

5 October 2021



Shire of **Ngaanyatjarraku**  
ON A JOURNEY

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## Conclusion of the Complaint to Australian Human Rights Commission and Mediation in the Federal Court

In 2019, the Shire of Ngaanyatjarraku and Ngaanyatjarra Council (Aboriginal Corporation) took legal action against the Commonwealth Government's Community Development Program (CDP), claiming the CDP was in breach of the Racial Discrimination Act (1975).

Introduced in 2015, the CDP intended to help job seekers in remote communities to find employment. However, it is argued that the conditions of the program were discriminatory against the people of the Ngaanyatjarra Lands and resulted in unfair penalties.

The court case against the Commonwealth has reached a settlement and the Shire of Ngaanyatjarraku and the Ngaanyatjarra Council hope communities will now be involved in the design and implementation of programs and services that affect them.

### Statement from the Shire President, Damian McLean:

The Complainants and the Commonwealth have reached a settlement to resolve the Complainants' Federal Court Proceedings against the Commonwealth. At this stage the settlement is still subject to Federal Court approval.

A question remains as to whether the Complainants would have continued the action in Court if the settlement was not considered adequate to address their concerns about the harmful effects of the CDP in its current form on individual Ngaanyatjarra people, their families, and communities.

The answer is yes.

The CDP complaint against the Commonwealth has taken place in parallel with an action against the WA State Government over the delivery of housing maintenance under the WA Department of Communities Head Contractor Model.

The Commonwealth CDP and WA Government housing maintenance program are major investments in the quality of life and standard of living of Ngaanyatjarra people.

The flaws in both of these programs have been addressed on the steps of the respective Courthouses after interminable periods of representation, negotiation and mediation.

A pattern emerged where it appeared that Ngaanyatjarra rights and interests could only be satisfactorily adjudicated in the face of the independent and apolitical authority of the Court.

After five years of hard work, it is to be hoped that this pattern recedes and there is an emergence of a culture of acknowledging community input and at least a degree of community control in the delivery of programs and services that affect them.

We are reassured and acknowledge the recent statements by Minister for Indigenous Australians, Hon Ken Wyatt confirming significant community engagement in the co-design of the reformed CDP going forward.

The Complainants, the Shire of Ngaanyatjarraku and the Ngaanyatjarra Council (Aboriginal Corporation) believe we have been well intentioned and constructive in bringing the important concerns about the CDP to the attention of the Commonwealth. We believe the Commonwealth have now listened to us and will continue to listen to us to help in improving outcomes for the Ngaanyatjarra people.

We look to returning to our lives outside the Court and making a valued contribution towards this end.

Damian McLean  
Shire President  
6 October 2021