

CITATION: *Inquest into the deaths of Michael Anthony Hardy and Robert James Roe* 021[2010] NTMC

TITLE OF COURT: Coroner's Court

JURISDICTION: Alice Springs

FILE NO(s): A0042/2008 and A0047/2008

DELIVERED ON: 30 March 2010

DELIVERED AT: Alice Springs

HEARING DATE(s): 22 and 23 September 2009 and 16 and 17 November 2009

FINDING OF: Mr Greg Cavanagh SM

**CATCHWORDS:** **Unexpected death, Dog attacks on live person, Dog attacks on deceased persons, Responsibility of relevant agencies.**

**REPRESENTATION:**

*Counsel:*

Assisting:	Jodi Truman
Tangentyere Council Inc:	Roger Bennett
Alice Springs Town Council:	John McBride

*Solicitors:*

Tangentyere Council Inc:	Cridlands MB
Alice Springs Town Council:	John G McBride

Judgment category classification:	B
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IN THE CORONERS COURT  
AT ALICE SPRINGS IN THE NORTHERN  
TERRITORY OF AUSTRALIA

No.

In the matter of an Inquest into the deaths of  
**MICHAEL ANTHONY HARDY**  
**ON 24 JULY 2008**  
**AT HIDDEN VALLEY CAMP,**  
**ALICE SPRINGS**  
**AND**  
**ROBERT JAMES ROE**  
**ON 16 AUGUST 2008**  
**AT HIDDEN VALLEY CAMP,**  
**ALICE SPRINGS**

**FINDINGS**

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**Introduction**

1. Michael James Hardy (“Mr Hardy”) was a Caucasian male born on 26 September 1981 at the Lyell McEwin Health Service at Elizabeth Vale in South Australia. Mr Hardy’s mother is Brenda Hardy and his father was Lyall Michael Hardy (now deceased). Mr Hardy died some time between the hours of midnight and 8.24am on Thursday 24 July 2008, when occupants at the Hidden Valley Camp discovered his body.
2. Robert James Roe, also known as Robert James Roman, (“Mr Roe”) was an Aboriginal male born on 24 February 1961 at the old Darwin Hospital. The deceased’s father is Roger Roman and his mother was Cathleen Wilson (now deceased). The deceased died some time between the early hours of the morning and 10.30am on Saturday 16 August 2008, when residents at Hidden Valley Camp discovered his body.
3. Both these deaths were unexpected and were reportable to me pursuant to s12 of the *Coroner’s Act* (“the Act”). The holding of a public inquest is not mandatory, but was held in these circumstances as a matter of my discretion

pursuant to s15 of that Act. Given the similar nature, location and close proximity in time, between these deaths, I determined to hear them together.

4. Pursuant to s34 of the Act I am required to make the following findings:
  - i. The identity of the deceased person.
  - ii. The time and place of death.
  - iii. The cause of death.
  - iv. Particulars required to register the death under the *Births Deaths and Marriages Registration Act*.
5. I note that section 34(2) of the Act provides that I may comment on a matter including public health or safety connected with the death being investigated. Additionally, I may make recommendations pursuant to section 35 as follows:
  - “(1) A Coroner may report to the Attorney General on a death or disaster investigated by the Coroner.
  - (2) A Coroner may make recommendations to the Attorney General on a matter, including public health or safety or the administration of justice connected with a death or disaster investigated by the Coroner.
  - (3) A Coroner shall report to the Commissioner of Police and Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act* if the Coroner believes that a crime may have been committed in connection with a death or disaster investigated by the Coroner”
6. Ms Jodi Truman appeared as Counsel assisting me. Mr Roger Bennett was granted leave to appear as Counsel for Tangentyere Council Incorporated (“TCI”) and Mr John McBride was granted leave to appear as Counsel for Alice Springs Town Council (“ASTC”). I thank each Counsel for their assistance in this matter.

## Formal Findings

7. Pursuant to s34 of the Act I find, as a result of evidence adduced at the public inquest, as follows:

### Michael Anthony Hardy

- i. The identity of the deceased person was Michael Anthony Hardy born on 26 September 1981 at Elizabeth Vale in South Australia.
- ii. The time and place of death was at the Hidden Valley Camp in Alice Springs between midnight and some time prior to 8.24am on Thursday 24 July 2008.
- iii. The cause of death was acute asphyxiation sustained during the course of being attacked by a pack of dogs.
- iv. Particulars required to register the death:
  - a. The deceased was a male.
  - b. The deceased's name was Michael Anthony Hardy.
  - c. The deceased was of Caucasian descent.
  - d. The cause of death was reported to the Coroner.
  - e. The cause of death confirmed by post mortem examination carried out by Dr Eric Donaldson.
  - f. The deceased lived an itinerant lifestyle for the majority of his life but was living just prior to his death at a creek in Alice Springs.
  - g. The deceased was unemployed at the time of his death.

- h. The deceased's parents were Brenda Hardy and Lyall Michael Hardy (now deceased).

Robert James Roe

- i. The identity of the deceased person was Robert James Roe, also known as Robert James Roman born on 24 February 1961 at Darwin in the Northern Territory of Australia.
- ii. The time and place of death was at the Hidden Valley Camp in Alice Springs some time prior to 10.30am on 16 August 2008.
- iii. The cause of death was moderately severe atheromatous coronary artery disease known as coronary atherosclerosis.
- iv. Particulars required to register the death:
  - a. The deceased was a male.
  - b. The deceased's name was Robert James Roe aka Robert James Roman.
  - c. The deceased was of Aboriginal descent.
  - d. The cause of death was reported to the Coroner.
  - e. The cause of death was confirmed by post mortem examination carried out by Dr Terrence Sinton.
  - f. The deceased lived an itinerant lifestyle between Darwin and Alice Springs in the Northern Territory.
  - g. The deceased was unemployed at the time of his death.
  - h. The deceased's parents were Cathleen Wilson (now deceased) and Roger Roman.

## **The Conduct of the Inquest**

8. Detective Sergeant Leith Phillips investigated the death of Mr Hardy. I have before me a large coronial brief in relation to the investigation as compiled by Detective Sergeant Phillips (exhibit 1).
9. I also have before me a coronial brief in relation to the investigation of the death of Robert James Roe. I note that this brief (exhibit 7) was compiled by Detective Senior Constable Kirsty Ray when she took over carriage of the investigation. In total I had tendered in evidence before me the following exhibits:
  1. Coronial brief in relation to Mr Hardy.
  2. Autopsy report of Dr Eric Donaldson regarding Mr Hardy.
  3. Birth Certificate for Mr Hardy.
  4. 2 x aerial maps of Hidden Valley Camp depicting the location of the bodies of Mr Hardy and Mr Roe.
  5. Statutory declaration of Rex Mooney dated 14 September 2009.
  6. Copy of photograph of sign leading into Hidden Valley Camp regarding access.
  7. Coronial brief in relation to Mr Roe.
  8. Birth Certificate for Mr Roe.
  9. TCI Job Sheet dated 25 November 2005 as produced by Brian Lockyer.
  10. Map of Hidden Valley Camp identifying houses and numbers, and also border of the camp.

11. Annexure A – Dog Grant amount to TCI of \$14,000 as produced by David Donald.
  12. Example copy of Special Purpose Lease as produced by David Donald.
  13. Statement of Mark Coffey.
10. I heard oral evidence from Detective Sergeant Phillips. During the course of the inquest and at the conclusion of his evidence I congratulated Detective Sergeant Phillips for the thoroughness of his brief. Public confidence in coronial investigations demands that when police (who act on behalf of the coroner) investigate deaths that they do so to the highest standard. Detective Sergeant Leith Phillips has done so and I thank him.
  11. I also heard oral evidence from Detective Senior Constable Kirsty Ray. I thank Detective Senior Constable Kirsty Ray for her assistance in this matter, particularly in what would have been difficult circumstances in taking over the file when the officer in charge left Alice Springs.
  12. I also heard oral evidence from the following witnesses:
    - a. Ms Susie Martin – a former resident of the Hidden Valley Camp.
    - b. Mrs Freida Johnson – a current resident of Hidden Valley Camp.
    - c. Cheryl McMillan – a current resident of Hidden Valley Camp and former president of the Hidden Valley Camp at the time of these deaths.
    - d. Clem Wheatley – former manager of ASTC Ranger Unit.
    - e. Brian Lockyer, also known as Annyubus Lucasta – former resident of Hidden Valley Camp.

- f. Kevin Corby – current employee of TCI.
- g. David Donald – current housing manager of TCI.
- h. Kevin Everett – Ranger and current manager of Ranger Unit of ASTC.
- i. Rex Mooney – Chief Executive Officer of ASTC.
- j. Fran Kilgariff – Executive Director of Regional Development with the Department of Regional Development, Primary Industries, Fisheries and Resources, and former Lord Mayor of Alice Springs.
- k. William Tilmouth – Executive Director of TCI.
- l. Mark Coffey – Executive Director of Alice Springs Transformation Plan with the Department of Families, Housing, Community Services and Indigenous Affairs (“FaHCSIA”).

## **Circumstances Surrounding the Deaths**

### Events leading up to the death of Michael Anthony Hardy

13. At the time of his death Mr Hardy (“the deceased”) was 27 years of age. He was born, and grew up, in South Australia and attended school there. His father passed away when he was only 13 years of age and apparently this death had a significant impact upon the deceased. As a result, for most of his teenage years and early adulthood, the deceased led an itinerant lifestyle around South Australia and did not maintain employment for any significant period. He was described in the materials as somewhat of a loner but would keep in contact periodically with his mother. Although he moved around frequently there is no doubt the deceased was very much loved by his family and has been dearly missed following his death.

14. I heard evidence that the deceased first came to the Northern Territory in 2002. He then returned in the middle of 2008. It is clear that he had some minor involvement with the police on 8 July 2008, only 16 days prior to his death.
15. It is clear from the material before me that the deceased made friends with a number of local Aboriginal persons in Alice Springs; in particular with residents of House 29 at the Hidden Valley Camp. I heard evidence from Ms Susie Martin that she met the deceased about 2 weeks before he died and she considered him a “good bloke”. They would drink regularly with one another both in Alice Springs and at the Hidden Valley Camp itself. Although a person of Caucasian descent, it is clear that the deceased was known to and befriended by a number of Aboriginal persons of Hidden Valley Camp and held in high regard by them. It also appears that the deceased would periodically stay with people at the Hidden Valley Camp.
16. I heard evidence from Ms Susie Martin that on 23 July 2008 she had met the deceased at the Riverside Bar in Alice Springs and that they had travelled to the supermarket and then back to House 29 at the Hidden Valley Camp. There they had waited until about 2pm for the takeaway liquor outlets to open.
17. Ms Martin told me that she felt sick that day and as a result she remained at the Hidden Valley Camp, whilst the deceased travelled back into the township. Upon his return, Ms Martin said that the deceased had bought VB and he sat and consumed it with other persons at House 29. Ms Martin gave evidence that because she was unwell, she did not have much to drink and was sleeping a lot. She gave evidence that the deceased remained at House 29 and continued to drink throughout the day and into the night. Ms Martin gave evidence that the deceased came into her bedroom later that night and tried to persuade her to come out to drink, but she refused. She later heard

him talking outside with other residents and then heard him leave. Ms Martin stated that she never saw the deceased again after that.

18. Ms Martin gave evidence that she had lived at the Hidden Valley Camp for a “long time” (approximately 8 years). Ms Martin gave evidence that she recalled warning the deceased about the dogs in the camp, and particularly not to walk around in the camp at nighttime. She said that she had a cousin who had been attacked and she knew of other persons who had been attacked by dogs at the Hidden Valley Camp whilst she had been living there.
19. I received in evidence various statements related to the discovery of the body of the deceased. There is no doubt that it would have been a most horrifying experience for anyone, particularly given the extremely serious injuries that he received. I note that Mr Nigel Lockyer of House 11 of Hidden Valley Camp was the first to see the body of the deceased when he took his children to school. Mr Nigel Lockyer described the body as naked and having “a large chunk out of the leg”. It was as a result of the actions of Mr Lockyer that the alarm was raised and police and an ambulance were called.
20. I heard evidence from Detective Sergeant Leith Phillips that he was first advised of the discovery of the body at 8.45am on 24 July 2008. As a result he attended at the Hidden Valley Camp and found that a crime scene had already been established, with the body of the deceased still in situ. Detective Sergeant Phillips gave evidence that he observed the body to be in an area “approximately 50 meters to the east of House 2 on the left hand side of the bitumen road and about 5-10 meters off the edge of the bitumen”.
21. Detective Sergeant Phillips gave evidence that in the immediate area surrounding the body he observed “a circular mass of animal tracks which was about 5 meters in diameter and it went off the road and centred on where the deceased’s body was”. He stated he had “never seen anything quite like it”. Detective Sergeant Phillips gave evidence that prior to being

a police officer he had been a Ranger and had been involved in identifying and tracking animals. As a result of that training and experience he readily recognised that the animal tracks around the body of the deceased were dog tracks.

22. Detective Sergeant Phillips concluded that there appeared to have been a sustained attack upon the deceased by a number of dogs. I agree with this conclusion.

### Injuries Sustained by Mr Hardy

23. Detective Sergeant Phillips gave the following evidence:

“There was not one part of his body that was not bitten, from the tips of his fingers to the top of his head, to his toes. There was significant injuries on his hands and arms, where to me it looked like he had been fighting (off the dogs)”.

Detective Sergeant Phillips specifically noted that in relation to the deceased there was “not an ounce of flesh from his knee to his hip on one leg”, and “the deceased had lost part of his scrotum”

24. Also tendered in evidence before me was the autopsy report prepared by Dr Eric Donaldson in relation to the deceased (exhibit 1). Dr Donaldson conducted the autopsy on 25 July 2008, the day after his body had been discovered. Dr Donaldson found that the deceased had, at the time of his death, a high blood alcohol level subsequently analysed at 0.224%.
25. Dr Donaldson set out within his report that extending over almost the entire body surface of the deceased there were innumerable (hundreds) of recent abrasions, mostly linear in nature, and extending from 2mm up to 100mm in length. Dr Donaldson also noted that the skin and soft tissue of the right thigh were almost entirely absent, except for a small amount of residual muscle attached to the femur. This merely summarises but a few of the injuries set out within Dr Donaldson’s report.

26. Importantly, it was Dr Donaldson's opinion that because of the deceased's high blood alcohol level, his motor coordination and decision making processes would have been impaired. As a result he was in a vulnerable state due to alcohol intoxication. It was in this state that he was set upon by dogs. During the course of this attack, Dr Donaldson hypothesises that the deceased fell backwards and hit his head. This fall either caused concussion, or a loss of consciousness, during the course of which the deceased received wounds and injuries to the neck which were severe in nature and were in keeping with a dog attacking the throat of the deceased with sufficient force to cause respiratory obstruction and asphyxial death. In layman's terms, the deceased suffocated to death because of an attack to his throat by one of a number of dogs, which prevented him from breathing. I accept this finding from Dr Donaldson. There is no doubt in my mind that this would have been a terrifying attack and a terrible way for the deceased to have spent the last moments of his life.

#### Events leading up to the death of Robert James Roe

27. At the time of his death Mr Roe ("the deceased") was 47 years of age. He was unemployed and had been so for some time. He is survived by a son and a daughter who continue to live in Darwin. His mother was Cathleen Wilson (now deceased) and his father is Roger Roman.
28. It appears from police investigations that although the deceased went to year 10 at school in Darwin, he was not able to read and write well and had limited employment. Thereafter he had involvement with police, mainly associated with alcohol abuse and an itinerant lifestyle. His record sets out numerous involvements with police, both arising out of charges in terms of offences committed by the deceased and also where he has been a victim of offences at a time of intoxication.
29. In the time leading up to his death, the deceased was reported as sleeping somewhere in the Todd River in Alice Springs between the library and the

Stott Terrace Bridge. It appears that in the days leading up to his death the deceased had however been seen in many different camps around Alice Springs including the Hidden Valley Camp.

30. I received in evidence (via exhibit 7) various statements that record that on 15 August 2008 the deceased had attended at the Hoppies Camp in Alice Springs and spoke with a number of people there. It is then recorded that he attended at an address in Bourke Street in Alice Springs and had dinner and some beers with a group of people. It appears from the statutory declarations of those people that the deceased was considered by them to be a good friend. It is readily apparent that he is sorely missed.
31. It appears that at around 10pm the deceased left the Bourke Street address in a taxi, and was later seen at the Hidden Valley Camp where he sat and drank before walking to Hoppies Camp. From the statutory declarations tendered before me, the deceased was seen to lie down at one of the houses at Hoppies Camp and go to sleep. Later, when the other occupants awoke, they noted that the deceased had left the house at some unknown time. The deceased was subsequently seen at the Hidden Valley Camp either very late that night or in the early hours of the morning of 16 August 2008.
32. Ms Frieda Johnson gave evidence before me as to her observations of a man that she saw laying down on the ground near House 2 at the Hidden Valley Camp on 16 August 2008. Ms Johnson gave evidence that she is a resident at the Hidden Valley Camp and has lived in House 2 for the last 4 or so years. On 16 August 2008 she left her house at around 9am to travel to see her husband at the jail. She left her house with her sister-in-law and 2 children. On the way, one of the children drew her attention to a man lying on the ground. Ms Johnson gave evidence that when she saw the man he was naked. She did not recognise the man and as a result would not approach him. Ms Johnson gave evidence that the man made a noise indicating that he needed some help. Despite this Ms Johnson and her

companions did not approach, because he was a stranger and she thought he might have been intoxicated.

33. Ms Johnson gave evidence that when she later returned to the camp at about 11am she saw the man still in the area that she had seen him earlier but this time he was not moving and was making no noise. She noted that there was a dog near him and the dog was sniffing the man. Ms Johnson said that she alerted other people as to what she had seen and understood they were going to contact the authorities.
34. It is extremely unfortunate that Ms Johnson and her companion did not go and assist the deceased when she first saw him. It is somewhat understandable that they did not, particularly given that they did not know him and that he was naked. However it appears that when they first saw the deceased he was not dead and dogs had not yet attacked him.
35. I also received in evidence various statutory declarations from those persons who subsequently located the body of the deceased and alerted authorities to him. In particular I have considered very carefully the statutory declaration of Mr Gavin Naylor who was at the time visiting House 3 at the Hidden Valley Camp. Mr Naylor was told about the body near House 2 and as a result he immediately jumped out and ran in the direction of where he had been told the body was. There Mr Naylor states that he saw 3 dogs around the body, which he chased away. Mr Naylor then sought for police and an ambulance to be called.
36. It is clear from Mr Naylor's statutory declarations that significant injuries had been sustained to the body of the deceased at the time he was seen by Mr Naylor, however Mr Naylor did in fact check for a pulse to see if he could provide assistance. He did not find a pulse. I also note from the statutory declarations of the St John Ambulance paramedics, that when they attended at approximately 10.51am they checked for a pulse and did not find one, but also noted that the body was by then already cold to the touch.

## Injuries Sustained by Mr Roe

37. Although not the officer in charge of the investigation associated with the death of the deceased, Detective Sergeant Phillips attended at the autopsies of both Mr Hardy and Mr Roe. Detective Sergeant Phillips was therefore able to give evidence comparing the kinds of injuries that he observed on the bodies of both men during each autopsy. Detective Sergeant Phillips noted that during the autopsy of Mr Roe he observed that the body was remarkably lacking in defensive wounds. Detective Sergeant Phillips stated that:

“The wounds were centred to the groin area. He didn’t have markings on his hands; there were no teeth marks”

38. Dr Sinton conducted the autopsy upon the body of the deceased at 9am on 18 August 2008, ie. 3 days after it was discovered. Dr Sinton prepared a report setting out the significant findings made by him. That report forms part of exhibit 7. Dr Sinton’s significant findings were that the condition leading directly to the deceased’s death was moderately severe atheromatous coronary artery disease, known as coronary atherosclerosis. I heard this is a disease in which fat, cholesterol, calcium and other substances build up on the inside of the artery and reduce the flow of oxygen and blood into the artery. Such disease leads to what the layperson knows as a “heart attack”.

39. Dr Sinton noted that, although there were severe injuries to the skin and limbs of the deceased, there was no evidence to indicate that those injuries occurred prior to his death. This was particularly so, because there was very little blood loss, indicating that the blood was not flowing at the time these injuries were sustained. In particular I heard from Counsel Assisting that Dr Sinton had particularly noted that if the injury to the femoral artery had occurred when the deceased was still alive, this would have resulted in a large amount of blood being lost and there was no evidence to indicate that this had been the case.

40. I am satisfied from the material tendered in evidence before me that although the deceased died from coronary artery disease, it is very clear that his body was, shortly after his death, attacked and eaten by dogs, which is a serious and tragic matter indeed.

### **Other Dog Attacks at Town Camps**

41. By Virtue of the detailed and extensive investigation conducted by Detective Sergeant Phillips, I had tendered in evidence before me (as part of exhibit 1) evidence related to numerous other dog attacks at the town camps around Alice Springs. In particular I note the following significant attacks:
- a. The death of Dudley Jungala Lane on 13 October 1999 at House 35 at the Hidden Valley Camp. Mr Lane died of asphyxia likely as a result of vomiting whilst extremely intoxicated and/or possibly unconscious. Following his death dogs attacked and ate parts of his body. I pause to note that the details of that attack are somewhat hauntingly similar to those related to Mr Roe.
  - b. Ms Winnie Ross on 21 September 2005; found deceased on the veranda of House 10 of the Trucking Yards Camp after having been attacked by a group of dogs who caused wounds to the back of both of her calves. After the dogs had attacked her they were chased away. Although Ms Ross was reported to have complained about the injuries, she (and her friends) were intoxicated and went to sleep. Ms Ross was then discovered dead the following day, having bled to death from her injuries.
  - c. Dylan Blue at Charles Creek Town Camp on 5 October 2006, who was dragged off his bicycle by at least 4 dogs. The attack only stopped after a woman in a nearby house intervened. Dylan was hospitalised for a period of 8 days with injuries to his shoulders, lower back and both arms and legs.

- d. Jacinta Miles on 27 September 2007 in the park area near House 2 at the Ilparpa Camp, suffering puncture wounds on her left leg and left arm, particularly around the left shoulder area extending to the shoulder blade and armpit. The injuries were extensive.
  - e. Ms Francene Connelly on Wednesday 28 May 2008 in the vicinity of House 30 at Hidden Valley Camp. Police located the badly mauled body of Ms Connelly who was lying on the ground in a near unconscious state. Police describe that Ms Connelly had suffered “horrific injuries” with bite marks on both of her arms and the right side of her face had been “torn away”. It appears from police investigations that Ms Connelly had been attacked only the night prior by a group of dogs. On the second occasion (ie. 28 May 2008) she was extremely intoxicated and fell over when attacked suddenly by 4 or 5 dogs. Ms Connelly’s injuries were significant and required transfer to Adelaide for treatment.
  - f. Mr Russell Long on 28 May 2008 at House 24 at Hidden Valley Camp, who was discovered by police at the Alice Springs Hospital when they delivered Ms Connelly there for treatment. They discovered that Mr Long had also been attacked that night and had suffered a severe injury to his scrotum caused by dog bites.
  - g. Cheryl McMillan, in the same week as Ms Connelly and Mr Long. Ms McMillan gave evidence before me that she had in fact been attacked on the back of her leg and she still had a scar from that attack.
42. It appears from the evidence before me that it is more likely than not that there have been many other attacks where the victim has simply not required assistance and has therefore not formally reported what has occurred. Even if it were just those attacks set out above, it is clear from their nature that

there is a serious and significant problem with dogs at the town camps, and particularly so at the Hidden Valley Camp.

43. As I stated at the commencement of this inquest, it is simply unacceptable that in the 21<sup>st</sup> century citizens of a town in Australia are regularly subjected to packs of dogs roaming the streets of their community killing, mauling, biting, attacking and eating parts of those citizens. It is just simply unacceptable and is particularly unacceptable when that situation has clearly existed for a significant period of time.

### **Evidence related to the Responsibility for Dogs at the Town Camps**

44. The Alice Springs Town Council (“ASTC”) is incorporated under the *Local Government Act* and is charged with the peace, order and good government of the whole of the Alice Springs town area. It is clear that ASTC is established for providing services to the entire municipality of Alice Springs in relation to various matters, including but not limited to parking control, public places, permits, night patrol, litter, signage and also (and more significantly for the purposes of this inquest) animal control. The ASTC has established a ranger section whose staff is responsible for the control of animals in the municipality of Alice Springs. That ranger section has been established for a number of years.
45. Tangentyere Council Incorporated (“TCI”) was incorporated in 1979 and was established as a “major service delivery agency” for the 18 housing associations known as town camps in Alice Springs. TCI is incorporated under the *Associations and Incorporations Act (NT)* and is the body responsible for representing the interests of the housing association members within the Alice Springs town camp areas. I heard evidence that TCI had been established to assist Aboriginal people to gain some form of legal tenure of the land they were living on to obtain essential services and housing.

46. I received evidence from Mr William Tilmouth that there were 16 town camps occupying land via Special Purposes Leases, and two other town camps that still have no security of tenure. Mr Tilmouth stated that each town camp was represented by a housing association, which was an autonomous body with its own committee and budget, and had one member on the Executive of the TCI. Mr Tilmouth stated that the Executive comprised the elected President of each of the 18 town camps, a member of the women's committee, and a member of the "Four Corners" committee, which comprises senior Aboriginal lawmen. From that membership, the Executive elects a chair, vice chair, treasurer, public officer and secretary and meets approximately every 4 weeks, or more often if needed.
47. It became clear to me early in the course of the inquest that TCI was considered a very important and influential organisation, and one that had worked hard to represent its membership, particularly the residents of the various town camps. As a result, TCI had branched out into various areas in terms of the services it provided to the town camps, including garbage collection, power, water and street lighting, as well as the provision of housing. As a result a system had been established where the residents of the town camps would report directly to TCI, via their Presidents, about any issues related to services at the camps.
48. In addition to being seen as a significant and important organisation by the town camp residents, it is clear that individuals and organisations outside of the town camps have long considered TCI an important and significant organisation, including ASTC. I heard evidence that prior to 2000 ASTC and TCI had been involved in a highly publicised court case concerning the payment of rates. That court case had determined that TCI was a public benevolent institution and therefore it, and the residents occupying the town camps, did not have to pay rates to ASTC.

49. As a result, a large amount of revenue that would have been received by ASTC via the payment of rates was not received. I heard evidence that this had led to some problems between ASTC and TCI. It was therefore considered that a Memorandum of Understanding (“MOU”) should be established to confirm a continuing relationship between the two councils, assist in developing a better working relationship and to outline the responsibility of each of the councils for services provided in the town camps.
50. I received in evidence before me (as part of exhibit 1) a copy of the MOU dated 3 November 2000. Paragraph 17 of the MOU notes particularly as follows:

*“The parties agree to work together to develop protocols and service arrangements in relation to the housing association/corporation areas and other Aboriginal residents of the Alice Springs municipality.*

*Matters to be considered by the SC (“Steering Committee”) may include but are not limited to:*

- *The upgrade and maintenance of the housing association/corporation road networks.*
- *Domestic waste management.*
- *Public and environmental health issues.*
- *Development of parks, playgrounds and other open spaces.*
- *Animal management.*
- *Youth Development.*
- *Employment and training.*
- *Night patrol and wardens programs.*
- *Substance abuse.*
- *Community transport.*
- *Litter control.*
- *Storm water drainage and flood mitigation.*
- *Street lighting.*
- *Library services.*
- *Council contracted services.*
- *Participation in council’s governments structures, eg. advisory committee.*

- *Political representation and election issues”*

51. As can be seen by the above, there are a number of areas upon which the ASTC and TCI agreed to work in partnership together. Particularly relevant to these proceedings is animal management.
52. Also relevant to the issue of the responsibility for dogs at the town camps is the evidence I received that at each entrance to the town camps there was a sign restricting entry onto the town camps. Tendered as exhibit 6 was a copy of a photograph of the sign in existence at the Hidden Valley Camp. I heard this is in similar terms to the signs at each of the other camps. On that sign it states clearly as follows:

*“This is a Special Purpose Lease. Access Is  
NOT Permitted Without Written Permission.  
To Obtain Written Permission For Entry  
Please Contact Tangentyere Council Incorporated Directorate  
On 08 8951 4212”*

53. In relation to the practicalities of responsibility for animal control at the town camps, I heard evidence from a number of witnesses as to what occurred at the town camps on a day-to-day basis and the impact this had upon ASTC and TCI in relation to the question of responsibility for the dogs on the camps.

#### Cheryl McMillan

54. Ms McMillan gave evidence that she is a resident of houses 21 and 22 at the Hidden Valley Town Camp. She has been at the camp since 2006. In 2008 she became the President of the Hidden Valley Town Camp. Ms McMillan set out in her statement to the police that in her role as President the residents of the town camp would come to her and tell her their problems. She would then attend at TCI meetings and speak with Mr William Tilmouth about any of those concerns. Ms McMillan stated that she did not consider part of her role as President to be involved in the fixing of any of the

problems at the town camps, just simply to notify Mr Tilmouth at TCI and Mr Tilmouth, as the Executive Director, would then make the relevant arrangements. Ms McMillan stated that although she is no longer President of the Hidden Valley Camp her understanding of the operation of the camp was that residents were still required to speak to the President of the camp, and then the President would go and speak with TCI to get them to fix the problem.

55. In terms of access to the camp, Ms McMillan stated in evidence that her understanding was that ASTC could not come onto the camp unless they had permission from TCI. Ms McMillan stated that it was Mr William Tilmouth who told her that ASTC needed TCI permission. Ms McMillan stated that as a result she believed she could not simply get ASTC to come into the Hidden Valley Camp to fix the dog problem as TCI were required to approve their access. The importance of this evidence will become clear later in these reasons.
56. Ms McMillan stated that she had noticed changes since the deaths of the two men and that the changes she had noticed were that ASTC were coming onto the camps and taking the dogs. Ms McMillan stated that she considered things had been better since ASTC had been coming onto the camps.

#### Clement (“Clem”) Wheatley

57. Clem Wheatley was the Manager of the Ranger Unit of ASTC from “around 3 January 2001 until July or August 2005”. It is clear that Mr Wheatley had extensive experience and qualifications in relation to animal control before his employment with ASTC. Mr Wheatley stated that he had been involved in Ranger duties and/or Council work for the last 17 years of his life.
58. Mr Wheatley stated that he was aware of there being an MOU between TCI and ASTC when he first started with ASTC. Mr Wheatley stated that he was “basically led to believe that the MOU was a cooperative agreement

whereby it was encouraged that the two councils worked together in a cooperative manner to try and enhance the relationship between the two councils... it was a formal type of working arrangements”. Mr Wheatley understood that part of that cooperative agreement was animal control. Mr Wheatley was asked what affect in his experience the MOU had on the ground in terms of the two councils working together. Mr Wheatley stated as follows:

“.....it was practically as far as its ability to enhance the working relationship between Tangentyere Council and Alice Springs Town Council Ranger Unit in aiding us to better carry out our duties in a more efficient manner; it wasn't worth the paper it was written on. It was a dead cat, it was really – it meant nothing to us because practically the – there was a lot of political constraint as a result of this MOU and yet the message I got from my supervisors was that this MOU had to be preserved at all costs, and we had to tread very carefully and very warily... the MOU was, in my opinion, of absolutely no assistance whatsoever. It was more a hindrance than anything else”

59. Mr Wheatley gave evidence that almost from the outset of commencing duties with ASTC he quickly ascertained that there was a significant issue in relation to animal control, particularly to dogs, at the town camps. Mr Wheatley stated that his experience was that the problems with the dogs was not just a concern of his, but also of the TCI Wardens and the town camp residents who had informed him that they too were fearful for their safety around the dogs.
60. Mr Wheatley gave evidence that in relation to the town camps, whilst there were no fences and the Rangers could drive in freely, Ranger staff had to be extremely careful because on the majority of camps “there was probably a 90% chance of driving in there and facing intoxicated persons, violent person, aggressive persons or basically... just basic general resistance”. Mr Wheatley stated that he himself had experienced “physical assaults; being punched; people attempting to punch us; people using star pickets as spears, sticks, rocks, bottles”. This was in spite of their vehicle being distinctively

marked identifying they were Council Rangers and the staff would wear distinctive uniforms.

61. Mr Wheatley stated that he recalled specifically being instructed by Mr Roger Botterill of ASTC that ASTC staff needed approval from TCI before entering the town camps. Mr Wheatley stated that he had understood there had been general approval given to enter onto the camps, however because of the aggression shown towards ranger staff, Mr Wheatley had instructed his staff they were not to enter the camps unless they were accompanied by the police or TCI staff. Mr Wheatley gave evidence that the presence of TCI Wardens and/or TCI Housing and Health staff made a “huge difference” whenever ASTC Rangers attended at the camps. Mr Wheatley stated that when TCI staff were not present, the Rangers were simply seen as “white fellas” taking the residents’ dogs.
62. Mr Wheatley gave evidence that as a result of these problems the ASTC Rangers would try and attend at the camps with the TCI workers one a week, but sometimes this could not occur because the TCI staff people would simply fail to attend, or could not be contacted. Mr Wheatley gave evidence that in his experience the “fail-to-show rate was probably 75%” from TCI. Mr Wheatley stated that on the majority of those occasions the Rangers would not enter the camps due to safety concerns.
63. Mr Wheatley confirmed that part of his understanding of the MOU was that a Steering Committee (“SC”) was formed with representatives from both ASTC and TCI. Mr Wheatley stated however that in his experience many of these SC meetings would be cancelled because TCI staff would be unavailable. It was clear from his evidence that Mr Wheatley found the experience extremely frustrating.
64. Mr Wheatley agreed that there had been another committee formed “sometime in 2001 or 2002” to tackle the issue of dogs on the camps. This committee also had representatives from ASTC and TCI. Mr Wheatley

stated that this committee was “mildly” effective, however because of all the committees and the meetings it was his experience that they “rarely achieved anything meaningful”.

65. In relation to the issue of dogs, Mr Wheatley stated that he had expressed his views and concerns not just at SC meetings, or committee meetings, but also at meetings with his Director, the ASTC Chief Executive Officer, the Mayor and numerous other staff and Council members. Mr Wheatley stated that he also advised TCI of his concerns. According to Mr Wheatley there “would not be a day go by” where he did not make some comment about the dogs and the associated health issues. Mr Wheatley stated that not only did he identify the problems as he saw them, but also ways he thought the problems could be “effectively dealt with”.
66. Mr Wheatley stated that he considered that there needed to be “some affirmative action” and “a combined campaign” between the two councils. He stated that although you could go in and simply remove every dog off a town camp “within 6 weeks the same amount of dogs would be back there” because of people coming into the camps from bush with their dogs and leaving them there.
67. Mr Wheatley identified a further problem was that the dogs were “breeding indiscriminately” on the camps and therefore there needed to be an improvement in the health of the dogs. Mr Wheatley stated he also considered that there needed to be education of the residents so as to improve the camp residents understanding of the issues with the dogs. Mr Wheatley recommended that there be Aboriginal staff included to avoid the residents feeling as if it was just a “bunch of whities” coming in. Mr Wheatley’s proposal therefore was to suggest the formulation of a special unit made up of Aboriginal people to deal with the dog problem and the associated health issues. Mr Wheatley also identified that in order to keep dog numbers down in the camps what was needed was regular ongoing

patrols in the camps and regular, ongoing, education of the residents of the camps.

68. As an indicator of his level of concern, Mr Wheatley identified an email dated 11 November 2004, that he sent to Mr Rex Mooney and Mr Eric Peterson (document 70 of the ASTC additional documents forming part of exhibit 1). This set out his particular concerns related to the dogs and also warned of the risk of animals attacking and or killing a human being. Mr Wheatley stated that this email was one of the many emails, written reports and verbal reports that he provided to both councils. Mr Wheatley described himself as having “pleaded, begged, spoken to different aldermen, spoke to different staff of both councils”.
69. Relevantly within the email Mr Wheatley stated as follows:

“There has been numerous incidents of dog attacks reported where dogs from Town Camps have attacked and menaced various people. There has been a few attacks reported where the attack were on camp residents or their visitors, I suspect many such attacks go unreported”

And further:

“There needs to be immediate commitment of both Councils to address this matter, should this not occur, dog attacks will continue and unfortunately serious injury and/or death will be the result. I am taking this opportunity to put both Councils on notice with regards to their responsibilities and liabilities”

I note that the original email had this paragraph set out in bold.

70. Mr Wheatley stated that it was his opinion that “it was not a matter of ‘if’, it was a matter of ‘when’ someone lost their life as a direct result of savage dogs on the town camps”. He considered there was “nothing surer”. Mr Wheatley noted that what he was trying to do was identify the problem, but also identify that cooperation between the town councils was simply not working. Mr Wheatley stated that at the time of writing the email he was

writing it out of “sheer frustration” with the lack of action he felt was being taken.

71. Mr Wheatley gave evidence that he also recalled attending a meeting in either late 2004 or early 2005 where representatives of the ASTC and Mr William Tilmouth for the TCI were present. Mr Wheatley stated that he told those present at the meeting about his views of the failure of cooperation between the two councils and how this adversely affected the way in which the ASTC Rangers were able to perform their duties in relation to animal control. Mr Wheatley described himself as having “basically held nothing back” at the meeting. He stated he also identified his concerns “in relation to the ongoing health issues associated with excessive dog numbers” and his “grave concerns in relation to the dangers posed to people’s lives”. Mr Wheatley stated that at the end of his address Mr Tilmouth said words to the effect of “Well, I could say a lot about that, but I won’t”. Mr Wheatley stated that there was no real response after that meeting from either council. In his view the response was basically the same as before “the right noises, but nothing practical”.
72. In terms of ASTC, Mr Wheatley was clear in his evidence that although the ASTC was generally forthcoming in giving his unit the reasonable funding he sought, he did not consider they were sufficiently supportive of him in relation to the recommendations he made to deal with the problem of dogs at the camps and he perceived that ASTC had made a minimal effort to obtain the funding he considered necessary to address those recommendations. I will return to this aspect of the evidence of attempts made by ASTC to obtain relevant funding later in these reasons.
73. It was clear from the evidence of Mr Wheatley that both ASTC and TCI were well advised and informed by Mr Wheatley as to the issues related to the number of dogs on the town camps and the associated problems. I have no doubt, as a result of the evidence from Mr Wheatley, that Mr Tilmouth in

particular was well aware of this issue. The importance of this factor will be referred to later in these reasons.

74. Mr Wheatley confirmed he was aware of new funding arrangements put in place since the deaths of Mr Hardy and Mr Roe. He stated that he considered this had been an extremely positive outcome however he was “disturbed” that it had taken two people to lose a life “before the people actually got off their backside and did something”.

#### Kevin Corby

75. Mr Kevin Corby is the coordinator of the “MUNS” Group (the Municipal Council Group) of TCI. Mr Corby gave evidence that he had been performing that role since just after July 2009 and that prior to that he was a “PMO” (Property Maintenance Officer) with TCI Housing for a number of years. Mr Corby stated that he had been working for TCI for almost 10 years. The majority of that period had been as a PMO.
76. Mr Corby gave evidence that it was his understanding that there were a number of divisions under which TCI provided services to the town camps including, housing, research, aged care, night patrol, safe families and dogs. Mr Corby gave evidence that in relation to the dogs, his understanding was that they came under environmental health in the Housing Division. During his time as a PMO, Mr Corby stated that residents on the camps would often speak with him about issues related to the dogs. Once he had spoken with the residents, Mr Corby stated he would then make contact with the ASTC rangers and arrange for them to come out and deal with the dogs. Mr Corby stated he was then often responsible for being present when the Rangers would visit the camps to deal with the dog problem.
77. Mr Corby stated that in terms of access to the camps he was aware that there were signs up around the camps stating written permission from TCI was required to enter the camps, as depicted in exhibit 6. Mr Corby stated that

the sign appearing in exhibit 6 was “only recent”, however there had been “similar signs before” and he understood that the signs required all persons to obtain permission before they could access the camps.

78. Mr Corby stated that he could not recall ever being told by anyone from ASTC that they were having problems accessing the camps, however in his experience if ASTC did attend at the camps then “most of the time” he was with them. Mr Corby gave evidence that in terms of policies or rules about access onto the camps “everybody that had to go onto the camps, they had to get permission through the director”. Mr Corby stated that in terms of the director, this was Mr William Tilmouth and Tracey Brand. Mr Corby stated that he understood that this rule or policy “applied to everyone”.
79. In terms of the number of dogs allowed on the camp, Mr Corby stated that he became aware of “a sign and paper going round that there was only two dogs per house on each camp” and that he understood this was a “rule” from TCI, but “no one took any notice of it” and “it wasn’t enforced”. Although TCI was not enforcing this “rule”, I note that Mr Corby gave evidence that he would keep a record of the dogs being taken by the ASTC and provide that record to TCI, in particular his immediate supervisor Mr David Donald.
80. Mr Corby gave evidence that following the deaths of Mr Hardy and Mr Roe he recalled a meeting where the residents of the Hidden Valley Camp agreed that the two-dog rule should be enforced. Mr Corby stated that he was also aware that funding had since been obtained by ASTC and that they now attended every second day at each of the camps. He stated that the Rangers would now attend at the camps on their own. It was clear Mr Corby thought this was an improvement.

#### Brian Lockyer

81. Mr Lockyer is a former resident of the Hidden Valley Camp. Mr Lockyer was also one of the individuals to notify the police of the discovery of the

body of Mr Hardy. It was clear from Mr Lockyer's evidence that this was a very traumatic experience. Mr Lockyer gave evidence that he considered the problems with the dogs on the camps as very serious. Mr Lockyer expressed his frustration when attempting to make complaints to both ASTC and TCI in relation to the dogs. Mr Lockyer stated that he had experienced dogs trying to get into the windows of a house at the camp and that his own dogs had been attacked and killed by dogs at the camps.

82. Mr Lockyer gave evidence of numerous people he was aware had been attacked by dogs and stated he too had been attacked. Mr Lockyer gave evidence that, in his experience, when he complained to either council, either the ASTC would tell him that they needed to have TCI staff with them, or TCI would tell him that the dogs were part of "Aboriginal Dreaming" and they were therefore not able to do anything. It was clear from the evidence of Mr Lockyer that he was understandably frustrated by the response of both councils.

#### David Donald

83. Mr Donald is the Manager of Housing, Environmental Health and Community Services of TCI. Mr Donald stated that he commenced in the role of Housing and Environmental Health in November 2005 and then took on the task of Municipal Services late in 2007.
84. Mr Donald stated that Environmental Health was a division of TCI focussed on improving the quality of the living environment of residents in the town camps through things such as the quality of the water supply, sewerage and the like. Mr Donald stated that the Municipal Services division was primarily garbage collection, picking up rubbish in the common areas of the camps, street lighting and/or infrastructure and also the repair and maintenance of fences. Mr Donald gave evidence that the Housing Division funded insect and pest eradication around houses, whilst Municipal Services funded such eradication in the common areas.

85. Mr Donald confirmed that the Municipals Services Division included animal control. Mr Donald was initially quite adamant in his evidence before me that TCI did not take responsibility for dogs in the town camps (see p.88 of the transcript). Mr Donald was directed by Counsel Assisting to a download from the TCI website which recorded that TCI “operates a comprehensive dog management program across town camp communities, aiming to reduce and maintain an appropriate number of healthy dogs”. When this was drawn to Mr Donald’s attention he maintained his previous answer that TCI did not take responsibility and was keen to point out that the website itself also did not say that TCI took responsibility. When questioned by me during proceedings as to this answer, Mr Donald stated (at page 89) as follows:

“I guess, what I’m referring to is the legal responsibility, yes. I mean we – we have a grant, we operate within the terms of that grant. But we don’t take on a – we don’t consider that as an outside body, we have any responsibility outside the terms of that agreement”

86. Mr Donald repeated that TCI did not take responsibility for the overall dog management program and stated TCI’s aim “is to provide a service to assist in it... but we don’t aim to take over a full – you know, we don’t say that we have full responsibility for all their effects”.

87. Mr Donald stated in cross-examination that he did not consider that TCI even had “some responsibility” for the proliferation of dogs on the town camps. Mr Donald stated that TCI was operating “as best we can within our resources”. Mr Donald stated that TCI was not a landowner, but a “resource agency” given a task to perform, via their funding, the provision of certain programs undertaken on the camps. Mr Donald stated that this did not mean however that they ever sought to take over responsibility for the problems on the camps. Mr Donald gave evidence that in the relation to dogs in particular, TCI would strive to get the residents to “give up” their dogs, but TCI had no authority to seize the dogs, only to merely encourage residents to hand them over.

88. Mr Donald confirmed that TCI received 2 grants in relation to its dog management program; one from the NT Government for an Environmental Health Officer, and the second being the Municipal Services Grant which traditionally came from the Commonwealth, but of late had come from the Northern Territory Government. That grant is utilised to employ the services of a Veterinarian. Despite receiving money since 2004 to operate this program Mr Donald maintained that TCI did not “assume in total responsibility. We assume responsibility in terms of what we’re asked to do with the grant”.
89. Mr Donald gave evidence that the NT Government grant for an Environmental Health Officer commenced in about 2004/2005 and was for wages only. Mr Donald stated initially that grant was for approximately \$45,000 per annum, but was now approximately \$50,000 per annum. Mr Donald stated the Commonwealth and Northern Territory Government Municipal Services Grant for a Veterinarian was first provided in 2004/2005, initially at approximately \$14,000 per annum, but was now over \$50,000 per annum.
90. In relation to the job description for the Environmental Health Officer, Mr Donald stated that the Officer’s duties were to:
- “Assist with the community dog management program, assist with the visits of vets to visit town camps to conduct euthanasia programs, contraceptive programs and treatment programs for scabies mange, fleas, ticks and internal parasites, assist with Alice Springs Town Council Rangers to collect unwanted dogs from town camp households, regularly inspect all dogs within the community, maintain records on dog numbers and the conditions of these dogs, carry out effective treatment of dogs for disease and population control and assist with the delivery of educational programs in the community on Tangentyere Council’s Dog Policy”
91. Mr Donald stated Mr Boyd Elston now filled this position. I note this was an individual who was not referred to whatsoever during the course of the evidence of Mr Kevin Corby (who was a witness I considered to be

extremely frank and honest during the course of his evidence) in terms of the persons that he understood to be carrying out duties and responsibilities in relation to animal management on the town camps.

92. Mr Donald gave evidence that the TCI in fact received over 120 different grants from the Commonwealth Government, NT Government and various philanthropic organisations. Mr Donald confirmed that these grants were principally for the town camps and also provided funding for approximately 220 staff. Mr Donald gave evidence that TCI received annual funding somewhere between \$10 and \$11 million.
93. In relation to the services provided by TCI, Mr Donald gave evidence that there was financial auditing of the funds received via the grants, but there was no overall quality assurance of the actual work conducted. Mr Donald also agreed that there was no independent quality assurance audit of TCI, although they were financially audited.
94. In my view, essentially, Mr Donald was a witness who wanted TCI to be provided with a “tick for effort”, but not to be marked for any outcomes in relation to the work actually being conducted by TCI pursuant to the grants received. Mr Donald made numerous attempts initially in his evidence to try and make clear that whilst the TCI had a “comprehensive dog management program” (which it particularly highlights on its own website), TCI did not take a “legal” responsibility in relation to the dogs.
95. In terms of the dog policy existing on the town camps Mr Donald gave evidence that he understood that there was a TCI dog policy of two dogs per house in place on each of the camps. I was shown a copy of this policy (page 482 of the TCI additional documents). Mr Donald stated he was aware this was in existence as at 21 February 2006. During cross-examination, Mr Donald confirmed that responsibility for the education of the residents of town camps in terms of the existence of the policy and their obligations to limit the number of dogs to two per household, rested with

TCI. Mr Donald stated however that this was a continuous process and that “dogs” were a matter regularly discussed at town camp meetings and also via the Environmental Health Officer with the residents.

96. In terms of access onto the camps, Mr Donald gave evidence that he first became aware of issues the ASTC Rangers were having in relation to access when he commenced employment in November 2005. Mr Donald gave evidence however that when he was informed of these issues in 2005 he had understood that they were issues “in the past” and he had not, “during the four years” that he had been employed at TCI, heard of any current issues. Mr Donald stated that during his employment he had understood that the two councils worked more effectively together, and there was an understanding that they would work together when ASTC did their patrols. Mr Donald stated this was something supported by TCI.
97. Mr Donald confirmed that he was aware of the signs outside the camps (as depicted in exhibit 6) and agreed that they stated very clearly that there was no permission to any persons without written authorisation of TCI. Mr Donald stated that in terms of the two councils working together he expected his staff would turn up “and that’s been my experience since I’ve been in the position”. Mr Donald was adamant that since commencing in November 2005 he was not aware of any problems with TCI staff failing to meet ASTC staff as scheduled. It was clear from Mr Donald’s evidence however that he certainly understood that ASTC staff were not attending upon the camps, unless they were in the company of TCI staff.
98. In this regard, Mr Donald gave evidence that in or about May 2008 he became aware, via “a number of residents” of the town camps that ASTC rangers were not attending at the camps despite reports of dog attacks unless TCI staff were available to accompany them. Mr Donald stated that as a result he met with ASTC Rangers and they advised they would not attend without a TCI representative. As a result Mr Donald sent an email

(document 505 of TCI additional documents) to ASTC seeking confirmation that ASTC understood they could access the camps at any time. Mr Donald stated that despite requesting confirmation from ASTC that they would attend on the town camps if an attack occurred with or without TCI staff, he never received any response.

99. Mr Donald acknowledged in evidence however that the situation of ASTC attending upon the town camps only in the presence of TCI staff was exactly as he had understood the situation when he first commenced employment in November 2005. He confirmed he had stated this was a policy supported by TCI. Mr McDonald then attempted to explain that the reason for his email was more concerned with dog attacks on a weekend or after hours, rather than ASTC undertaking regular patrols to take away unwanted dogs without someone from TCI. I have some difficulties with the frankness of the evidence given to me by Mr Donald about the aspect of the access given to ASTC.
100. Mr Donald stated that he did not recall ever being informed that ASTC was having difficulty in enforcing its dog by-laws on the town camps because of problems with access. Mr Donald's attention was then drawn to the letter from TCI to ASTC dated 1 August 2008 (document number 16 in the ASTC additional documents) confirming the grant of "full access to the ASTC Rangers on the town camps for the purpose of enforcing Council by-laws and to provide assistance and support to town camp residents in animal control". Mr Donald stated that this correspondence "was prepared at the request of a meeting at the ICC" (Indigenous Coordination Centre) when the ASTC brought up "their concerns about access". Mr Donald stated that it was simply prepared for the purpose of "getting on with the project" of dog control. Mr Donald stated that from the view point of TCI the letter "was to clarify our understanding of what the existing arrangements had been. It wasn't a new arrangement". I will return to the significance or otherwise of this letter in relation to access later in these reasons.

101. In terms of the reporting of dog complaints, Mr Donald gave evidence that his understanding of the procedure was residents of the camps would report dog complaints to the community centre located at each of the camps. Residents could also report to either Aged Services or the Municipal Services officers. Those TCI staff members would then report to TCI who would then communicate with the ASTC. Mr Donald gave evidence that this procedure was done in a particular way so that ASTC and TCI would work together on the issue. Mr Donald stated that he also understood this was the procedure because the dogs would then be handed over more easily to ASTC Rangers if TCI were involved.
102. Mr Donald stated that he considered the situation at the camps with the dogs was much better following the tragic deaths in 2008 and that, in his opinion, the program being operated by ASTC via the funding from the Commonwealth Government was a “model program” that “should be rolled out to other remote shires”. Mr Donald stated that he was sceptical at first in relation to the enforcement of the program, but he considered that ASTC were “very skilled at their job”, and that they were “compassionate” towards the residents about their “needs and willingness to give up their dogs for safety reasons”.
103. Mr Donald conceded in evidence before me that although good people had been concerned about the possibility of harm and/or fatal injury from dogs for a long time prior to the deaths, and although it may have taken the deaths for the message to get through, dogs were an issue that TCI had always known about and TCI accepted the dog problem was a long term problem that needed to be addressed in the long term and not with short term measures. In this regard Mr Donald confirmed that TCI would strongly advocate alongside ASTC for the funding from the Commonwealth Government to continue for the current dog program.

Kevin Everett

104. Mr Everett is the current Manager of the Ranger Unit of ASTC. He has held that position since 2004, however he has been employed as a senior Ranger with the ASTC since approximately March 2001. It was clear from the evidence given before me that Mr Everett has had many years experience in Local Government and has been employed by a number of councils interstate.
105. Mr Everett stated that in terms of his experience in accessing the town camps he became aware of the MOU between TCI and ASTC very shortly after he commenced his employment. Mr Everett stated that his understanding of that MOU was that it required both councils to work together in a number of areas specifically identified in the MOU itself, and included in those areas was animal management.
106. Mr Everett stated that it was “common knowledge” in the ranger unit that before any staff member of ASTC could access the town camps they were required to communicate with TCI to arrange to meet with a TCI staff member and attend with them at a particular date and time. Mr Everett stated (consistent with the evidence given to me by Mr Wheatley) that in his experience there were a number of occasions where TCI staff would simply fail to attend those pre-arranged meetings. Mr Everett stated that this made it difficult for the ASTC Rangers to carry out their work as it often meant that they could not access the town camps.
107. Mr Everett stated that in his past experience, if ASTC staff attempted to enter the camps without a TCI staff member this had resulted in town camp residents throwing rocks and/or behaving in a violent or aggressive manner towards the ASTC staff, despite the fact that they would be uniformed and marked as Rangers to deal with problem dogs.

108. Mr Everett also gave evidence that another difficulty that existed for ASTC Rangers in terms of accessing the camps were the signs erected around the camps advising that people needed permission from TCI in order to access the camps. Mr Everett stated signs (like the one depicted in exhibit 6) had always been in existence since he started, and that if the camp did not have one it was because it had either been vandalised or pulled down by the residents. Mr Everett stated that he was never advised that access by ASTC staff was different to anyone else, and it was always his experience that ASTC staff required TCI permission.
109. Mr Everett stated that he considered a significant impediment to ASTC's capacity to access the town camps was the MOU. Mr Everett stated that the problems with access completely changed as a result of the 1 August 2008 correspondence from TCI to ASTC confirming unfettered access to the town camps. Mr Everett stated that this letter had a direct impact on his capacity to carry out his duties in the sense that it allowed his staff more freedom to enter into the camps quickly and to carry out their duties efficiently.
110. In relation to the current program instituted by ASTC from the Commonwealth ("FaHCSIA") funding, Mr Everett stated that the program had a number of stages:
- a. Stage 1 was a public meeting inviting the town camp residents, town camp committee members, representatives from TCI, representatives from ASTC, manager of the ranger section and the Northern Territory Police. At this meeting it was explained to the town camp residents the plan to be implemented at the camp, which included a limit of two dogs per household and registration of all the dogs over the age of six months.
  - b. Stage 2 was a public meeting with a BBQ included whereby the ASTC would establish an "on site, one stop shop" for the registration and micro chipping of all town camp dogs. Present at that BBQ

would be ASTC rangers, a Vet, a TCI health worker and Centrelink Officers to enable town camp residents to pay for their dog registrations via their Centrelink payments. The residents are then provided with a collar and lead, and their dogs are registered, micro-chipped, and de-sexed for the next 12 months. During that BBQ the residents are also provided with education and information in relation to the ASTC by-laws permitting only two dogs per household.

- c. Stage 3 – ASTC rangers attend at the camp the following week and go house to house checking on the number of dogs and their registration, and removing any additional dogs.

- 111. Mr Everett stated that as a result of the FaHCSIA funding, ASTC had also been able to employ two Rangers that were specifically designated to the town camps and were known as “Team Town Camp”. The funding had been utilised for wages for those two new rangers, a designated vehicle and equipment. This enabled the two designated Rangers to attend at the town camps across the Alice Springs Township 5 days per week, 8 hours per day. Mr Everett stated that the FaHCSIA funding was essential to enable the ASTC Rangers to perform this role in the town camps, particularly in light of the fact that the town camps were a public benevolent institution and was therefore not “rateable”.
- 112. In terms of the program Mr Everett stated it was an “overwhelming success”. He indicated that residents were now much more proactive and extremely proud that their dogs were registered and were very happy that their children could run around safely in the camps due to the greatly reduced number of dogs.
- 113. Mr Everett estimated that in the last 12 months ASTC had removed in excess of 1200 dogs. He stated that dog numbers had greatly reduced at the

town camps across Alice Springs and that ASTC Rangers were now in attendance at the camps every single day.

114. Mr Everett stated that prior to the deaths of Mr Hardy and Mr Roe, the ASTC had been endeavouring to do precisely the same type of work that was involved in the current program, however it had been unable to carry out the work to the same extent because of the issues of resources and access. Mr Everett stated that the ASTC had been doing “similar things” for a number of years but now they had the extra resources and manpower needed to give the extra boost necessary to take care of the town camps effectively.
115. Mr Everett expressed significant concern that ASTC had only been able to secure funding from FaHCSIA until 30 June 2010. He stated he hoped such funding would not cease at that time as he was concerned whether the program would be able to continue to operate in the same manner and to such effect, without such funding thereafter.
116. Mr Everett stated that if the current ASTC program was not able to continue, or was not conducted in the same efficient manner presently conducted with the assistance of the FaHCSIA funding, then he considered that the town camps would be back with the same problems within a short period. Mr Everett stated that he considered ASTC would do everything it could to continue the program, even if there were no further funding from FaHCSIA, however he considered it would stretch their resources again to the same extent that it did previously and this could impact on outcomes.

#### Rex Mooney

117. Mr Mooney is the Chief Executive Officer (CEO) of ASTC and has held that role since January 2003. Mr Mooney stated that at the time of commencing his role as CEO he became quickly aware of the problems associated with dogs on the town camps, specifically recalling a meeting in February 2003 where “the entire issue of dogs on town camps” was discussed.

118. Mr Mooney readily accepted that the ASTC held responsibility for the dogs on the town camps through its animal management by-laws. He stated that such by-laws were applicable on the town camps, just as they were in any other part of the municipality of Alice Springs. Mr Mooney stated however that as a result of the MOU with TCI, and the protocols that followed thereafter, he always understood that there was a joint arrangement with TCI for responsibility for the dogs in the town camps. Mr Mooney stated that he understood that enforcement of the animal management by-laws was to be done in concert with TCI and that therefore TCI also shared responsibility in relation to the dogs.
119. Mr Mooney agreed that Mr Wheatley had regularly communicated with him about his concerns in relation to the number of dogs on the town camps, and the associated issues that flowed. Mr Mooney stated that as a result of those concerns he had endeavoured to try and obtain funding from the Northern Territory Government and had utilised Mr Wheatley to assist in preparing a submission for funding to the then Minister for Local Government, Mr Jack Ahkit. Unfortunately such funding was not granted despite the very grave, passionate and real concerns expressed by Mr Wheatley. Mr Mooney agreed that Mr Wheatley's concerns were real and had been prophetic in terms of deaths occurring. However despite his attempts, he had been unable to obtain the necessary funding to deal with the issues at that time. It is clear on the evidence that despite Mr Wheatley's expressed views to the contrary, ASTC was in fact attempting to obtain funding to carry out the programs that Mr Wheatley was recommending. It appears however that although ASTC was listening to Mr Wheatley, ASTC was not able at that time to get the necessary attention from the relevant Governments agencies.
120. Mr Mooney gave evidence that funding was always an issue for ASTC in relation to animal management simply because approximately 95% of the land in Alice Springs was "non-rateable", which meant resourcing was an

issue and this impacted significantly on ASTC's capacity to institute programs with so very little money being generated from council rates.

121. Mr Mooney also identified that the MOU entered into between ASTC and TCI was an issue. Mr Mooney stated that in his experience the MOU had resulted in impediments for ASTC's access to the town camps and therefore although ASTC accepted they had responsibility for the town camps they were quite simply unable to access those camps whenever required, because they were required to have a TCI staff member with them.
122. Mr Mooney stated that the 1 August 2008 correspondence from TCI to ASTC confirming unfettered access to the town camps was something he considered to be a "major breakthrough" in the relationship between the two councils. Mr Mooney stated that in his opinion this letter finally permitted ASTC to attend at the town camps whenever necessary to carry out their duties and responsibilities, just as they would be able to do in any other part of the municipality of Alice Springs. Mr Mooney stated that this was completely different to ASTC's previous access, which had required the presence of someone from TCI.
123. Mr Mooney gave evidence that as a result of the funding provided by FaHCSIA, ASTC had been able to embark on a program on the town camps which he considered had been very successful, and for which he proudly stated ASTC had been able to confirm funding for until 30 June 2010. Mr Mooney considered that the program had resulted in dramatic changes in the town camps and enabled the ASTC to finally carry out the work it considered necessary to be conducted on those town camps to the benefit of the residents.
124. Mr Mooney stated that in terms of results, first and foremost was the removal of the excess number of dogs and the implementation of the two dogs per household policy. Mr Mooney noted however that implementation of that policy required enforcement over and over again and that this had

only been able to occur as a result of the FaHCSIA funding. Mr Mooney stated that if funding did not continue from FaHCSIA he believed that ASTC would do everything it could as a council to see that the program continued and would seek all avenues of external funding, however because ASTC operated from a very small rate base this could cause problems for the council within its own budget.

### Frances Kilgariff

125. Ms Kilgariff is presently the Executive Director of Regional Development in the Department of Regional Development, Primary Industries, Fisheries and Resources for the Northern Territory Government. Ms Kilgariff had held this position since 5 January 2009. Prior to that position, Ms Kilgariff had been employed as a Government Business Manager with FaHCSIA from May until December 2008. Importantly Ms Kilgariff had also been the Alice Springs Mayor from May 2000 until approximately April 2008. As a result, I consider Ms Kilgariff was extremely qualified and capable to give evidence as to issues she faced during her time as Mayor, particularly in relation to dogs on the town camps in and around Alice Springs.
126. Ms Kilgariff gave important evidence in relation to the history of the establishment of the MOU between ASTC and TCI. Ms Kilgariff stated that the MOU had been prepared as a result of the two councils having been engaged in court proceedings over the payment of rates by TCI to ASTC. Those proceedings had determined that TCI was a public benevolent institution and therefore did not have to pay rates. The case had caused some resentment in the relationship between the two councils and it was felt that an MOU between the councils would be a significant step forward in showing that Indigenous people and the ASTC, who serviced the whole of the township, were willing to work together and put the past behind them.
127. Ms Kilgariff considered the MOU significant as it was “the first time that an Indigenous organisation had gone through that sort of process with a non-

indigenous organisation”. Ms Kilgariff stated that as Mayor she wanted to mend the differences in Alice Springs and considered the MOU was a “really important part” of that exercise. Ms Kilgariff stated that for the first few years following its commencement on 3 November 2000, the MOU was “really quite active” and successful, with the councils working well with one another. Ms Kilgariff stated however that there then came a time where TCI simply failed to send senior representatives to meetings between the two councils, which meant no binding decisions could be made because there was no one from TCI with sufficient authority at the relevant meetings.

128. Ms Kilgariff stated that her understanding of the MOU was that animal management was one of the matters that each of the councils took joint responsibility upon to work together and to be responsible for in terms of effecting changes and to enforce. Ms Kilgariff strongly disagreed with the evidence given by Mr Donald that TCI had “no responsibility” in relation to dogs on the town camps. Ms Kilgariff stated that she felt confident in her opinion and understanding in this regard, particularly given that she was aware that TCI had received funding for animal management to enable them to fulfil their responsibilities pursuant to the MOU.
129. Ms Kilgariff stated that during her time as Mayor, ASTC had in place various programs to attempt to deal with the issue of dogs on the camps, however she considered that the reason why those programs had not been successful was to do with the issues related to access and also funding.
130. Ms Kilgariff agreed that during her time as Mayor she became aware that the ASTC staff had issues in relation to being able to access the town camps. Ms Kilgariff stated that she did not consider at any time that ASTC had “free” access to the camps and that her opinion in this regard was reinforced by the fact that she understood that at all times ASTC staff were required to have a TCI staff member in their company whenever accessing the camps. Ms Kilgariff also noted the signs out the front of each and every town camp

in Alice Springs advising that access to the town camps was not permitted without written permission of TCI.

131. Ms Kilgariff stated that in her years as Mayor of Alice Springs she did not “feel free or welcome to go into the town camps” and had never attended at the town camps without an invitation from TCI. She stated she had always understood that an invitation or permission was required. Ms Kilgariff stated she could recall that her opinion in this regard (which was an opinion she understood was held by all ASTC staff at the time) had been expressed in meetings with TCI staff present and at no time had any TCI representative ever indicated that this view was incorrect. Ms Kilgariff stated that even in her role as Government Business Manager for the Indigenous Coordination Centre of FaHCSIA she continued to hold the view that permission from TCI was required before access could occur.
132. Ms Kilgariff stated that shortly after commencing her duties with FaHCSIA she attended a number of the camps to provide information in relation to the Federal Intervention. Ms Kilgariff stated that she met with the various stakeholders to obtain their opinion in relation to what was required at the town camps to deal with the problems associated with the dogs. Ms Kilgariff stated she met with ASTC and TCI and during this time she was aware TCI was receiving funding from FaHCSIA for animal management.
133. Ms Kilgariff stated that one of these meetings included Dr Honey Nelson and that this meeting on 23 July 2008 she and Dr Nelson put together a strategy for the town camps to obtain funding for more rangers and a sterilisation program. Unfortunately, as circumstances have it, the following day (on 24 July 2008) Mr Hardy was killed. Ms Kilgariff recalled that following this death she convened an urgent meeting on 29 July 2008 at the Indigenous Coordination Centre to discuss issues related to dogs at the town camps. Ms Kilgariff stated this meeting was called to create short term and long-term strategies for dog control at the camps.

134. It was during this meeting that Ms Kilgariff recalled that Mr Rex Mooney specifically stated that ASTC was of the understanding that it could not access the town camps without the presence of someone from TCI. Ms Kilgariff stated that she recalled the Acting Director, Ms Tracey Brand, stating that this view was incorrect, and that ASTC could in fact access the camps at any time. Ms Kilgariff stated she was “very surprised” at this response as it had never been her understanding that unlimited access was permitted. She stated she was “delighted” and considered this to be a major breakthrough.
135. Ms Kilgariff stated that the TCI letter of 1 August 2008 that flowed from that meeting confirming unfettered access was an “incredible achievement” and she considered it enabled the program being currently operated with the funding from FaHCSIA to be such a success.
136. Ms Kilgariff stated that it was her opinion that if such funding ceased from FaHCSIA, ASTC would try and do all it could to continue the program simply because it had been so very successful. However she considered that the continuation of that program without the necessary funding would mean that it would come at a cost of other programs, or alternatively an increase in rates.

### William Tilmouth

137. Mr Tilmouth is the Executive Director of TCI and has been so for approximately the last 12 years. In addition to his time as Executive Director, Mr Tilmouth has been employed on and off by TCI since approximately 1991.
138. Mr Tilmouth indicated that there were approximately 1600 to 2000 town camp residents, together with many visitors from remote communities, which could increase the overall population on the camps to as much as 3500.

139. Mr Tilmouth gave evidence, substantially in accordance with that of Ms Kilgariff, as to the basis for the establishment of the MOU between ASTC and TCI. Mr Tilmouth considered that the MOU had enabled the two councils to establish a far closer working relationship in relation to a number of identified issues, which he agreed included animal management. Despite this, Mr Tilmouth maintained that he considered that the “legislative responsibility” for animal management (or dogs) rested with ASTC because “all the town camps are within the municipal boundaries” of the ASTC.
140. Mr Tilmouth also endeavoured during his evidence to allege that he could not recall ever attending a meeting with ASTC representatives where the dog issues at the town camps were discussed. Mr Tilmouth (at page 176) stated:
- “I recall going to meetings where the rubbish left by visitors in the river was very much apparent and photos were presented but – and the emphasis was not so much on dogs but on visitors”
141. Given the evidence provided to me by Mr Wheatley, Mr Mooney and Ms Kilgariff I simply do not accept Mr Tilmouth’s evidence in this regard.
142. Mr Tilmouth endeavoured on several occasions during his evidence to suggest that ASTC never had any difficulties in accessing the town camps, and that access by ASTC was never denied by TCI. Mr Tilmouth endeavoured to portray that simply anyone could walk onto the town camps whenever they wished depending “on whether the Housing Associations, who are the holders of the Special Purpose Lease, want you there or not and that depends on what behaviour you’re doing”. Mr Tilmouth went on to state that “if you’re just passing through, I don’t think there would be any objection. If you were visiting, there wouldn’t be any objections, but if you were selling vacuum cleaners to people without carpets, I think there would objections”.
143. Upon giving this answer, I questioned Mr Tilmouth (at page 169 of the transcript) about the signs in front of the town camps indicating written

permission from TCI was required before accessing the town camps. A copy of exhibit 6 was shown to Mr Tilmouth who then attempted to reconcile his earlier evidence with that photograph. Mr Tilmouth stated as follows:

“I think you’d find, Your Honour, that there are other camps with a similar sign that says no entry without permission, which is another version of that, which means that if you were to approach the President and ask permission, he would give that to you there and then. The written permission is something that that community would have agreed to have done. It is not something that Tangentyere subscribes by, but if they instruct us to ask for written permission, we would”

144. I note that this evidence is contrary to the evidence given by Mr Corby in relation to access and also that given by Mr Donald. It is also directly contradictory to the evidence given by Ms McMillan who, as a previous camp resident, stated ASTC required permission from TCI before it could access the camps.
145. Mr Tilmouth then also endeavoured to down play the significance of the signs by stating that the signs were put in place “way before” his time. Mr Tilmouth stated that during his tenure as Executive Director “I have never ever instructed new signs to be put up, so I would say they were outside of that tenure”. This evidence is also directly contradictory to the evidence given by Mr Corby who stated that the sign appearing in exhibit 6 was “only recent” and there had been similar signs in place before. I simply do not accept Mr Tilmouth’s evidence that the sign depicted in exhibit 6 is one that has been in place in excess of the last 12 years. It is a sign that is relatively new in appearance and I am of the view that Mr Tilmouth is being somewhat disingenuous in this regard.
146. In terms of access, Mr Tilmouth acknowledged that he was aware there was an agreement between the two councils that a TCI staff member would attend if ASTC were to enter the town camps. Mr Tilmouth stated that

although this was the agreement, and whilst they would always prefer a TCI member to be present, that was not always practical.

147. In terms of reported attacks on the ASTC workers at the camps, Mr Tilmouth stated he had heard this was happening “every now and then”. Mr Tilmouth also stated that he was aware that the relationship between the two councils “needed to be worked on”. Counsel Assisting endeavoured to ascertain what TCI was doing to address the issue of ASTC staff being attacked. Mr Tilmouth, appeared not to accept that the problem existed in the camps themselves. Initially Mr Tilmouth stated (at page 177) as follows:

“Well we opened the doors for the council to come in. I mean, the meetings that the housing associations had all the way along with the rangers and with the town council were cordial and quite friendly and quite receptive of each other. I mean, you can come across a group of people, they’re not necessarily town camp residents; they could be visitors, they could be just a drinking school that’s happening around a bush. People do these sorts of things. It’s not necessarily town camp residents that would be adverse to the presence of the Alice Springs Town Council. It’s not as clean cut as that”

148. At page 178 Mr Tilmouth again stated as follows:

“The problem in relation to this stuff here you’re talking about did not only exist within town camps but on the fringes of town camps in the vicinity of town camps. This is something that you need to grasp is that the whole volume of people that inundate those camps at times, a lot of them are visitors, and whether you can deal with that once that happens, visitors come and go, and it’s not something that we have a grasp on. We do have a grasp on permanent residents but...and we’d be able to deal with that”

149. I note that during the course of these proceedings there was never a suggestion made, nor any evidence given, that any of the difficulties experienced by ASTC staff occurred on the fringes, or outskirts, of the town camps. The evidence received related to the residents and occupants of the town camps. I therefore do not accept Mr Tilmouth’s assertions in this regard.

150. It appears from the evidence that the reality is that TCI did nothing to attempt to alleviate the situation confronting the ASTC workers when they attended at the camps, except to reinforce the policy that ASTC were required to have a TCI staff member with them when they attended at the camps.

151. In terms of “responsibility”, Mr Tilmouth agreed (at page 171) that TCI did have responsibility for looking after the dog problem on the town camps. Mr Tilmouth identified that responsibility as follows:

“We ensure that each housing association – we work with each housing association in bringing in the policy of two dogs per house, we would report when there was more than two dogs per house, we were to seek assistance and assist wherever we could”

152. In terms of responsibility, the following further exchange took place at page 179:

“CORONER: Do you understand Mr Donald told me that the Council had no responsibility for the dog problems?---Well the.....

The problems to do with dogs in town camps. He said to me that the Tangentyere Council had no responsibilities in respect of that. Do you agree with him?---When you’re talking statutory responsibility, yes I agree with him.

Well, tell me about other responsibilities that might apply?---Our responsibilities is to ensure that conditions of grants are fulfilled and we get a whole myriad of conditions put on that. We are accountable to the funding bodies and we administer those grants in the proper and fair manner. That is a big responsibility.

So you take some funds to manage dogs but have you got responsibility about the outcomes in respect of those programs?---We’re not mandated in legal terms to do that.

So what, your just mandated to spend it; you’re not mandated for quality assurance outcomes?---We take responsibility in regards to – we ensure that the administration of those funds and the condition of grant of those funds are met in the right and proper manner and spent in the appropriate places.

So aren't you therefore responsible for the outcomes?---I mean if we can say that the whole entire dog program is responsible to one environmental health officer and a vet that works 2.5 days a week, that's a lot of responsibility on two people.

Does your council have some responsibility for the problems to do with dogs in town camps?---Yes. We will work cooperative, and I think that's a responsibility that we take very highly.

To work what?---Very cooperatively with whoever has the responsibility.

So you're responsible to work with people who are responsible for the dog problem?---Yes, we will assist. We've always worked in partnerships. That's what we'll do.

153. In relation to funding, the following exchange took place:

“CORONER: Well were you obtaining the funds to manage problems with dogs on those camps?---We never obtained funds to fully manage those dogs on town camps.

Yes, that wasn't the question I asked you. Were you obtaining any funds to manage the problems to deal with the dogs on those town camps?----No we weren't.

Any fund, any funds?---The only funds that we currently receive and have been receiving is one position with – as an Environmental Health Officer and one half – 2.5 per day – days per week for the Vet”

154. Mr Tilmouth went on to attempt to argue that despite this funding, TCI in fact received “ad hoc” funding and that such funding was not effective. He stated “It was very makeshift and very pitiful in the real terms. And so all along through our history, funding is not a continuous stream”. This evidence is contrary to that given by Mr Donald and contradicts also the TCI website referring to TCI operating a “Comprehensive Dog Management Program”. When this was brought to Mr Tilmouth's attention his initial explanation for such a reference on the TCI website was “Well I'm computer illiterate. I really don't know what the website claims...”.

155. Mr Tilmouth's evidence stands in contradiction to his own statutory declaration where he states that TCI is the "Major Service Delivery Agency" for the town camps. Counsel Assisting asked Mr Tilmouth that if his evidence was correct, that TCI did not receive sufficient funding, then why did TCI not simply say to ASTC that it wished for ASTC to take control of the dog management issue. At page 175 Mr Tilmouth stated as follows:

"I think all along we have always wanted the responsible agent to stand up and take responsibility for their agency, yes, and that's not just the Alice Springs Town Council, it's the Governments that fund these programs as well. So I think all along, we would have required that and wanted that to happen, just like we let the police do policing"

156. I infer from this answer that Mr Tilmouth believes TCI should hold no responsibility for the management of dogs on the town camps and that this should rest solely with ASTC. Further, that as a result, it is ASTC as the responsible agency who should therefore receive the necessary funding for such programs, and not TCI.

157. In terms of the issue of appropriate funding to deal with the issue of dogs and dog management on the town camps, Mr Tilmouth appeared to accept during his evidence that TCI was not the appropriate agency to receive funding to carry out an animal management program effectively. Because of the importance of this issue to this inquest I set out the evidence in this regard:

"COUNSEL ASSISTING: Mr Tilmouth do you consider that it could be argued by an outsider, if they were listening to all of this, that Tangentyere Council appears to want to be involved in all these sorts of policy decisions and involved in cooperation towards reaching these policy decision, but it doesn't actually want to carry those decisions or have any responsibility for carrying them into effect?--- If I was an outsider, I'd say fund them properly, they'd properly do the job.

Well, isn't your answer earlier if funded properly, but make sure it's done by the people you say have a legal responsibility, being Alice

Springs Town Council?---Well that's where the funding is heading and that's where it's going now, and that's the right place for it to be, but in those days, we had to do the job on a makeshift ad hoc basis, because the funding was never secured, and that's the situation. But I'm glad that it's going to the proper authority and I'm glad that the jobs going to be done properly by the people who have legitimacy to do that job"

158. Mr Tilmouth thereafter conceded that the animal management program that was operated by TCI was "a failure, a total failure".
159. In relation to the issue of reporting problems with dogs on the town camps, Mr Tilmouth was asked whether he was aware that one of the Presidents of a town camp understood that if there was a problem with dogs, that was to be reported to TCI. In relation to this proposition Mr Tilmouth stated that reporting to TCI was "an option", but that residents also had an option to report through the housing association and also to report directly to ASTC. I note that this stands in contradiction to the evidence given by Ms McMillan as to her understanding as President, and also as a resident of one of the town camps.
160. In relation to the ASTC conducting its role of animal management on the town camps, Mr Tilmouth stated that in his experience the ASTC did not shirk from its responsibilities for animal management control and that he could not recall an occasion where ASTC ever refused to cooperate with TCI. He also confirmed he had never heard an outcry of criticism directed to ASTC in this regard.
161. In terms of the continuation of the program currently being conducted by ASTC from the FaHCSIA funding, Mr Tilmouth stated that he considered that the program was very successful, that such funding needed to be continued and that he recommended "that Government's keep supporting this initiative because it's one that works".

Mark Coffey

162. Mr Coffey is the Executive Director of the Alice Springs Transformation Plan for the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). Mr Coffey has been employed in that role since approximately March 2009, but prior to that was employed as the Regional Director for FaHCSIA from January 2008. Mr Coffey provided a statement in relation to his employment and the role of FaHCSIA in terms of the funding for programs in the town camps during the 2007/2008 financial years to date (exhibit 13).
163. Mr Coffey gave evidence that his duties were to establish a plan for the town camps in Alice, and the broader Alice Springs area, to improve the lives of Aboriginal people living in the town camps and also visitors to Alice Springs. Mr Coffey stated that his employment centred around the reform and improvement of infrastructure, housing and tenancy management on the town camps.
164. Within his statement, Mr Coffey noted that his role was to ensure that services to the town camps were “normalised”. Mr Coffey explained in evidence that what was meant by “normalised” was that at the present time the majority of services into town camps were delivered by TCI, rather than through the mainstream service providers such as ASTC. Mr Coffey stated that the intent of the transformation plan was to bring the town camps into line with the rest of the Alice Springs suburbs and have services delivered by the mainstream provider, namely ASTC.
165. Mr Coffey gave evidence that as part of its funding arrangements in the 2007/2008 financial year, FaHCSIA had provided funding for municipal services to TCI and “part of that funding was certainly for dog control”. Included in Mr Coffey’s statement were details setting out the funding arrangements from FaHCSIA to TCI in the 2007/2008 financial year. I note that Mr Coffey stated in evidence that during that financial year, FaHCSIA funded TCI \$1.57 million for municipal services in the 18 town camps

across Alice Springs. Mr Coffey noted that TCI provided a budget to FaHCSIA that particular year identifying a budget of \$40,833 for dog control. Mr Coffey also noted that FaHCSIA provided funding to TCI for environmental health during that year in the sum of \$286,143. I note that the relevance of this amount relates to the evidence given by Mr Donald that dog control was also part of the TCI budget for environmental health.

166. In terms of the issue of responsibility for animal control, Mr Coffey stated in evidence that he considered TCI did hold some responsibility for the dog problem at the town camps because TCI was specifically funded via FaHCSIA through municipal funding for dog control. Mr Coffey stated that through his role and responsibilities with FaHCSIA he considered that TCI was responsible for dogs on the town camps. In this regard Mr Coffey stated as follows (at page 198):

“Tangentyere Council were funded for municipal services and operations. Under that activity, there was a component specifically for dog control within town camps. Tangentyere Council do provide all other associated services to town camps, and the Alice Springs Town Council, to my knowledge, aren’t funded for the town camps to provide any services, because none of the properties are rated. Therefore, it stands to reason that the funding recipient is responsible”

167. In terms of access to the town camps, Mr Coffey noted that he understood via his previous role as a police officer that people could access the town camps, however he noted that “a lot of people in Alice Springs, both Government and non Government service providers and others, believe that there is restricted access to the town camps and primarily because of the signs that are erected at those town camps”. Mr Coffey stated that even in his role with FaHCSIA he had been advised by TCI that their permission was required prior to FaHCSIA attending at the town camps. At page 199, Mr Coffey stated as follows:

“Recently we’ve been engaging with the individual housing associations around the infrastructure works that we want to do on

the town camps, and we were meeting with the housing associations until recently, when I received a letter from William Tilmouth, which stated that there's an agreement between each housing association and Tangentyere Council, for Tangentyere Council to conduct their business. Therefore, any meetings that we want to have with the housing associations, need to be organised through Tangentyere and we're not to hold any meetings with those housing associations without Tangentyere's agreement"

168. Mr Coffey stated that he had received this letter from Mr Tilmouth as recently as 11 August 2009. I note that this letter is completely contrary to the evidence given by Mr Tilmouth that access to the town camps was effectively unfettered for everyone and that permission from TCI was not required. As I stated during the course of the proceedings to Mr Coffey, Mr Tilmouth's evidence should now reassure Government Departments and other agencies, that they are free to access the town camps for the purposes of conducting their lawful business.
169. In relation to the issue of funding, Mr Coffey confirmed that prior to these deaths there had been very little auditing of the outcomes of funding to ensure arrangements were successful. Mr Coffey noted that since these deaths, FaHCSIA was providing funding to ASTC in excess of \$200,000, with one of the aims of the project being to reduce the number of dogs per household on the town camps to no more than two healthy and registered dogs. Mr Coffey noted that this aim did not exist prior to these deaths and was a direct result of the deaths of Mr Hardy and Mr Roe. Mr Coffey stated that as a result one of the performance indicators for the ASTC project was for ASTC to provide a report describing how the activity had benefited the community and for ASTC to link how they achieved, or did not achieve, the project objective. He stated that report was in addition to any financial audit.
170. As a result of the evidence from Mr Coffey, together with his statement, I have been reassured that by virtue of the changes in funding arrangements instituted by FaHCSIA, there is now a method by which the relevant

Government Department/s could audit ASTC to ensure that the outcomes of the program, for which funding was being provided, were successful. As was repeated before me many times during the course of this inquest, it appears that the dog control program being managed by ASTC as a result of the FaHCSIA funding is one that should continue and is one that is now being properly audited, not just in a financial sense but also in relation to its outcomes.

## **Findings**

171. As with all inquests, part of the endeavour is to try and learn from the death to avoid similar deaths occurring in the future. It is clear from the evidence presented before me that ASTC accepts it had responsibility for animal control, and therefore dogs, on the town camps of Alice Springs, just as it does for the entire municipality of Alice Springs. I find that this acceptance of responsibility has always been the case, however the attempts by ASTC to effect control over the number of dogs on the town camps has been difficult in the past.
172. I find that the impediments to ASTC fulfilling its responsibilities have been significantly contributed to by the actions of TCI. Those actions in particular being:
  - a. TCI's insistence, pursuant to the MOU, that it be consulted to develop protocols and service arrangements in relation to animal management;
  - b. TCI's insistence that a member of its staff be present at all times when ASTC staff attend upon the camps;
  - c. TCI's reliance upon the signs erected outside each of the town camps stating that written permission of TCI was required before access could occur. As stated previously, I do not accept Mr Tilmouth's evidence that he has always considered those signs to be

meaningless. I find that TCI has relied heavily upon those signs as a basis to restrict access, or at the very least to form an impression in the minds of other agencies and the like that access was restricted and controlled by TCI; and

d. TCI's failure to advise ASTC at any time following the MOU of 3 November 2000 up to 29 July 2008, that ASTC had unfettered access to the town camps.

173. In her closing address Counsel Assisting stated that it could be argued that there had been a failure by ASTC to fulfil its obligations. However, I indicated during proceedings I hesitate to call ASTC's endeavours a "failure". I find instead that ASTC was in fact trying to observe the MOU between ASTC and TCI, and it attempted to work with Aboriginal people instead of flaunting its authority by going in, on an unrestricted basis, to the town camps.

174. I find that this was an understandable position to have been taken by ASTC given the cultural complexities in Alice Springs and the need for the sensitivities of the Aboriginal residents in the town camps to be addressed and respected. This respect resulted in some lapses in the enforcement of dog control measures resulting in the proliferation of dogs in the camps. Responsibility for this must also be borne by TCI.

175. It seems however that as a result of the correspondence of 1 August 2008 from TCI to ASTC confirming unfettered access to the town camps that this difficulty with access no longer exists. ASTC now appears able to work very successfully in the town camps and to carry out its legal responsibilities and duties in relation to animal management and dog control. It is a most unfortunate circumstance indeed that it took the deaths of Mr Hardy and Mr Roe before this could occur, however I hope the families of those two men can take some comfort in the knowledge that the deaths of their loved ones were not in vain.

176. As Counsel for TCI, Mr Bennett, submitted during his closing address “the funding for (animal management and dog control) is where it should be (ASTC) with the authority that has the statutory power to use it most effectively”. That funding is being used towards the program instituted by ASTC, which, by all accounts, has proved to have excellent results and to have benefited the residents of the town camps in and around Alice Springs.

### **Recommendations**

177. As a result of the evidence before me, I recommend that funding for the continuation of the dog management program on the town camps presently being conducted by the ASTC by virtue of funding from FaHCSIA be continued. I would be extremely concerned if, after having heard all of the evidence during this inquest about the success of that program, funding did not continue via some Government authority post 30 June 2010.

178. The current program is clearly an important program for the benefit, and improvement in the quality of life, of the residents in the town camps and should continue into the future. Whilst accidents can always occur, it is clear from the evidence before me that when dog numbers are high, the risk of injury, harm or even death to humans increases exponentially. In these circumstances all reasonable efforts should be made to ensure that appropriate funding is provided to allow a program such as the one presently known as “Team Town Camps” operated by ASTC to continue into the future.

Mr Greg Cavanagh :

Dated this 30<sup>th</sup> day of March 2010

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GREG CAVANAGH  
TERRITORY CORONER