

Woodward, A. E.

Aboriginal Land Rights Commission

Second Report

April 1974

Parliamentary Paper No. 69

City and Town Dwellers

Part. of the Comm. of Aust

The people concerned

BAGOT

See pages 55-63

274. As I pointed out in my first report, the 1971 Census showed 2374 Aborigines in Greater Darwin, 1269 in Alice Springs, 174 in Katherine and 119 in Tennant Creek — a total of just over 4000. I then said also that 'only a very small percentage of city and town dwellers could establish a traditional claim to the areas where they now live'. I later suggested that the problems of these people, although just as urgent and important, were related to social welfare and urban development rather than traditional land rights.

275. A number of later submissions have pointed out, quite rightly, that the difficulties in which many of these people find themselves do arise from the loss of their traditional lands or the loss of their sense of Aboriginal identity caused by their mixed ancestry. Whatever their reasons for living in a town, it can certainly be said that most of the fringe-dwellers of the cities and towns have suffered more from the coming of white settlement than have those still living on reserves or cattle stations.

276. In a review of the position in their area, counsel for the Central Land Council said:

'In respect of practically all of these township people, certain common features exist. They are all Aborigines who have been over the years dispossessed of their traditional land and have occupied areas of land for a number of years as virtual squatters. They have become attached to these areas of land and generally speaking desire to continue to live there. In no case could it be established that the land in question also constituted the traditional land of the particular persons now occupying it, although it may have formed part of the general tribal area of these people. In practically each case the land upon which they are now living is Crown land. The circumstances in which they are living is totally unsatisfactory to both themselves, to the white population of these towns and to Australian society as a whole'.

277. Certainly these people fall clearly within my terms of reference. Their present requirements were well expressed in the written submissions on behalf of the Northern Land Council, which said:

✓
] ✓
*
Some of the townspeople require a white community style of accommodation, for their desire to live in a wider kind of Aboriginal family has given way to the acceptance of the nuclear family. Others require a village style of living where houses are built around a central courtyard where all the Aborigines can enjoy a community style of living. Others would find even these constraints too much and would prefer to be away from suburbia living under simple cover with more space around them. These respective needs must not be seen as reflecting some ascent upon the social or accommodation scale.

Principles of land acquisition

278. I am satisfied that land in urban areas must be set aside for Aboriginal living. In doing so a number of principles need to be observed:

(a) The special planning of areas for Aborigines should be an integral part of all town planning in areas where Aboriginal communities live. Whether this requires a special section within the relevant town planning body, as urged by the Northern Land Council, I am unable to say.

(b) Aborigines affected must be involved at the planning stage, their wishes determined and the reasons for those wishes known and properly understood. This may involve painstaking inquiry.

(c) Unless there are very strong arguments to the contrary, and if it is their wish, Aborigines should be provided for in the places where they are used to living. Even if no traditional rights are involved, these areas are often important to them from long association. A good example of a contrary argument which might have to prevail is one based on public health requirements.

(d) Due respect should be paid to tribal differences in setting aside Aboriginal living areas; this will avoid unnecessary tensions.

(e) Attention must also be given to the purpose of the area. If it is required for hospital attendance, for example, it should be within easy reach of the hospital.

(f) Above all, existing Aboriginal living areas should not be seen as convenient sites for further housing development, or even public parks. It is quite unacceptable that Aborigines should be pushed further and further away from the centre of towns by the apparently inevitable urban sprawl.

279. As to the carrying out of the principles here recommended for adoption, it is obvious that a number of different authorities will be involved. The Aboriginal view will be put in some cases by various local organizations which have come into existence in recent years. However there will be many groups of Aborigines who have no such organization to turn to and I see their interests being watched and pursued by the regional Land Councils. I think it is important that each Council should assign a field officer to the task of establishing the wishes and needs of Aborigines in town areas—both those who see themselves as more or less permanent residents and those who are transients.

i 280. The Land Councils should then publish a list of the requirements they see for:

- (i) the properly serviced camping areas
- (ii) community housing areas
- (iii) hostel-type accommodation
- (iv) single family housing,

together with their recommendations as to how these needs can best be met.

281. The Land Council's views should be put to the relevant town planning authority and to the Aboriginal Land Commission, so that the Commission can consider what land purchases or acquisitions appear to be necessary to achieve the aim of satisfactory urban living conditions for Aborigines. The Land Commission would also initiate its own inquiries wherever necessary. It should have the advantage of work already done in this connexion by the Department of Aboriginal Affairs.

282. The Land Commission would obviously have to consult with the planning authority before reporting to the Government in order to see how any recommendations it saw fit to make would fit in with the overall planning of the town concerned. Where moneys were required for acquisition, the Commission would put a case to the trustees of the Aboriginal Land Fund.

283. The aim should be that, within a reasonable time, all Aboriginal groups are living or camping on land in which they have an interest.

284. The necessity to set aside urban land for Aborigines will have two results. In the first place it will compel the specific inclusion of planning for Aborigines amongst other town planning requirements. Secondly, the bare Aboriginal lands will draw attention to housing needs whereas makeshift camps on Crown lands could be, and have been, ignored.

285. I would hope that by the end of 1976 there will be no Aboriginal groups in the Northern Territory, except those actually travelling, living on sufferance on Crown lands. By that time they should all be living on places they have chosen, where they have a recognized right to be, and plans should be well advanced for permanent camping facilities or community housing projects as required. In all such planning the Aborigines themselves, through the responsible officer of the regional Land Council, should be closely involved.

286. As indicated below in relation to two specific cases, I would expect the normal form of tenure for these purposes to be the special purpose lease — held in the first place by trustees nominated by the Land Council and, in due course, by others nominated by the local residents themselves.

287. As well as providing land for groups of Aborigines, it will be necessary to assist individual families in some cases, as pointed out in para. 277 above. I understand that there are over 250 Aboriginal or part Aboriginal families living in government-owned houses in the Territory at present.

288. Since I do not know the number or the circumstances of Aborigines wanting to live in this way, I am unable to say whether special measures, different from those applying to others seeking government houses, should be taken to assist them. This should be disclosed by the Land Council investigations referred to in paras. 279-280 above.

289. Although I do not see it as the function of my Commission to make specific recommendations about particular areas of urban land, there are three cases in Darwin which have been presented to me in some detail, and I think it might be helpful, by way of illustration of my general recommendations, if I referred to them.

Kulaluk

290. I spoke in my first report (para. 157) of the few remaining members of the Larrakia tribe who are claiming, among other things, an area of waterfront land between Bagot and Nightcliff which they call Kulaluk. I was told when I met them that there were some 18 members of the tribe still left, but later information suggested that fewer than this number could trace paternal descent from the Larrakia, although more identify themselves as Larrakia because of maternal links. The Department of Aboriginal Affairs survey shows a total of 28 Aborigines who identify themselves as Larrakia, of whom 17 live in Darwin.

291. I have no doubt that the Larrakia people were the traditional owners of what is now the whole Darwin area. Some of the survivors, together with a few other Aborigines, have formed an organization calling itself Gwalwa Daraniki. The secretary of this organization, a white man, has achieved remarkable results in obtaining press coverage and other forms of publicity for the claims of this group. In the result, Kulaluk has become something of a symbol of the stand which Aborigines, with help and guidance from many different sources, are now making against the past tendency to put their interests last in any consideration of land usage.

Bill Day

292. It is true that only a small number of Aborigines have camped regularly at Kulaluk in recent years, but the publicity their case has received has been sufficient to cause the Government to step in and halt the further development of the area as a residential sub-division, until at least the making of this report.

293. I believe that the Government should now proceed to the acquisition of this general area for Aboriginal living purposes, paying the necessary compensation to those whose interests in the land would be extinguished by such acquisition. This will demonstrate clearly the Government's willingness to give effect to reasonable Aboriginal aspirations to land. It would be entirely consistent with the general principles set out above and I have no doubt that such an area could be put to very good use for Aborigines. When I spoke to the people living there I found some disagreement as to whether the area could best be used for camping or housing. This is a matter to be resolved in the future having regard to:

- (i) the wishes of those living on the land,
- (ii) the availability of other land for those respective purposes, and
- (iii) the availability of funds for housing development if that is decided on.

294. There are two further points I should mention while on this subject. The first is that I have spoken of the area in general terms. I am not in a position to suggest the precise amount of land which should be resumed. However the intent of my recommendation is that the major part of the area now vacant should be resumed. Sooner or later it will be put to a useful purpose and, in the meantime, the preservation of an area of open space will have its advantages.

295. Finally, on the question of tenure, from my observations of the Gwalwa Daraniki it would not be a suitable organization to have this land vested in it. Its numbers are too small and its dependence on its white adviser too great, in spite of his efforts to encourage self-sufficiency. I believe that, for the time being at least, the title should be held by trustees nominated by the Northern Land Council. No doubt the special interests of the Larakia people would be remembered when such trustees were appointed. As the area develops and more Aborigines take up permanent residence there, it would then be appropriate to transfer the title to the local residents.

296. The title in this, as in all other cases of urban landholding, should be the same as applies to other members of the urban community — in this case, leasehold. I say this firstly because I do not believe traditional ownership in the sense in which that expression is used throughout this report, could be established in Darwin, whatever the position might be in Alice Springs. Secondly, I see no point in granting a special form of Aboriginal title to the small minority of urban Aborigines able to establish traditional claims to a particular area, when they are living as part of a largely non-Aboriginal community. Finally, and most importantly, neither of the Land Councils has asked for anything other than leasehold title in towns. The position would, of course, be different if freehold were the normal title, as is the case at present in most towns outside the Territories.

Railway Dam

ie One Mile Dam

297. The second case to which I want to refer is that of the area known as One-mile or Railway Dam. This is a place at which a number of Aborigines have been camped over a period of years. They have recently formed themselves into the Raknurara Bootong Association Incorporated and submissions have been made to me by counsel on behalf of that Association. *John Waters LLb*

Peter Dermoudy

298. They have obtained the services of an architect to show how this area could be developed as a semi-permanent Aboriginal campsite. They put a case to the Darwin Town Planning Board at the same time that a case was being put that some part of this land should be made available as a campsite for transients other than Aborigines. The Town Planning Board approved the use of the area as a campsite for Aborigines and others but the Administrator's Council rejected both recommendations in favour, as I understand it, of the use of the land for purposes of a public park.

299. It seems that the proponents of the use of part of the land for non-Aboriginal camping have accepted the defeat of their proposals and are now looking elsewhere. However the Raknurara Bootong Association is pressing its claims on behalf of Aborigines.

300. I can only say that, in pursuance of the principles outlined above, this seems to be a case where Aboriginal wishes should be met. Where else is it suggested that they should camp? Why should they not have reserved for their use the area which they have used for a number of years? There may be answers to these questions but, on the face of it, it seems to me that this claim on behalf of Aborigines is well founded and should receive sympathetic consideration from the relevant authorities — particularly in view of the support of the Town Planning Board.

301. Once again, I have doubt about the strength and permanence of the applicant Association, which has the same secretary as the Gwalwa Daraniki. I therefore believe that any lease granted over this land should be to trustees, nominated in this case by the Northern Land Council in consultation with the Delissaville Council, because of the number of Delissaville people using this area. Again in this instance counsel sought no more than a special purpose lease of the area.

B. DAY

302. I should make it clear that I have no knowledge of the reasons which led the Administrator's Council to reject the application and the advice of the Town Planning Board in this case. I can only invite the Council to reconsider the matter in the light of the recommendations set out above and of the Government's attitude to those recommendations when it is made known.

303. In considering this matter it should be observed that the Aboriginal proposal, in the words of their counsel's submission

'... does not purport to monopolise the Railway Dam itself and indeed almost half the available space could be made over either for public park land or for a youth hostel or camping ground for the benefit of white transients'.

Bagot

304. The third special case to which I wish to refer is that of the Bagot Reserve. I think it is worth setting out the history of this reserve in some detail, since it illustrates the way in which Aboriginal interests can be lost sight of when other requirements become pressing. It also shows that the general Darwin community owes some land to Aborigines on the basis of past understandings. The history to which I refer appears sufficiently from the following correspondence.

305. On 4th October, 1961 the Administrator of the Northern Territory (Mr Roger Nott) wrote to the Secretary of the Department of Territories (Mr. R. C. Lambert) saying that 'the question of recommending revocation of portion of the Bagot Aboriginal Reserve has been under consideration . . . for some time'. The letter went on:

326. So far as the particular case of the present Bagot Reserve is concerned, I stand by what I said in my first report (para. 156), namely that I see no difficulty in vesting title to the reserve in a properly elected and incorporated committee of residents. The interests of transients will have to be protected unless and until other camp or hostel-type arrangements are made for them. In any event I would suggest that the community council should receive an appropriate long-term lease of the land and should have power to sub-lease building allotments to Aborigines. Where houses are erected at public expense or by the efforts of the community, there should be no right to assign the lease or to sub-lease the premises. Where the Aboriginal lessee has himself paid for, or arranged finance for, the construction, he should be able to realize the value of his asset by receiving a longer term lease, with power to assign or sub-let to another Aborigine.

Other places

327. Before leaving this topic of city and town dwellers I should say that I have not dealt specifically with other areas such as Knuckey's Lagoon at Berrimah or the various camps at Alice Springs, Tennant Creek or Finke, because I do not feel sufficiently well informed about them to make any helpful comments. The general principles outlined above should be applied to these cases.

"Wallaby
Cross"

Summary of recommendations

328. (i) Planning for Aborigines in towns must involve consulting them to discover their wishes. Their preferences will range from normal town houses, through clustered community accommodation to permanent facilities for camping.
- (ii) Such preferences, along with tribal affiliations, must all be provided for in town planning and in the provision of housing funds.
- (iii) Aborigines should, generally speaking, be housed or otherwise accommodated in the places where they are accustomed to live, provided that is their wish.
- (iv) Regional Land Councils should each assign an officer to find out the housing requirements of Aborigines in towns within the region.
- (v) The Land Councils should then make submissions to town planning authorities and to the Aboriginal Land Commission.
- (vi) The Land Commission after considering these submissions, making its own investigations and consulting with planning authorities,

should make recommendations to the Government concerning the acquisition of the necessary land for Aborigines in towns.

(vii) Where moneys are required for such acquisitions, they should come from the Aboriginal Land Fund. It is expected that such purposes would probably receive a high priority because the need is so pressing in many places.

AB

(viii) By the end of 1976 all Aboriginal groups, except those actually travelling, should be living on land where they are content to be and where they have a recognized right to be, because it is held on their behalf by Aboriginal trustees.

(ix) Land held for Aborigines in towns should have the same tenure as is normal in each town. The holders should be trustees, approved corporations or community councils as appropriate in the particular case.

(x) Land should be acquired for Aborigines at Kulaluk and, unless there are very strong arguments to the contrary, Railway Dam.

(xi) The Bagot Reserve should be leased to a committee of residents and the terms of the lease should protect the rights of transients to use the area.