

# **Chapter 1**

## **Stronger Futures in the Northern Territory Bill 2011; Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Bill 2011; and the Social Security Legislation Amendment Bill 2011**

### **The referral**

1.1 On 25 November 2011, on the recommendation of the Selection of Bills Committee, the Senate referred the provisions of the Stronger Futures in the Northern Territory Bill 2011, the Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Bill 2011, and the Social Security Legislation Amendment Bill 2011 to the Community Affairs Legislation Committee for inquiry and report by 29 February 2012.<sup>1</sup> On 8 February 2012, the Senate extended the reporting date to 13 March 2012.<sup>2</sup>

1.2 References to page numbers in Committee Hansards are references to the Proof Hansard transcripts. Page numbers may differ to those in the Official Hansard when the Official Hansard becomes available.

### **Scrutiny of Bills consideration**

1.3 The bills were considered by the Scrutiny of Bills Committee in its *Alert Digest No. 1 of 2012*. The Scrutiny of Bills Committee commented extensively about its concerns with elements of the bills in this Alert, and then considered the Minister's response to issues raised by the Scrutiny of Bills committee in its *Second Report of 2012*.

### **Conduct of the inquiry**

1.4 The committee advertised the inquiry in the national press and on its website and invited a large number of known stakeholders to make submissions. The committee received 452 submissions (listed at Appendix 1) and form letters from approximately 560 individuals. Submissions and examples of the form letters are available for viewing on the committee's website [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate\\_Committees?url=clac\\_ctte/strong\\_future\\_nt\\_11/submissions.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=clac_ctte/strong_future_nt_11/submissions.htm). Seven public hearings were held in a number of locations: Ntaria (Hermannsburg), Alice Springs, Maningrida, Darwin and Canberra. A list of stakeholders who appeared before the committee is set out in

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1 *Journals of the Senate*, 2011, p. 1961.

2 *Journals of the Senate*, 2012, p. 2057

Appendix 2. Tabled documents and additional information provided at these hearings are at Appendix 3.

1.5 A representative of the National Congress of Australia's First Peoples was present at all hearings of the committee. This was a valuable exercise and the committee looks forward to continuing to work with Congress. The committee sincerely thanks all submitters and witnesses for their contribution and participation in the inquiry process. The committee wishes to extend its gratitude to the communities of Ntaria and Maningrida for their hospitality. It also wishes to thank representatives of communities who travelled long distances to appear before the committee during its hearings in the Northern Territory.

1.6 The committee noted the high level of interest in the inquiry, which included it being followed by documentary makers associated with a group of concerned Australians, as well as reporting of the hearings through National Indigenous Television.

## **Background to the policy development**

1.7 The Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Bill 2011 (the Consequential Amendments Bill) contains five schedules. The first of these schedules repeals the *Northern Territory National Emergency Response Act 2007* (NTNER Act) and sets out necessary savings and transitional provisions.<sup>3</sup> Measures implemented through the NTNER Act are commonly referred to as the Northern Territory Emergency Response (NTER) or 'the intervention'.

1.8 On 21 June 2007 the Commonwealth government announced a set of measures known as the NTER. These measures were stated to be in response to *Ampe Akelyernemane Meke Mekarle "Little Children are Sacred"*, the Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse.<sup>4</sup> The legislative package to provide the legal basis for implementation of the NTER comprised of five acts, and provisions of the NTER were excluded from the *Racial Discrimination Act 1975* (RDA).

1.9 A key plank of the NTER legislation was the creation of 'prescribed areas', to provide the legislative basis for many of the measures in the NTER to operate within these prescribed areas. Prescribed areas include all freehold land held by a Land Trust under the *Aboriginal Land Rights (Northern Territory) Act 1976*, other Aboriginal communities described as Northern Territory Community Living Areas,<sup>5</sup> town camps

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3 Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Bill 2011, *Explanatory Memorandum*, p. 3.

4 Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, *Ampe Akelyernemane Meke Mekarle "Little Children are Sacred"*, 2007.

5 Community Living Areas are a form of freehold title issued to Aboriginal corporations by the Northern Territory Government.

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declared by the Minister for Families, Housing, Community Services and Indigenous Affairs under the *Northern Territory National Emergency Response Act 2007* and any other area declared by the Minister to be a prescribed area.<sup>6</sup>

1.10 Pornography and alcohol were restricted in prescribed areas, and offences were created for possessing and supplying prohibited material in prescribed areas.

1.11 People receiving Centrelink payments who lived in prescribed areas became subject to compulsory income management. A number of the measures, such as school nutrition and community cleanup programs, did not require legislation.

1.12 The NTER was amended in 2010 by the *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2009*. The RDA was reinstated and income management was redefined.<sup>7</sup>

1.13 Between 2008 and 2010, a former Senate committee, the Select Committee on Regional and Remote Indigenous Communities, tabled five reports to the Senate, and reported extensively on the impact of the NTER measures on people living in the Northern Territory. This committee made a number of recommendations over the life of the inquiry, and had regard to the extensive reports conducted by a review committee chaired by Peter Yu in 2008 as well as ongoing implementation and evaluation reports published by the Commonwealth government.

1.14 The Stronger Futures package repeals the NTER Acts but retains policy elements of this legislation. A breakdown of key differences between the NTER and the Stronger Futures package were provided by FAHCSIA, this information is at Appendix 4. The Commonwealth government states that:

Between the end of June and mid-August 2011, wide-ranging consultations were held with Aboriginal people and other Territorians on new approaches and new ideas for the future beyond the Northern Territory Emergency Response. This built on conversations and consultations the Australian Government has been conducting over the past four years.

There were more than 470 consultation meetings in over 100 hundred towns and communities. A discussion paper, Stronger Futures in the Northern Territory, outlined eight priority areas for the future and provided a starting point for discussion.

These eight key areas are school attendance and educational achievement, economic development and employment, tackling alcohol abuse,

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6 Described in detail in *First Report*, Senate Select Committee on Regional and Remote Indigenous Communities, 2008.

7 Dr. J. Gardiner-Garden and K. Magarey, Bills Digest No. 103, 2011-12, *Stronger futures in the Northern Territory Bill 2011*, Parliamentary Library, 8 February 2012, p. 5.

community safety and the protection of children, health, food security, housing and governance.<sup>8</sup>

## **Consideration in the House of Representatives**

1.15 On 27 February 2012, the bills were considered in the House of Representatives. Amendments proposed by both the Government and Opposition in relation to the Stronger Futures in the Northern Territory Bill 2011 were agreed to by the House.<sup>9</sup>

## **Structure of the report**

1.16 This report is comprised of 4 Chapters.

- Chapter 2 provides an overview of the package of bills.
- Chapter 3 identifies and examines the main issues that were raised throughout the inquiry in light of the evidence which the committee received.
- Chapter 4 addresses those broader matters raised with the committee throughout the inquiry process.

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8 Australian Government, *Stronger Futures in the Northern Territory*, Policy Statement, November 2011, p. 1.

9 Information on the passage of Bills and amendments can be found at the following webpage: <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fr4736%22> (accessed 12 March 2012).