

TRANSCRIPT

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

Inquiry into the establishment and effectiveness of registered Aboriginal parties

Melbourne — 4 June 2012

Members

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Witness

Mr G. Clark, Eastern Maar Traditional Owner Group.

The CHAIR — I would like now to welcome Geoff Clark from the Eastern Maar Traditional Owner Group and in doing so mention that all evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and is further subject to the provisions of the Parliamentary Committees Act 2003. Any comments you make outside the hearing may not be afforded such privilege. I also mention that while public hearings are open to the public, only those witnesses who have been invited to speak are able to address the committee today. All evidence given today is being recorded, and as a witness you will be provided with a proof version of the transcript in the next couple of weeks.

I now ask Mr Clark to begin his presentation. We are a little bit behind, Geoff. That is not going to impinge on your time, but it will probably make it a little bit difficult to give you more than the half hour.

Mr CLARK — Thank you, Chairman. Firstly let me thank you for this opportunity to speak to you. It is the third attempt that I have tried to reach you. We have sorted out the paperwork, and hopefully I can make some points. My submission will be somewhat different. We do have an official submission from the South West Victorian Traditional Owner Group. What I was proposing to do is I have a number of documents and I would like to hand those up and get those recorded. Is that possible?

The CHAIR — Thank you very much.

Mr CLARK — That may save some time. I do not want to delve into the detail of them too much other than to point out some of the relevant points in each document. I note that the heritage council is here again, and I wonder why; at each occasion they are sitting here I feel it is a bit intimidatory — intimidation. I also believe, and in my opening remarks I will put it straight on the record, that I would seek a further broadening or a further inquiry into the running of Aboriginal affairs in this state, particularly Aboriginal Affairs Victoria. I think they leak like a sieve. I would say it is corrupt, and I am thankful for the privilege here that I can say these things. They are running a campaign, it is an obvious campaign, and I take this a little bit personally. I woke up this morning and saw myself on the front page of the *Australian* again; my bankruptcy has been extended five years — deliberately, all because I was a mate of John Howard, I assume. But I represented my country, I was elected — the only person to be elected nationally, on two occasions, by all Aboriginal groups in this country, and the rest is history.

I will say no more on that, other than I am being stymied, cut out of the debate, accused of all sorts of allegations, the latest ones being corruption et cetera, and I want to point it out to this committee. Hence I focus my issues on the personalities, and I do not want the committee to take this personally, but I have evidence here, I believe, of people sitting on that heritage council who are acting corruptly, with nepotism. I support wholeheartedly the submission of Mr Gary Murray, who pointed out that the section 142, the conflict of interest clause of the heritage act, is certainly not being adhered to.

My other major point is that under the heritage act section 152(2), which follows on from a native title outcome, it is automatic that a group such as Eastern Maar be afforded RAP status. I will point out to you, hopefully, that that has not been the case. Despite numerous submissions, it has been obstructed by a couple of people on that council, mainly a nephew, and I heard other submissions calling for one family member — ‘Let’s have it regionally structured’.

I want to end on a positive note, that I do have a draft submission here from the land justice group, which I have been elected on, only because it is unincorporated at this stage. But I will add that in the last two weeks I have been elected to a national committee and a statewide committee. So my credibility amongst Aboriginal people is still there, and hopefully with the committee. The fact is that that submission points out a draft way and may answer some of your questions. I do not have a lot of detail on it; I brought along the draft for your information.

That covers document A, which is the submission. In that document A from the South West Victorian Traditional Owners Group we talk about the actual destruction of sites. The fact is that with the old system — and I was privileged to be one of the people who orchestrated the old system whereby the communities benefited, there was protection and the fact there was an inspector — I took out numerous orders across the state to prevent destruction of sites, and was successful under that act. Since the current act has come into place there has been mass destruction of Aboriginal sites. We do not get any privileged information as to what these RAPs are doing in relation to sites and their destruction. We do know that some of them are making massive amounts of money and some of them are profiteering by that. This, I think, adds to the situation whereby where

there is an appointed process and not an elected process you are open to corruption. I think I made that point. I believe some of the issues are aided and abetted by senior staff in Aboriginal Affairs Victoria. My submission to you, which you must have on record, points to and alludes to that. I table that one as well.

The Eastern Maar application process started on 27 July 2011, when Justice North of the Federal Court made a determination under section 87 of the Native Title Act 1993 relating to part B of the Gunditjmara native title claim. We now share a particular piece of land. We have hence put in a submission, and it is contained in this time line to be appointed, this RAP, which should be an automatic process, but we have been obstructed by either individuals or the council in general. I do note and repeat that those eight RAPs that have been appointed seem to have a very strong link to the members sitting around the table. Maybe that is human nature — I do not know — but it is a fact. Gary Murray did raise that point, which I support.

One of the points that this time line points out, and one of the objections to it, which I find ludicrous and ridiculous and is backed up by evidence, is the objection to the Eastern Maar corporation having RAP status. I will read the offending note from the heritage council. The council noted that it had received correspondence from family clan members of the Eastern Maar traditional owner group signed by about 60 people who objected to Eastern Maar's application on the basis that these people had not been consulted about the structure and had not approved the constitution or voted for board membership positions and there is a lack of effective representation. That is ridiculous. I will table that point and keep that in mind.

I want to show you a brief network of people associated and how this nepotism and cronyism operates in Aboriginal Affairs. I will be making this available to you. First of all you have Tim Chatfield: Aboriginal Housing Victoria chairperson, the Premier's adviser and committee member, Victorian Aboriginal Heritage Council member, Budja Budja Aboriginal CEO member, Martang chairman, Framlingham Aboriginal Trust's committee of management and Gunditj Mirring traditional owner and member. Jim Berg, the uncle of Tim Chatfield: Framlingham Aboriginal Trust, Victorian Aboriginal Heritage Council and Koorie Heritage Trust — a share of it. Brendan Edwards, cousin and acquaintance of Tim: Budja Budja Aboriginal Cooperative chairperson, act coordinator, Kuuyang Maar chairperson and Aboriginal Housing Victoria subcommittee member. I am pointing this out so you can understand the network and how this situation works. It is unscrutinised and supported by AAV. They have this type of information. Popeye Harrison, cousin and acquaintance of Tim: Kuuyang Maar, Budja Budja member and Aboriginal housing board subcommittee. Joey Chatfield: Kuuyang Maar Aboriginal Corporation contact person, Aboriginal housing board subcommittee, Gunditj Mirring member and Victoria Police liaison officer.

The second page goes on to point out how these people have had a history. Tim and Jim have sat on the heritage council since its inception, and consequently Martang, one of the first RAPs appointed in the state, is a private company with two directors and four members, being Tim Chatfield, his mother, Brenda, and two sisters, Leonie and Louise. In September 2007 the Victorian Aboriginal Heritage Council registered Martang as a RAP for part of the Martang's application area. This previous decision was made on the basis that council recognised Martang as an organisation representing the Djab Wurrung traditional owners. You may have to get your head around that, but I have got evidence to support it. That was able to demonstrate strong traditional links to the area. As part of the decision, council indicated that it expected Martang to review its corporate structure, because it is a proprietary limited, private company owned by Timmy, who sits on the board and is chair there at this council. It was established to provide board representation of Djab Wurrung interests.

In October 2007 Martang assured the council that it would address the matter as soon as possible. You have got to ask yourself why the original Martang-appointed area has not been revoked by the heritage council or by Aboriginal Affairs. The Kuuyang Maar corporation currently has a big RAP area over western Victoria. The Budja Budja cooperative, the Framlingham trust and the housing board: they are self-explanatory in some of these other documents, so I submit that one — B.

The Budja Budja website shows that Tim Chatfield is a member of the board of directors, his wife is the medical receptionist, and Brendan Edwards — they are all on that.

Letter D is the decision of the Victorian Aboriginal Heritage Council. This is them rejecting the Martang application for an increase in size — like, double their size over the Grampians. Given that Brambuk has an agreement with the state government in relation to the Grampians and has managed cultural heritage under a partnership with the state government for the last 21 years, this Martang, this private company, has attempted

to ——. To its credit, the council has rejected it. One of the reasons it has is that from October 2007, the council and Martang have engaged in regular correspondence about Martang changing its corporate structure. This was the inclusion of a broader range of people who have identified as Djab Wurrung. That has occurred; I have registered mail here, and a range of people want to and wish to, which is proven. That is in document A — registered mail. There are 20-odd people wanting to become members — no response. Yet they use the same method or criticism of the Eastern Maar in not allocating a RAP status. So they have come up with all of these ridiculous arguments. I am trying to demonstrate that.

Getting back to the mention of a petition, here we have Jim Berg and Tim Chatfield instigating a petition while sitting on the council. I have marked them for your convenience. When you look through you will see that 50 per cent of the membership is Chatfield family. Here we are talking about equity, collectiveness and an appropriate process whereby all organisations share in the protection of cultural heritage and any benefits that may flow.

The CHAIR — Geoff, time is moving on; I just bring that to your attention.

Mr CLARK — I will quickly now just make some other points. There are the corporate details of the Kuuyang Maar corporation. There is another document here — F — which is where Mr Danny Kemp and Natasha Kemp have done a review of the Kuuyang Maar corporation, which last year pulled in \$500 000. On page 5 or 7 it points out:

There is no contract in place between the corporation and the consultants used by the corporation for the provision of services to the corporation. The examiner was unable to determine whether the services provided by the consultant to the corporation represented a good value for money arrangement.

Here we have the heritage council and AAV allowing this to go on: \$200 000 went to Joey Chatfield as a consultant with no contracts. That is why that document is important for your information.

Just ending that and pointing that out to you, I think that there is nepotism and cronyism. You have probably been asked in question time what is a better way to do it. I think you need to be able to scrutinise the membership and scrutinise their actions. There are processes. If I can find out this stuff on the web and through general knowledge of the Aboriginal community, why can't Aboriginal Affairs? It is a situation, I think, of mismanagement of an issue. It is obvious that while you can appoint people, you appoint people who appease the political views of the government of the day.

I would challenge and recommend that this parliamentary committee look at that situation and find out solutions to how we might overcome that. One way, on which I will support the other applications, is an elected process. That is a fair, democratic and just way of representing people with the proper and appropriate skills. These people are obviously not being scrutinised, and I hope I have presented some evidence there; there is plenty more if you want to look. That is just giving you one example of one area of an organisation which has handled cultural heritage for the last 30 years. The organisation where I live, the Framlingham Aboriginal Trust, has been there for 150 years; we are celebrating 151 years this year of continuous occupation and of looking after our cultural heritage and sites. Because of obstructions and issues that we have been confronted with, the interference of Aboriginal Affairs, they are obsolete — they need to go and there needs to be something else put in place. I will end it there if you are running out of time, Chairman.

The CHAIR — Thank you, Geoff, for your contribution. We would like to pose a couple of questions for your response.

Ms WREFORD — Thank you much, Geoff, for your passionate presentation today.

Mr CLARK — You get a bit passionate when you are sitting in the bush and being denied your right to protect and maintain your heritage.

Ms WREFORD — One of the things you brought up is that you believe people should be elected to the council. Who would do the electing?

Mr CLARK — Aboriginal people.

Ms WREFORD — The whole of Aboriginal people?

Mr CLARK — Well, the traditional owners mainly. We are celebrating the 20th year since the Mabo decision, and once you go through the connection test it is pretty clear that you are the persons responsible for a particular area. You should then have a say, and you go to the UN Declaration on the Rights of Indigenous Peoples, which I spent 20 years developing, you look at the free and informed consent and you look at your rights to be able to elect your own organisations and societies. So I think a democratic process, whichever way you want to dress it up, should be the appropriate body.

Ms WREFORD — Just one further question. Do you think the native title process and the RAP system should be aligned? And should traditional ownership be the primary basis for the RAP appointment?

Mr CLARK — Yes, I think so. Yes to the two questions, I think, in short. The traditional owners obviously are the appropriate people. Even though I think there would be situations — and this might be contrary to what is being said — there are people who have lived on country, who are not necessarily the traditional owners but who can demonstrate a process where they can manage land. I think that may overcome some of the shortfalls in appointing RAPs. I think there is too much emphasis on who is the correct traditional owner. You have heard from Gary that there are multi-clanning situations. So there are lots of issues confronting Aboriginal people in trying to meet regulations in relation to proving tradition and customs.

The CHAIR — Geoff, we have heard there is much grievance across Victoria's indigenous community over the make-up of the heritage council and its selection process and also the process without appeal or clarification regarding the selection of RAPs. Is the current process too fractured, in your opinion, to be successfully repaired, both for our Aboriginal communities and the state? Or in your belief can the current process be put back on the rails and gain collective support and good working relationships for all? Recently the committee was dismayed to hear from AAV that there were always going to be winners and losers out of the RAP process. I do not think that is in the best interests of or it was ever intended in putting this process together, and I would appreciate your thoughts on that.

Mr CLARK — The fact is that they need to have scrutiny. I think one of the major flaws of the heritage council is that it is too aligned to the bureaucrats in AAV and the old heritage officers. I think it needs to be taken outside of AAV. It needs to be an independent body. I found that this was an issue with ATSIC, the fact that the bureaucrats were aligned to government. In effect Aboriginal Affairs Victoria is in public service of the state, and I think that contradicts the value system in Aboriginal Affairs whereby the heritage and the strength of that heritage may hold up a development et cetera. That is the choice of the Aboriginal people provided there is scrutiny and reliability et cetera, and I think that is being clouded by the interference of AAV. If you went to — which I proposed in a draft structure from the land justice group — a heritage body fully elected, without interference, I am sure they could develop devices that would much improve. There would be better scrutiny as well as of the individuals, I think. The minister needs to take charge of this. I think the minister is still finding her feet in relation to this and probably needs some assistance, probably from more senior people such as in the land justice group.

Ms DUNCAN — Thanks, Geoff, for your submission. Can I just clarify: putting aside the individuals on the council, are you saying about the decisions the council has made that it has appointed the wrong people or it is just not appointing or it is taking too long to appoint?

Mr CLARK — Probably all three in some ways. The fact is that they are not scrutinising the fact that brothers — and that is why —

Ms DUNCAN — They are not scrutinising the RAP applicants?

Mr CLARK — They are not scrutinising how the decisions are being made. They are not investigating the nepotism, if you like.

Ms DUNCAN — Within the RAP applicants?

Mr CLARK — Yes, within the RAP application processes. It is only very select. They are using very select information and procedure or regulation to — well, they are making political appointments. They should not be political appointments. I think that is one of the problems with the old process, that there are political appointments of individuals to the council who then make political appointments that are in their self-interest — which is probably human nature — and that is leading to, I think, this dysfunctionality. If you have an elected

process and the Aboriginal people of Victoria put up the best people they know, who have knowledge of heritage et cetera, I think they would be capable of being more just, reliable and fair in their deliberations.

The CHAIR — Geoff, as we are aware, currently there are eight RAPs and a ninth pending, which will consume some 57 or 58 per cent of Victoria's land mass. We know there are a further 14 applications and that they are not all going to get a run with just over 40 per cent of the land mass left. Earlier, under the former regime, we had the 16 cultural heritage inspectors who, through various representations we have heard, had much appreciation within communities across the state. In the ideal world how many RAPs would you consider to be the feasible number, from a statewide point of view, to give the best support to all communities statewide?

Mr CLARK — I think you need total coverage, and I am not sure. There are some 30-odd different groups, clan groups or tribal groups if you like, across the state. Now whether that is economical, or certainly I think politically and culturally viable you would have to consider their interests somehow. I am not sure with the RAPs whether or not there may be some rationalisation of how you administer these things, a bit like with the Northern Land Council and Central Land Council in the Northern Territory and the Kimberley Land Council and the New South Wales land council. That may be one way to overcome the problem. I think there is no sort of right number. One of the issues that I think could be overcome is that this new heritage body could become the RAP, so it could take responsibilities in the interim. Rather than, like at the moment, the AAV taking them, which has a conflict of interest, you can have the heritage council, if you like, or the new heritage authority and that authority then takes control of the heritage matters while a RAP is decided. You do not have this vacuum, this void.

The CHAIR — Thanks, Geoff. I do not think we have any further questions. Thank you very much for giving your time and for presenting to the committee this morning.

Mr CLARK — Can I just add to that, and I think I have said this privately to some people, I think that members of the Liberal Party and The Nationals mainly live in country areas. I do not think there has been good dialogue, and I think there needs to be good dialogue on native title issues. I know that in Gary's area and in our area et cetera there are the duck shooters and various interest groups. I think there needs to be some workable dialogue outside of formal structures. I would encourage you to have dialogue with indigenous people.

I think the monopoly of the Labor Party has become a little bit obsolete in Queensland and particularly federally. I do not want to banish them to no-man's-land because they have done some good things, but you have also got to look at your history. The 1997 lands act was brought about by Rupert Hamer. Malcolm Fraser was in power in 1986 when the act was brought in in relation to Framingham forest. I think there are some wins on both sides of the political divide. I think we need to put that aside and for it not to be captured by one particular party or the Greens, for instance.

I think we need to sit down and have a dialogue. There are some exciting ideas, like the one that Gary posed about a centre in the heart of Melbourne — the CBD. There are other potential situations where the Native Title Act delivers land. Lots of those parcels of land are Crown land within small country towns. We know that the small country towns are dying out. We are country people — I am a country person. I understand the need for cooperation and collaboration, and I think that with proper dialogue we may be able to overcome some of these impasses rather than have this political divide of one party being the political master of Aboriginals in the state.

The CHAIR — Thanks for your comments, Geoff. We will take those on board.

Mr CLARK — Thank you.

Witness withdrew.