

5 August 2011

The Honourable Jenny Macklin
Minister for Families, Housing,
Community Services and Indigenous Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

RE: Stronger Futures Consultations

Legal services acknowledge the Australian Government's commitment to work in partnership with Aboriginal people, leaders and communities. We commend the Government on this commitment. Legal services are concerned that the current consultation process does not conform with this commitment.

We are writing to reiterate the following issues which were raised with FaHCSIA representatives in relation to the Government's 'Stronger Futures' consultations in a meeting on 28 July 2011. We also attach a copy of a letter we sent to the Australian Government two years ago in relation to the Future Directions Consultations held in 2009. We note with some regret that many of the issues raised in relation to the 2009 consultations exist in relation to the 2011 consultations.

We preface the following comments by saying that these are a collection of comments raised by a range of legal services who have attended some consultations across the NT. Legal services have not attended all consultations and we acknowledge that not all consultations have the issues to which we refer.

In the spirit of providing feedback to the Australian Government in its commitment to re-setting the relationship with Indigenous Australians, we provide the following comments:

1. The first consultations were held within a week of the *Stronger Futures* Discussion Paper being released.¹ Given the breadth and impact of the NTER legislation on Aboriginal people's daily lives, if the government is seeking to genuinely consult with Aboriginal people, it should allow proper time for communities to digest the discussion paper, seek alternative information or advice and provide considered, whole of community responses.

¹ <http://www.pm.gov.au/press-office/delivering-better-future-indigenous-people-northern-territory>

It does not appear that communities consulted were asked whether the days and time for the consultations scheduled was appropriate or suitable. This clearly undercuts the Government's assertion that it intends on working in partnership with Aboriginal people, leaders and communities in the development of policies and directions.

2. Consultations materials were provided at community meetings and not before. Therefore, people attending did not have time to properly consider and discuss the topics they were being consulted on or indeed topics on which they were not consulted on but which they may wish to raise. Although the full text discussion paper was available on the Government's website², this was not made available to the participants at consultations. Instead, a simple, pictorial based "discussion paper" was handed out at the time of consultations with no time given for participants to read it prior to consultations beginning.

3. The length of consultations were too short to properly cover the important topics to be discussed, ie 1 – 3 hours. This brevity of time does not allow for the proper ventilation of serious and systemic issues of poverty and disadvantage and the structural causes for this; it merely allows for simplified questions and simplified answers to be provided. We note that community member felt patronised by the questions, "You come and talk to us again and talk to us like little kids. We have plans, we have good plans..."

Such brief, perfunctory consultation is not an appropriate basis for the development of law and policy which will determine the future of Aboriginal people in the Northern Territory.

Although we understand that the process is to be longer than the consultations themselves, community members are not necessarily aware of this and the role of GBMS in further facilitating discussion is unclear.

4. There has been inconsistent use of interpreters. In some meetings they are not used at all although there is clearly a need. In some communities the interpreter is being used but not back translating what has been said to him in English. In some communities there is not an interpreter of both genders so if the groups break into genders, one group does not have an interpreter. We have advised Australian Government representatives of the locations where this has occurred.

5. The time of year for consultations does not fit in with community timetables and therefore will impact on availability of community members due to :

- School Holidays
- Bush Holidays (time of year which is good for travel, hunting and camping and many family groups leave the community).
- Long wet season meant some crossings had just opened so people took the opportunity to leave the area for shopping/services.

6. Department officers have advised that where significant numbers of people miss meetings or miss out on appropriately convened meetings, FAHSCIA will arrange an alternative meeting. We welcome this but note that the community needs to be advised of this.

7. It did not appear that ICC staff facilitating the consultations had been properly briefed on the community in which they were holding consultations. It did not appear that the ICC had made reference to the community's responses to the *Future Directions* consultations, or given access to a community profile which detailed school attendance, previous community plans, the level of overcrowding in the community and other local context.

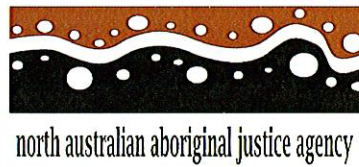
This information is essential to eliciting nuanced, locally based responses rather than general, simplified comments.

8. The following issues were not provided sufficient focus in the version of the discussion paper which has been provided to community members:

- child abuse and the prevention of child abuse;
- compulsory income management. Legal services do not agree with the assertion that income management is now non-discriminatory. Putting that issue aside, it is and remains a hallmark of the intervention and legal services do not understand why it has not been an explicit topic for discussion especially as the income management legislation allows 'community designed' income management.
- customary law amendments;
- powers of the Australian Crime Commission;
- 5 year leases;
- Substance abuse, including marijuana and volatile substances;
- GBMs and their current and future role;
- Police powers of entry on prescribed premises;
- Racial Discrimination;
- Issues with pornography.

9. The discussion paper includes extensive statistics but there are no references to the sources of the statistics. We requested sources for the information.

More broadly, we have asked the FaHCSIA representatives whether the consultations will be relied on to support the Government making the case that proposed or existing programs are 'special measures' in relation to the *Racial Discrimination Act*? FaHCSIA have taken this question on notice. If this is the case, we refer to the concerns raised on this issue by legal services and the Law Society of the NT when the Future Directions Consultations were held.



Should you wish to discuss any aspect of this letter or if you require any further information, please do not hesitate to contact the writer.

Yours faithfully,

Suzan Cox QC
Director
NT Legal Aid Commission

and on behalf of:

Ms Priscilla Collins, CEO, North Australian Aboriginal Justice Agency
Ms Patricia Miller, CEO, Central Australian Aboriginal Legal Aid Service
Ms Caitlin Perry, Executive Director, Darwin Community Legal Service