
- COAG Pilot projects;
- Aboriginal Justice Agreements;
- Local indicatives such as the Barkly Regional Deal;

- NT Aboriginal Land and Sea Action Plan
- NT Aboriginal Affairs Strategy

And I am sure that there is more that I have missed!

Rather than adding more programs to this congested agenda, if LDN 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.

