



Australian Government
Department of Health and Ageing

cc: MINISTER ROXON
 Ms Halton
 Mr Learmonth

s22

Ms Veneros

MINUTE TO THE MINISTER

MINISTER SNOWDON

KATUNGUL ABORIGINAL CORPORATION COMMUNITY AND MEDICAL SERVICES

PURPOSE: To provide you with an update on the current situation with the Katungul Aboriginal Corporation Community and Medical Services (Katungul).

ISSUE:

2. The Department issued a Show Cause Notice to Katungul on 17 October 2011 seeking advice on the solvency of the organisation and the Board's governance capacity and financial management and asking for their advice as to why Katungul should continue to be funded.
3. The Department provided the Board with the opportunity to discuss the Show Cause Notice and a recent Departmental audit of the organisation via a meeting in Narooma on 19 October 2011.
4. Only half of the Board members attended the meeting which may indicate a fractious Board and could make it difficult to resolve the current situation.

BACKGROUND:

5. The background to this matter is contained in Minute No. N1100207 dated 18 October 2011 (refer Attachment A).

RELEVANCE TO ELECTION COMMITMENTS/GOVERNMENT POLICY/COAG REFORM AGENDA:

6. The decision is consistent with the Government's policy on effective use of Commonwealth funds.

Remote Service Delivery National Partnership (RSDNP):

7. This is not relevant to the RSDNP because the service is not in an RSD community.

COMMENT:

8. A package containing a Show Cause Notice as to why the Commonwealth should continue to fund Katungul, the Department's audit report of Katungul, including copies of records taken during the audit and referenced in the report, were delivered by courier to all Katungul Board members. Contact was made by the Department with all Board members who could be contacted by telephone, to advise that a package of information identifying a number of concerns about Katungul was being sent to them and to advise that Departmental officers would meet with the Board on 19 October 2011 to brief them on the issues and to address any questions.
9. The Katungul Chairperson advised through his legal representative that the "Board Executive" had decided not to convene a meeting of the Board to meet with the Department on 19 October and instead advised that a meeting would be arranged for 26 October 2011. The legal representative was advised that the Department did not consider that the Board Executive could make this decision on behalf of all Board members, as individual Board members could face personal liability, and that the Department would proceed with the meeting as planned and further advised that some Board members had already indicated that they would attend the meeting.

☐ Health Reform

☐ Election
Commitment

☐ COAG Reform

☐ Budget

☐ Other significant policy

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☐ Minority
Government

☐ Legislation

☐ Appointment

☐ Program or grant
administration

☒ Other

10. Despite a strong recommendation from the Department that the Chairperson should attend the meeting the legal representative indicated that the Chairperson would not attend. He also indicated that the Chairperson was unconcerned about the potential insolvency of the organisation and possible liquidation as Katungul was asset rich and would be able to pay its debtors from the sale of its Narooma clinic. This response was most disturbing and indicated that the Chairperson either did not fully appreciate the gravity of the situation and/or was unconcerned about future health service delivery to the region.

11. The meeting did proceed and Senior Departmental officers met with four of the eight Katungul Board members in Narooma on 19 October 2011. The Chairperson did not attend.

12. The four Board Members were briefed on the situation and provided information about some of the issues Board members would need to consider. The Board members indicated they understood the significance of the matters being raised with them and advised that they were unaware of the issues that had been identified in the Department's audit and expressed appreciation to the Department on its prompt engagement and transparency in sharing the Department's findings with them.

13. Throughout the course of the meeting, Board members indicated that as a result of the briefing they would:

- seek further information from the Office of the Registrar of Indigenous Corporations (ORIC);
- have a discussion with the Chairperson;
- seek to have a Board meeting next week to seek a decision from the Board re the appointment of a Funds Administrator by the Department;
- consider what actions they could take to improve the cash flow into the organisation;
- consider what actions they could take to further investigate the matters regarding the CEO and the Finance Manager;
- seek advice about what assistance the Department could provide in relation to their need to obtain legal and financial advice to support improved understanding of Katungul's financial situation and their decision making.

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This document was released under the Freedom of Information Act 1982

RECOMMENDATION

R1. That you NOTE the update to the situation with the Katungul Aboriginal Corporation Community and Medical Services.

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Garry Fisk
Assistant Secretary
OATSIH
20 October 2011
Outcome: 8: Indigenous Health

Contact Officer:
Garry Fisk 6289-5325
Capacity Development Branch

WARREN SNOWDON

R1. NOTED

MINISTER'S COMMENTS:

Advice Rating	1	2	3	4	5	Comments
Timeliness						
Presentation						
Quality of Advice						
	Poor		Satisfactory		Excellent	

ATTACHMENTS:

A: Minute No. N1100207 Decision to Issue Show Cause Notice – Katungul Aboriginal Corporation Community and Medical Services.



cc: MINISTER ROXON
Ms Halton
Mr Learmonth
Ms Veneros
s22

MINUTE TO THE MINISTER

MINISTER SNOWDON

COPY

**DECISION TO ISSUE SHOW CAUSE NOTICE - KATUNGUL ABORIGINAL CORPORATION
COMMUNITY AND MEDICAL SERVICES**

PURPOSE: To inform you of the Department's decision to issue a Show Cause Notice to the Katungul Aboriginal Corporation Community and Medical Services (Katungul) (Copy at Attachment A)

ISSUE:

2. A recent audit of Katungul identified significant concerns regarding the use of Commonwealth funds and about the effectiveness of Katungul's governance arrangements and overall financial management.
3. Of particular concern was that Katungul's financial records indicated that the organisation may be very close to insolvency, if not already insolvent. (A copy of the audit report is at Attachment B)

BACKGROUND:

4. Katungul receives funding from State and Commonwealth Government agencies to deliver programs for Aboriginal and Torres Strait Islander people in Narooma, Moruya, and Bega as well as smaller communities within the region. \$1.8 million (GST Incl) has been allocated to Katungul by the Commonwealth in 2011-12 to support the delivery of primary health care services.
5. In August 2011 the Department became aware of a possible breach of the Purposes Deed agreed by Katungul in December 2004 after the Department funded their clinic in Bega. In lodging a Caveat on this building it was discovered the National Australia Bank had already registered a mortgage to secure an overdraft with Katungul. This is a breach of the purposes deed which requires Katungul to seek written consent from the Commonwealth to encumber the property.
6. At the same time the Department was informed of a proposed change to Katungul's constitution allowing remuneration of Directors which could potentially breach the Department's funding agreement.
7. As a result of these issues Katungul was informed on 9 September 2011 that the Department had decided to undertake a detailed examination of Katungul's financial and other records. The audit was undertaken by the Department's Audit and Fraud Control Branch (A&FC) from 26-30 September 2011.

**RELEVANCE TO ELECTION COMMITMENTS/GOVERNMENT POLICY/COAG REFORM
AGENDA:**

8. The decision is consistent with the Government's policy on effective use of Commonwealth funds.

Remote Service Delivery National Partnership (RSDNP):

9. This is not relevant to the RSDNP because the service is not in an RSD community.

COMMENT:

10. The audit found Katungul is in a difficult financial position, and may not be able to pay its debts. At 30 June it had a cash deficit of \$57,000 and by the end of September this had grown to some \$200,000. It also had deferred payments on a tax debt, a newly purchased bus and a variety of smaller debts.

11. A contributing factor in the organisation's financial problems is that over the last two years the CEO appears to have approved, for his own benefit, four maximum bonus payments and 3,725 hours of paid for time in lieu without the approval or agreement of the Board amounting to \$675,611 in total. In addition the CEO appears to have agreed to bonuses and higher duties allowances (\$110,839) for the Finance Manager without Board approval.

12. The audit also identified possible concerns regarding the usage of credit cards and payments made for legal expenses, as well as other anomalies noted in relation to the organisation's financial records. These could not be pursued in detail at the time of the audit but warrant further investigation. Documents copied by A&FC also included CEO reports to the Board that appear to include misleading information on a number of matters related to the organisation and the Department.

13. To clarify Katungul's financial position McGrath Nicol was engaged by the Department to undertake an independent assessment of the organisations finances. McGrath Nicol concluded that:

- in the absence of an immediate cash injection, Katungul may be unable to pay its debts as and when they fall due, so it may be insolvent or likely to become insolvent in the very short term; and
- if the Department paid the next quarterly funding instalment there is a potential for it to be used to meet existing debts rather than to fund ongoing operations.

14. The Department has consequently written to Katungul seeking advice on the question of solvency and on the other issues which are considered to reflect poorly on the Board's governance capacity and financial management and asking for their advice why Katungul should continue to be funded.

15. Unless some funds are released to Katungul very soon it is considered the organisation will be unable to continue operations and clients will possibly lose the only Indigenous specific primary health provider in the region. However, the Department is concerned that in the current circumstances Commonwealth funds may not be used effectively or for the purpose provided.

16. Katungul have accordingly been advised that no further funds will be released until the Department has received a letter signed by the Chair of the Board agreeing to the appointment of a Funds Administrator and to the Commonwealth determining the functions of the Funds Administrator.

17. Subsequent releases will depend on the response provided by Katungul to the Show Cause Notice, including documentary confirmation of the solvency of the organisation.

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RECOMMENDATION

R1. That you NOTE the concerns identified by the Department's recent examination of Katungul's financial and other records.

R2. That you NOTE in light of these concerns the Department has written to Katungul asking the organisation to respond by 31 October 2011 confirming the organisation is solvent and giving reasons why it should continue to receive funding from the Department.

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~~Garry Fisk~~
 Assistant Secretary
 Capacity Development Branch
 OATSIH
 18 October 2011
 Outcome: 8: Indigenous Health

Contact Officer:
 Garry Fisk (02) 6289 5325
 Capacity Development Branch

WARREN SNOWDON

R1. NOTED

R2. NOTED

MINISTER'S COMMENTS:

Advice Rating	1	2	3	4	5	Comments
Timeliness						
Presentation						
Quality of Advice						
	Poor		Satisfactory		Excellent	

ATTACHMENTS:

Attachment A: Show Cause Notice
 Attachment B: Audit Report