

## Tangentyere Council Inc.

PO Box 8070  
ALICE SPRINGS NT 0871  
Ph. (08) 8951 4222  
Fax (08) 8952 8521  
Email: tangentyere@tangentyere.org.au



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Dear Consultation Committee

### **SUBMISSION FROM TANGENTYERE COUNCIL TO THE NATIONAL HUMAN RIGHTS CONSULTATION COMMITTEE**

Thank you for the opportunity to submit to the consultation process on the need for a Human Rights Act in Australia.

Tangentyere Council believes that a Human Rights Act would be important in facilitating a more equitable and just society, which is in the interests of all Australians. We believe that it would also help to facilitate a sense of Australia as one cohesive society that wishes to protect the rights of all Australians and as a result of this, assist all Australians to achieve their potential and to contribute as fully as they can to the well being of the country.

In these ways, a Human Rights Act in Australia would further the stated social inclusion goals of the Australian Government.

A Human Rights Act would complement the existing legislation that prohibits discrimination against particular groups in particular matters. However Tangentyere Council believes that a Human Rights Act would assist to counteract the mistaken belief that the legislation privilege these groups over the majority of Australians, by embracing certain human rights for all Australians. It would also be more difficult to suspend a Human Rights Act that it has been to suspend the Racial Discrimination Act for Aboriginal people in the Northern Territory, as the whole population would be losing something of value, rather than a relatively small minority that has little voting power.

Below are the views of Tangentyere Council in regard to particular questions being posed as part of the National Human Rights consultation process.

In addition, a case study of Tangentyere Council's proposal for a Central Australian Affordable Housing Company is provided to illustrate how the right to self determination needs to be incorporated into the examination of legislation and policy making. This is at Attachment A

#### **Q.1: Which human rights (and corresponding responsibilities) should be protected and promoted?**

Tangentyere Council believes that, as a minimum, Australia should have a Human Rights Act that reflects the international conventions to which we are party or for which we have indicated support. From Tangentyere's point of view, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Declaration on the Rights of Indigenous Peoples are particularly important in this regard.

Tangentyere Council believes that the following matters are all human rights that are particularly important for Indigenous Australians: These are the right to:

- self-determination (which can include a guarantee of full, free and effective participation in all aspects of public life, particularly government decision-making)
- recognition and protection of traditional lands, territories and resources
- enjoyment of culture and use and preservation of languages, and to not be subjected to forced assimilation or destruction of culture
- be treated equally under the law
- freedom from discrimination on the basis of race
- an adequate standard of living, including adequate food, clothing and housing
- be free and safe from violence
- protection from hate speech
- participate freely in cultural and public life
- vote
- use public spaces
- be treated equally under the law.
- respect for privacy, family and home
- to be treated with humanity and respect for their dignity
- not to be subjected to arbitrary arrest or detention
- the highest attainable standard of physical and mental health and;
- education.

While the Council believes that all of these rights are important, it is particularly concerned at present with the right to self determination, including a guarantee of full, free and effective participation in all aspects of public life, particularly government decision-making.

By this Tangentyere Council means that Indigenous people have the right to have agency in their own lives and to have the same right to participate in decisions that affect their lives in the same way that others have the opportunity to do.

**Q.2: Are these human rights sufficiently protected and promoted in Australia?**

Tangentyere believes that a number of these rights are not adequately protected at present.

In our submission (refer <http://www.nterreview.gov.au/subs.htm> ) to the Review Board of the Northern Territory Emergency Response (NTER), we included stories from Town Camps residents about how different aspects of the Emergency Response have affected them. Some of these stories indicate that the human rights of some Aboriginal people have been infringed by the NTER and in particular by the suspension of the Racial Discrimination Act.

**Q.3: How could Australia better protect and promote human rights?**

Tangentyere Council believes that there are a number of ways in which a Human Rights Act can be enforced and in which it will foster a culture in which human rights are respected and considered by government.

The implications for a defined range of human rights should be considered when:

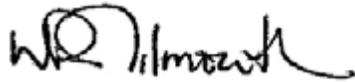
New legislation is before Parliament

New policies are being developed by government

The impact of government budget expenditure is being analysed.

Courts should be empowered to assess whether government legislation and policies are compatible with the Human Rights Act.

Yours sincerely

A handwritten signature in black ink, appearing to read 'William Tilmouth', with a stylized flourish at the end.

William Tilmouth  
**Executive director**

**CASE STUDY – SELF DETERMINATION FOR ABORIGINAL PEOPLE AND THE CENTRAL AUSTRALIAN AFFORDABLE HOUSING COMPANY (CAAHC)**

This description of Tangentyere Council’s proposal for the Central Australian Affordable Housing Company (CAAHC) is provided in order to illustrate how government and Aboriginal organisations could work in partnership to ensure that there is self determination and participation in decisions around housing for Aboriginal people rather than being subject to government decisions only.

**THE CENTRAL AUSTRALIAN AFFORDABLE HOUSING COMPANY**

The Central Australian Affordable Housing Company (CAAHC) was registered with ASIC on 20 March 2009. Funding for its establishment was provided by the Hon Jenny Macklin, Minister for Indigenous Affairs, as part of the Work Plan as agreed between her and Tangentyere Council.

Tangentyere Council believes that CAAHC represents a new way forward for Indigenous community housing. It combines an avenue for Indigenous people to have agency in their own lives and to work in partnership with government and the private sector in a transparent and accountable manner.

CAAHC would operate with a skill based Board of eight Directors, which would include housing industry knowledge, government expertise and decision making input, and social and cultural knowledge of town camp communities. This range of skills will not be available under the government’s proposal to have NT Housing manage all housing on town camps.

All housing construction, repairs and maintenance would be carried out according to researched and clear environmental health indicators. This is not the case with those residences managed by Territory Housing.

CAAHC will employ mixed funding arrangements as are currently used by affordable housing companies elsewhere, and which are being encouraged by the Australian Government in mainstream areas, but not for Aboriginal people to date. It will be able to tap into the National Rental Affordability Scheme (which is not possible for NT Housing), Commonwealth Rent Assistance and to tap into opportunities for private sector joint ventures. It will be able to offer affordable rental for both employed people and those on government benefits, shared equity home ownership and full home ownership. This model provides a pathway to greater independence from government, less reliance on welfare and more potential for home ownership than the Territory Housing model.

The details of the company are provided below.

**1. Aims:**

The key aims of the company are to:

- develop a viable regional Affordable Housing Company (CAAHC)
- create a capacity to extend and improve responses to housing need
- develop strong partnerships with the community, government and the private sector;
- make a significant improvement to the health of Aboriginal people through the sustained ability to access critical environmentally healthy living conditions.

## **2. Key Project Objectives**

### **Environmental Health Improvements**

This proposal will assist the government to 'close the 17 year gap' in life expectancy. A quality plan will ensure the highest level of housing maintenance is achieved and greater short term maintenance and long term asset management occurs, resulting in a greater function rate of housing in the critical environmental health related areas. Linking together the three tiers of design, construction and most importantly maintenance, lessons learnt on each are able to influence and continually improve all aspects of housing provision.

All repairs and maintenance will be carried out according to environmental health guidelines and indicators of the housing aspects of environmental health will be used to measure performance in repairs and maintenance..

### **Homelessness & Lack Of Affordable Housing**

Alice Springs suffers from perhaps the greatest levels of homelessness in the country, with much of the indigenous population unable to access affordable good quality low cost accommodation. This proposal aims to address the indigenous homelessness crisis by dramatically increasing the supply of affordable indigenous rental housing and indigenous private home ownership options. It will enhance choice and diversity, and offer a range of secure tenure options across diverse locations. The CAAHC will specialize in the development of a realistic, practical and specialized core business of affordable housing.

## **3. The Model**

### **New Funding Arrangements**

The CAAHC will pioneer a new funding approach for indigenous housing, and develop new and wider partnerships between community, government and the private sector. It will build wider community support and engagement with greater regional and local responsiveness, and seek a diversity of funding and better use of government capital and recurrent subsidy.

There will be long term planning and certainty in funding stream as a result of:

- Mixed funding including private investment, National Rental Affordability Scheme (NRAS), in-kind (eg land planning concessions)
- Maximise Commonwealth Rent Assistance (CRA)
- Utilise charitable tax concessions (PBI tax concessions, GST concessions etc)
- More sophisticated use of rent setting arrangements
- Willingness to act on ability to borrow against rental stream and assets
- Continuation of interim housing maintenance and management subsidy
- Capital works one-off grants based on 80% government investment / 10% private investment / 10% CAAHC investment

### **New Social Business Model**

The proposal will establish a new company that will operate along Social Business lines, combining commercial realities and social outcomes. It will establish a firm growth plan, and aim to become a recognized national community housing 'growth provider'. It will do this whilst achieving firm indigenous employment and training outcomes as a key social objective for the community.

### **New Governance Model**

The CAAHC proposal will improve transparency, governance, accountability and professionalism across the indigenous community housing sector in Central Australia. With a skill based Board of Directors, the new governance system will ensure this community receive the highest level of professional input into the management and development of their housing, and that this is sustained over the long term. The Board will have eight members.

The Board is to be a 'skill based' Board – ie this will most likely be a mix of town camp members, nominated for their social and cultural knowledge of the town camp communities, and non-town camp members nominated by the founding member (Tangentyere), the agency members and ordinary members for their legal, economic, property management, environmental health, tenancy advocacy, housing management skills etc.

### **New Land Tenure Arrangements**

- New tenure arrangements to offer clarity and security of tenure aimed at establishing confidence for private sector investors, and for government investment
- Transfer of existing housing stock from the 16 Housing Associations (Town Camp Communities) to the Central Australian Affordable Housing Company
- Length of sublease to CAAHC to be negotiated, but based on either the economic lifespan of a rental asset nominally 20-25 years, or the length of a business loan nominally 5-10 years
- Establishment of 99 year leases for people wishing to pursue private home ownership or shared equity (50% private home ownership)
- Ability to manage traditional mobility between town camp / urban / homeland and remote

### **Diversity and Choice**

- addressing a continuum of need where markets are failing; from homelessness to key workers
- diversity of tenure options;
- affordable rental housing
- affordable shared equity home ownership
- pathways to market housing
- Town Camp / urban Alice Springs / remote community / homeland
- Diversity in housing design

## **Quality**

- Innovative design solutions aimed at standardisation of housing design, fittings, fixtures and building elements
- National Community Housing Standard and Accreditation (policies and practices)
- Strict adherence to the National Indigenous Housing Guide (NIHG) and the NT Environmental Health Standards
- Regulatory & Q.A system (to meet public accountability, facilitate external investment and operational freedom)
- Outcome based funding, eg recurrent maintenance and management funding linked to Fixing Houses For Better Health (FHBH) environmental health based performance of household health hardware
- Integration of housing design, construction and maintenance within CAAHC – if the same corporation is contracted to maintain, construct and design the asset then higher quality of construction will ensue, and critical improvements in design will be learnt and enacted upon
- Customer driven quality improvement
- Achieving general market / community standards
- Preventative cyclical repairs and maintenance to housing
- Environmentally sustainable

## **Community Engagement and Integration**

- Stronger partnerships between all levels of government particularly local council, community groups and the private sector
- A detailed Indigenous employment and training strategy to cover cyclical housing maintenance and management, tenancy management, housing upgrades and new construction
- Address issues of community safety and private space / community space issues
- Develop levels of management for the land and housing stock which, in conjunction with rental and lease conditions will encourage higher levels of tenant responsibility for housing stock over time, and foster a sense of tenant pride and ownership.