

# **Aboriginal Peak Organisations Northern Territory**

**An alliance of the CLC, NLC, CAALAS, NAAJA and AMSANT**

## **Response to *Stronger Futures***

**Aboriginal Peak Organisations  
of the Northern Territory**

**August 2011**

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# 1 Executive Summary

This submission identifies ways in which the Government can make good its commitment to a new way of working in partnership with Aboriginal people, leaders and communities to address Aboriginal and Torres Strait Islander disadvantage.

A vital first step in building stronger futures is recognising that ‘intervention’ as an approach to policy-making is fundamentally flawed. This is clear from the Closing the Gap Clearing House report, *What works to overcome Indigenous disadvantage*.

The report found that what doesn’t work includes ‘one size fits all’ approaches and a lack of collaboration with communities. What it found *does* work is community involvement and engagement; adequate resourcing and planned and comprehensive responses; respect for language and culture; working together; development of social capital; recognising underlying social determinants; commitment to doing projects with, not for, Aboriginal people; creative collaboration; and understanding that issues are complex and contextual.

## 1.1 Rebuilding Trust

A further initial step the Government can take is to work to rebuild trust with Aboriginal people following the damage that was done by the Northern Territory Emergency Response (NTER). There are a number of immediate steps that can help to re-build trust:

- Fully reinstate the permit system under the *Aboriginal Land Rights Act* (ALRA) to once more provide communities on Aboriginal land with control over who can and cannot enter their communities.
- Sections 90 and 91 of the *Northern Territory National Emergency Response Act* (‘the NTNER Act’), which seek to exclude matters of custom and culture from sentencing and bail decisions, should be immediately repealed.
- Funding for legal services in Aboriginal communities must be maintained.
- The Prohibited Material restrictions should be repealed.
- The Prescribed Area Signs should be immediately removed.
- The extraordinary law enforcement powers of the Australian Crime Commission should be withdrawn.

Partnership requires effective communication and consultation at all stages of policy formulation, development and implementation. The Aboriginal Peak Organisations of the Northern Territory<sup>1</sup> (APO NT) is therefore concerned that the consultations involved in *Stronger Futures* are not seen as an adequate precursor to another round of intervention or policy decisions without the further input and consent of those affected.

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<sup>1</sup> The Aboriginal Peak Organisations of the Northern Territory is a working group comprised of the Aboriginal Medical Services Alliance, the Central Australian Aboriginal Legal Aid Service, the Central Land Council, the Northern Land Council, and the North Australian Aboriginal Justice Agency.

APO NT is also very concerned about the quality of the consultations observed in the *Stronger Futures* process for similar reasons to those noted in relation to the Future Directions consultations of 2009.

A genuinely new approach to consultation and partnership is required. Based on previous performance, the role of Government Business Managers (GBMs) in leading such an approach and fostering partnerships between communities and government is questionable. APO NT supports recommended changes to the name and role of GBMs to a community development purpose,<sup>2</sup> and the development of agreed guidelines on how GBMs work collaboratively with Aboriginal agencies.

Noting the incorporation of the NTER measures into the COAG *Closing the Gap* structure of National Partnership Agreements (NPAs) framed by the National Indigenous Reform Agreement (NIRA), it remains a major flaw that this overarching Aboriginal policy framework lacks any Aboriginal input. APO NT believes that the COAG agreements must be re-visited to include effective Aboriginal participation, input and consent which is so crucial to developing the partnership needed.

## **1.2 Priority Areas**

APO NT has identified the way forward in relation to the eight priority areas included in *Stronger Futures*, and three additional priority areas identified by APO NT.

### **1.2.1 School attendance and educational achievement**

- Full consideration of the early childhood education and schooling findings of the Closing the Gap Clearinghouse report, *What works to overcome Indigenous disadvantage*.
- Positive rather than negative messaging around parental responsibility and school attendance.
- Ensuring schools have effective mechanisms for parental/family/community engagement and input and translation of this input into the operation of schools.
- Flexible curricula that include Aboriginal languages, cultures and history.
- More Aboriginal staff in schools.
- Training in cross-cultural communication and engagement skills, cultural awareness and Aboriginal languages, cultures and histories for teachers.
- Additional investment in remote Aboriginal schools, including from the Australian Government, to redress historic under-investment and provide equitable resourcing of schools.
- All Homeland Learning Centres should be recognised as proper schools and resourced as such.
- Governments must develop a comprehensive plan for the provision of education to remote Aboriginal communities, including clear criteria for the ongoing provision and resourcing of schools.
- Governments should ensure comparable funding allocations to schools, including between government and non-government schools.

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<sup>2</sup> Recommended by the NTER Review Panel in 2008.

- Consideration should be given to ongoing multiple areas of disadvantage faced by families, particularly in housing, in calibrating initiatives to engage parents and children in schooling.

### **1.2.2 Economic development and employment**

- The need to reform the remote working arrangements, including Community Development Employment Projects (CDEP), is clear, but this process needs to be gradual and nuanced to avoid unintended negative economic and social outcomes.
- Recognition that development progress will be highly dependent on a community-based participatory approach and on the need to plan for development to ensure that regional differences in both need and aspiration are recognised.
- Recognition of the emerging evidence that state agencies lack capacity to deliver at remote communities, including in the area of training, employment services and jobs generation and the development of appropriate policies to counteract this.
- A shift away from punitive measures in light of evidence that ‘negative reinforcement’ (punitive measures) is highly ineffective in changing behaviour and can result in ‘learned helplessness’ and other adverse consequences.
- The focus of CDEP needs to change to real ‘job creation’ through financial support to commercial enterprise development, social enterprise development and in the paid provision of services.
- There is a need to continue to support programs that encourage local Aboriginal enterprise and land management initiatives, and deliver on-ground, hands on training that is responsive to local needs and levels of formal education.

### **1.2.3 Tackling alcohol abuse**

The most effective alcohol supply restriction measure that should be adopted is to:

- Implement a minimum floor price on alcohol across the Northern Territory (NT).

Further effective measures in tackling alcohol abuse and harm include:

- Repeal the liquor licences held by the ‘animal bars’ in towns such as Alice Springs.
- Adopt one day per week where take-away alcohol sales are not permitted.
- Expand the availability and remote delivery of culturally-appropriate treatment, rehabilitation and support services for people with issues with alcohol, including those in prison.
- Facilitate education of the impacts and dangers associated with alcohol within schools.
- Provide early childhood intervention programs focused on strengthening resilience.
- Ensure the proper and independent evaluation of the impact of wet canteens before allowing any expansion of wet canteens in remote areas.
- Develop Alcohol Management Plans for all communities and town camps in proper consultation with residents.
- Investigate the possibility of providing alcohol-free accommodation on town camp leases.

- Re-empower elders and community leaders to have ownership of their community's law and justice issues.

#### **1.2.4 Community safety**

Community safety is not simply about more police. Relevant to the Commonwealth Government's role in Aboriginal communities, the following areas should receive particular attention:

- More resources for services that promote community safety.
- Mechanisms, such as Law and Justice Groups, should be encouraged, supported and resourced to give communities ownership and leadership over their law and justice issues, and a meaningful way to exercise this leadership in partnership with the key stakeholders of the mainstream justice system.
- Better cultural understanding and adoption of community ways of working by police.

#### **1.2.5 Health**

- Continue the current primary health care reforms under coordination of the NT Aboriginal Health Forum, including regionalising of Health Service Delivery Areas.
- Continue the development and support of regional community controlled health services.
- Reform MOS Plus to a more decentralised model of service delivery that is better integrated with primary health care and provides increased coverage to remote communities.
- Improve the coverage of new AOD services particularly to remote communities.
- Fund integrated AOD and mental health services within primary health care.
- Target mental health services more effectively to remote communities via Aboriginal community controlled health services.
- Reform MSOAP-ICD chronic disease outreach services to provide a more bottom-up approach and to improve its administrative responsiveness to local needs.
- There is an urgent need for dedicated housing for Aboriginal Health Workers and other clinicians to be provided in communities.

#### **1.2.6 Food security**

- On-going monitoring and assessments should be undertaken to ensure licensing standards are maintained by stores.
- APO NT continues to support the availability of Outback Stores as a management option for stores, but believes that the decision of communities to introduce or retain Outback Stores must be voluntary.
- The Commonwealth and NT Governments should support the resolutions of AMSANT's Fresh Food Summit 2010.

### 1.2.7 Housing and land tenure

- The Commonwealth Government must finalise negotiations with the Central Land Council (CLC) and Northern Land Council (NLC) regarding the payment of 'fair rent' for the five-year leases and just terms compensation.
- The Commonwealth Government must act decisively to re-set the relationship with Aboriginal people by working with the NT land councils to transition smoothly out of the five-year leases into voluntary section 19 ALRA leasing arrangements over communities.
- The Commonwealth Government should revisit its secure tenure policy and work with the land councils to remodel the policy so property rights are recognised and traditional Aboriginal landowners' decision making processes are respected and play a leading role in community development and community management.
- In line with its commitment to voluntary leasing, the Commonwealth Government should now pursue alternative leasing arrangements and should itself apply for leases over its assets on Aboriginal land.
- A holistic 'secure tenure' policy will require the NT Government to amend the relevant legislation. The CLC's position is that specific legislation to regulate community living areas is needed that allows for leasing on Community Living Areas consistent with the NT and Commonwealth governments' secure tenure policy; and provides for CLAs to be held in perpetuity.
- The Commonwealth Government must, consistent with the National Partnership Agreement on Remote Indigenous Housing (NPARIH), fund, undertake and make public a rigorous and transparent assessment of housing 'needs' in remote Aboriginal communities that will then be used to allocate future housing funding.
- The Commonwealth Government must, as a matter of priority, commit to a schedule of new housing to meet the urgent needs of non-Remote Service Delivery (RSD) and non-Strategic Indigenous Housing and Infrastructure Program (SIHIP) 'priority communities' so as to avoid entrenching tiers of disadvantage.
- Consistent with the National Partnership Agreement on Remote Service Delivery (NPARSD), governments need to consistently promote a diverse housing sector that includes prioritising local Aboriginal employment. Policies, agreements and funding arrangements should all be drafted to ensure that the housing sector in remote Aboriginal communities can, over the coming decade, diversify beyond public housing.
- The Commonwealth Government should fund life skill training programs and a remote tenancy legal advice service.
- Territory Housing should conduct meaningful consultations with Aboriginal landowners, Aboriginal community residents and the Land Councils regarding its draft home ownership policy.
- The Commonwealth Government should convene a taskforce comprising land councils and lenders interested in issuing loans on Aboriginal land if the right security, in the form of a transferrable lease, could be negotiated.

### **1.2.8 Governance**

- There is an urgent need to investigate and invest in community-controlled governance models.
- Community governance requires appropriate resources, training and oversight to ensure on-going effectiveness.
- No single model can be applied to all communities. Community-based and participatory research is required to develop appropriate models.

### **1.2.9 Role of the social security system**

- Repeal compulsory income management that is based on the age and length of time a person has been in receipt of Centrelink benefits.
- A voluntary system of income management with an option for case-by-case trigger-based income management is preferred to the current model. It is noted however that triggers for income management should not be continually extended, as currently under consideration, without proper consultation and consideration of likely consequences and discriminatory impacts.
- BasicsCards and / or Income Management accounts could be retained as a standalone option that Centrelink customers can choose to utilise in the same way as they do Centrepay. Customers should exercise control over the percentage of income allocated to a BasicsCard or Income Management account.
- Community consultation should occur on how financial literacy can best be developed and improved in communities.
- Financial literacy and education services to adults and to school students must be developed and improved.
- If/while NT income management is retained in its current form, the Government should consider a number of practical changes.

### **1.2.10 Outstations, homelands and smaller communities**

- The Commonwealth Government should clearly state that its policies are not aimed at moving Aboriginal people into growth towns or regional centres.
- The Commonwealth Government should renegotiate the 2007 Memorandum of Understanding with the NT Government to provide for ongoing Commonwealth Government involvement in the resourcing of outstations, and seek to re-negotiate the NIRA and related NPAs to include effective Aboriginal participation, input, and consent.
- Support should be provided for innovative housing and shelter options for outstations that foster the capacity for greater self-sufficiency.
- CDEP should be reformed to provide real 'job creation' through financial support to commercial enterprise development, social enterprise development and in the paid provision of services on homelands and outstations.
- Support should be provided to local Aboriginal organisations, such as resource agencies, to deliver services to outstations.



- Funding should be provided so that Aboriginal people can be trained to deliver repair, maintenance and construction services, rather than relying on outside contractors.

#### **1.2.11 Inter-agency collaboration and coordination**

- Improved inter-agency collaboration and coordination must be fostered so agencies are aware of, and better communicate to clients, new and existing options.
- In the context of social security measures, it must be ensured that Job Services Australia providers, schools, health clinics, crèches, Commonwealth-funded financial counsellors, Money Management and Money Business providers and others both understand and communicate all relevant options to their clients.

## 2 Introduction

APO NT is pleased to make this submission in response to the Commonwealth Government's *Stronger Futures* discussion paper ('the discussion paper').

APO NT welcomes the Government's stated intention of working in partnership with Aboriginal people, leaders and communities to develop policies that will work to reduce Aboriginal disadvantage.

This submission identifies the ways that Government can make good its commitment to a new way of doing business. We identify tangible examples of how approaches that are based on partnership, consultation and community development can work. We also identify practical improvements to existing policy, based on the collective experience of our organisations and the people we represent.

The submission aims to be a constructive contribution to the Government's efforts to get Aboriginal policy back on the right track. It recognises that this is a responsibility that is shared by government and Aboriginal people, their communities and their organisations.

### 2.1 Beyond 'Intervention'

A vital first step in building stronger futures is recognising that 'intervention' as an approach to policy-making is fundamentally flawed. It is vital that when reflecting on the NTER and considering future directions this is not overlooked. The failures of the NTER are not simply the result of having the wrong programs or policy settings. Its fundamental approach was wrong.

The findings of the Closing the Gap Clearing House in its report *What works to overcome Indigenous disadvantage* make this clear. Following extensive evidence-based analysis, the Clearing House found that what doesn't work includes 'one size fits all' approaches; a lack of collaboration; external authorities imposing changes and reporting requirements; interventions without local Aboriginal community control and culturally appropriate adaptation; and failure to develop Aboriginal capacity to provide services.

All of these were features of the NTER.

On the other hand, what the Closing the Gap Clearing House found *does* work is community involvement and engagement; adequate resourcing and planned and comprehensive responses; respect for language and culture; working together through partnership, networks and shared leadership; development of social capital; recognising underlying social determinants; commitment to doing projects with, not for, Aboriginal people; creative collaboration; and understanding that issues are complex and contextual.

Few, if any, of these could be said to be features of the NTER.

Any successes that can be identified from the NTER have been achieved despite the methodology of 'intervention', not because of it. Creating stronger futures therefore requires more than a

recalibration of the NTER. It requires a commitment to a different approach – an approach that will work and bring benefits that will last.

### **3 Rebuilding trust and resetting the relationship**

*Stronger Futures* recognises that the government must work to rebuild trust with Aboriginal people following the damage that was done by the NTER. The Intervention caused great hurt to very many Aboriginal people.

There are a range of tangible steps that the government could take that would demonstrate its commitment to resetting the relationship with Aboriginal people.

- (a) It is of concern that no mention of the changes to the ALRA permit system for access to Aboriginal land<sup>3</sup> is included in the discussion paper. Communities on Aboriginal land feel as though they have lost control over who can and cannot come onto their land. The flow-on effects are overwhelmingly seen as negative and counterproductive to community safety. The permit system, the NTER changes to which are not sunsetted, must be reinstated in full.
- (b) Sections 90 and 91 of the NTNER Act, which seek to exclude matters of custom and culture from sentencing and bail decisions, should be immediately repealed. These sections have caused great concern in remote communities because they have sent a message that Aboriginal custom and culture are not valued and indeed are considered to be illegitimate by government. The provisions lack an evidence base, are discriminatory and have been the subject of strong criticism from Courts. There is no place for these provisions in a country that respects the right to racial equality.
- (c) Funding for legal services in Aboriginal communities must be maintained. The legal needs of Aboriginal people living in remote communities are grossly underserved in comparison to other Australian communities. Increases in funding to CAALAS and NAAJA since the NTER was introduced, through both the Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) portfolio and the Attorney-General's portfolio, have been welcome. But funding is still at levels well below those received by mainstream legal aid services when assessed in terms of caseload and need. This is a fundamental issue of access to justice and goes to the ability of Aboriginal people to know, protect and maintain their basic rights.
- (d) The Prohibited Material restrictions should be repealed. We understand the position of FaHCSIA to be that individual communities can request the bans to be lifted. We consider, however, that the restrictions should be immediately removed. These restrictions have also caused enormous hurt, particularly to Aboriginal men in remote communities, who feel that they have been stigmatised as pornographers. The restrictions lack an evidence base and are clearly discriminatory.

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<sup>3</sup> References to Aboriginal Land have the meaning in the Aboriginal Land Rights (Northern Territory) 1976 Acts; being inalienable freehold title held in trust on behalf of the traditional Aboriginal landowners.

- (e) Prescribed Area Signs should be immediately removed. We understand FaHCSIA is looking to consult with communities as to the possibility of these signs being used for alternative purposes. Consultation regarding the use to which the communities would like to put the signs can take place at a later time.
- (f) The extraordinary law enforcement powers of the Australian Crime Commission should be withdrawn. These coercive powers should now be seen as part of the flawed logic of the Intervention and be dismantled. There is no evidence that supports their continuation. We are extremely concerned that these powers remain open-ended and are not time-limited, as with several of the other Intervention measures. It is not in keeping with resetting the relationship that draconian ‘Star Chamber’ powers and the removal of the right to silence remain.

## 4 Consultation and partnership

While an absence of consultation of any type was a feature of the NTER, it is important to recognise that consultation prior to intervention is only a partial improvement. Moving beyond the flawed methodology of intervention requires a commitment to genuine partnership.

Partnership requires effective communication and consultation at all stages of policy formulation, development and implementation. Consultation with Aboriginal people must not be something that happens only at the beginning or end of a policy process. Nor can it be understood to be satisfied by the holding of public meetings at which a community is ‘consulted’.

APO NT is therefore concerned that the consultations involved in *Stronger Futures* are not seen as an adequate precursor to another round of intervention or policy decisions without the further input and consent of those affected.

APO NT is also very concerned about the quality of the consultation that we have seen in the *Stronger Futures* process. Our concerns include:

- Consultations took place in an unrealistically short time period. Consulting with 72 remote communities, as well as residents in Darwin, Alice Springs and other regional centres in a six week time period has limited the capacity for people to contribute to the process and share ideas across the sessions.
- The duration of consultations in remote communities has also been too short. The consultations have attempted to cover 6-8 complex issues in a single 1-3 hour consultation session. This has meant that communities were able to provide only superficial feedback. There is a need for communities to be given greater opportunities for constructive, in-depth input and to provide positive suggestions for initiatives that will improve wellbeing.
- Information about *Stronger Futures* issues and other matters relevant to the NTER was not adequately provided to communities prior to ‘community consultations’. While APO NT understands that Tier 1 consultations were to occur to involve GBMs and community members in the lead up to timetabled public consultations, many community members advise that they were not involved in these discussions. Additionally, community members

were only provided with an abridged brochure about *Stronger Futures* rather than the entire discussion paper.

- Facilitators needed to have been more open-ended in their time allocations, with greater capacity for multiple visits to communities. This would have allowed for much richer discussion and for relationships of trust with communities to have been built.
- All facilitators should also have been independent from government and suitably qualified and experienced to facilitate consultations with people from remote Aboriginal communities, using interpreters.
- Consultations excluded a number of significant issues that are relevant and important to Aboriginal people from remote communities. In particular, income management and issues of customary law were excluded. These issues are very much part of the conversation that many Aboriginal people wanted to have.
- At the same time, the superficial nature of the consultations more often resulted in the generation of 'wish lists', much of which is neither within the capacity nor willingness of government to respond to. This raises ethical concerns about the process and the likelihood that communities will view the consultations as further proof of government not listening to or taking seriously community priorities and concerns.
- Whilst we acknowledge efforts by Government to have interpreters available for the consultations, there were nevertheless occasions where consultations took place without interpreters present, where an interpreter was available for women but not men (or vice versa), where facilitators did not utilise interpreters properly (eg telling people to let the interpreter know if they needed to use the interpreter) and where interpreters simply sat mute during the consultation. Additionally, the discussion paper was not available in any language apart from English.
- Some consultations in remote communities were poorly attended. Other consultations were reasonably well attended but dominated by a few individuals. It is important that Government not assume that because a meeting took place, it was representative of the views of that community. This is particularly relevant given that in some communities non-Aboriginal people such as Shire Service Managers participated in the consultations and, in fact, dominated them.

We note that similar concerns to these have already been raised with the Minister for FaHCSIA by NT Legal Services including CAALAS and NAAJA and are very similar to concerns expressed in relation to the *Future Directions* consultations held in 2009.

It is important that these lessons be learnt and that a genuinely new approach is taken to what consultation means, how it is to be done and in what context.

Amongst other things, communities must be given the space and resources to think creatively and develop options tailored to get the best results for their people. Interested communities must have access to information about what options exist and what has worked in other communities. Time must be allowed for communities to reflect, discuss the issues with their peers and formulate options to take to government. This process must be an ongoing one and be part of genuine decision-making.

The role of GBMs in leading such an approach and fostering partnerships between communities and government is questionable given the lack of experience of many GBMs and the divisiveness accompanying their establishment. At the very least APO NT believes that such an approach would require that the role of the GBM shift to one with a clear community development focus. The NTER Review Panel recommended that the GBM role be re-named and reconfigured to a community development purpose. We strongly support such a change along with the development of clear agreed guidelines on how GBMs work collaboratively with land councils and other Aboriginal agencies.

Finally, we note that the NTER measures have been incorporated into the COAG *Closing the Gap* structure of NPAs framed by the NIRA. These agreements play a foundational role in determining current policies affecting Aboriginal communities in the NT, including in relation to housing, land tenure, remote service delivery and, indeed, the NT Government's *Working Future* policy.

Aboriginal communities and organisations were not consulted in the development of the NIRA and NPAs nor the subsidiary governmental agreements and policies. Despite community level consultation, it remains a major flaw that the overarching Aboriginal policy framework lacks any Aboriginal input. Genuine consultation and partnership must extend to the foundation of policy formation. APO NT strongly believes that the COAG agreements must be re-visited so as to include the effective Aboriginal participation, input, and consent, which is so crucial to developing the partnership needed for a stronger future.

## 5 Commonwealth priority areas for action

APO NT now addresses the eight priority areas for action identified in *Stronger Futures*.

### 5.1 School attendance and educational achievement

#### **Way forward:**

- Full consideration of the early childhood education and schooling findings of the Closing the Gap Clearinghouse report, *What works to overcome Indigenous disadvantage*.
- Positive rather than negative messaging around parental responsibility and school attendance.
- Ensuring schools have effective mechanisms for parental/family/community engagement and input translation of this input into the operation of schools.
- Flexible curricula that include Aboriginal languages, cultures and history.
- More Aboriginal staff in schools.
- Training in cross-cultural communication and engagement skills, cultural awareness and Aboriginal languages, cultures and histories for teachers.
- Additional investment in remote Aboriginal schools, including from the Australian Government, to redress historic under-investment and provide equitable resourcing of schools.
- All Homeland Learning Centres should be recognised as proper schools and resourced as such.

- Governments must develop a comprehensive plan for the provision of education to remote Aboriginal communities, including clear criteria for the ongoing provision and resourcing of schools.
- Governments should ensure comparable funding allocations to schools, including between government and non-government schools.
- Consideration should be given to ongoing multiple areas of disadvantage faced by families, particularly in housing, in calibrating initiatives to engage parents and children in schooling.

There is strong evidence and universal agreement of the fundamental importance of education in underpinning the future health, wellbeing and economic security of individuals, families and communities.<sup>4</sup>

Available evidence supports the Commonwealth Government's focus on the importance of early childhood education for later educational achievement, the provision of quality teaching and well-resourced schools, and the need for regular school attendance.

In this regard, measures introduced under the NTER such as the School Nutrition Program, initiatives supporting Quality Teaching, funding for more teachers, and the provision of childcare centres in some communities, have been positive initiatives. APO NT supports the continuation and expansion of these initiatives.

### **Partnership approach**

APO NT particularly welcomes the Government's intention stated in the discussion paper "to work in partnership with communities, schools and families to develop strong learning communities". Indeed, this is the key to improving educational outcomes in remote communities. At the community level the most significant relationship in developing such a partnership is between teachers and the community.

This approach is supported by the findings in the *What works to overcome Indigenous disadvantage* report. The report states that key evidence from Australian and international research demonstrates:

- successful educational programs or strategies were supported by the local community, delivered by highly skilled and committed teachers and recognise Aboriginal culture;
- projects characterised by a high degree of Aboriginal involvement and control produced significant benefits for participants; and
- engaging parents in children's learning was of critical importance.

Arguably then, the government's commitment to the provision of sufficient high quality teachers and adequately resourced schools is essential, but will only partially improve educational outcomes. Equally important is the need to positively engage families and communities, to provide a high

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<sup>4</sup> See, for example, World Health Organisation: Commission on the Social Determinants of Health 2008, *Closing the Gap in a Generation: Health Equity through Action on the Social Determinants of Health*, WHO Press, Geneva.

degree of Aboriginal involvement and control, and to recognise Aboriginal culture. The latter characteristics are not obvious in the proposed *Stronger Futures* approach.

### **Inclusive engagement rather than coercion**

The current approach of both the NT Government (with primary responsibility for education) and the Commonwealth Government (via the NTER) is called into question by worsening school attendance figures in many NT schools, despite an increased focus on school attendance by both governments.

In our view, both governments have focused too heavily on coercive and punitive measures — such as the School Enrolment and Attendance Measure (SEAM) trial and recent NT legislative changes that provide for fines and other coercive measures on parents and independent children who fail to attend school. At the same time, current government policies signal a withdrawal of support for the inclusion of cultural aspects into schooling, including support for bilingual education and other language and culture programs.

Fines and other forms of coercion, and rejection of cultural inclusion in schools, play to populist desire for strong action but are not supported by available evidence as effective in improving school attendance, retention or achievement. Moreover, such approaches fuel the already widespread concern of Aboriginal parents that schools do not support their aspiration for their children to have a good education in both western schooling and traditional knowledge.

It is difficult to see how such a situation can result in the effective partnerships between schools, parents and communities that the government has committed to.

### **Structural impediments**

In addition to these issues, there are broader structural issues that hinder progress on improving school outcomes. These include:

- the impacts of historical under-investment in schools, particularly in remote communities;
- continuing inequities in education provision; and,
- the perennial lack of adequate housing and other education-related infrastructure and services in communities.

The Commonwealth Government's Strategic Review of Indigenous Expenditure found in relation to education, 'the capacity of the Northern Territory Government is a particular concern'. This is a major barrier to improving education outcomes.

An example of the historical under-investment and continuing inequities in the provision of education is the inadequate and arguably discriminatory characterisation of Homeland Learning Centres in the NT. The 46 Homeland Learning Centres lack proper school infrastructure and full time teachers; are subject to resourcing criteria considerably less favourable than for comparatively-sized schools operating in small remote towns and cattle stations or those facilities established for new arrivals from non-English speaking backgrounds; and have been excluded from education improvement programs such as distance learning and the *Building Education Revolution*. This



situation is indefensible. All Homeland Learning Centres should be recognised as proper schools and resourced as such.

Inadequate and overcrowded housing has been identified as a significant barrier to children's education. While the considerable investment in new housing is welcome, the sheer scale of unmet need dictates that most communities and families will continue to suffer inadequate and overcrowded housing for the foreseeable future. Governments must therefore calibrate initiatives to engage parents and children in schooling to take account of the continuing constraints of housing and other significant areas of disadvantage faced by families.

Similarly, transport continues to be a significant barrier to enabling school attendance and many communities are without publicly funded school buses.

The lack of comprehensive policies for Aboriginal communities by both the NT and Commonwealth governments is a major concern that is impacting on remote education.

The problems of under-investment and inequities in education provision and related housing and other infrastructure have been exacerbated by the absence of comprehensive, needs-based planning across all communities by both the NT and Commonwealth governments. This includes the NT's *Working Future* and COAG's remote service delivery and remote Indigenous housing policies. Homeland, outstation and other smaller communities have been largely excluded.

## 5.2 Economic development and employment

### Way forward:

- The need to reform the remote working arrangements, including CDEP, is clear but this process needs to be gradual and nuanced to avoid unintended negative economic and social outcomes.
- Recognition that development progress will be highly dependent on a community-based participatory approach and of the need to plan for development to ensure that regional differences in both need and aspiration are recognised.
- Recognition of the emerging evidence that state agencies lack capacity to deliver at remote communities, including in the area of training, employment services and jobs generation and the development of appropriate policies to counteract this.
- A shift away from punitive measures in light of the evidence that 'negative reinforcement' (punitive measures) is highly ineffective in changing behaviour and can result in 'learned helplessness' and other adverse consequences.
- The focus of CDEP needs to change to real 'job creation' through financial support to commercial enterprise development, social enterprise development and in the paid provision of services.
- There is a need to continue to support programs that encourage local Aboriginal enterprise and land management initiatives, and deliver on-ground, hands on training that is responsive to local needs and levels of formal education.

The Commonwealth Government is clearly committed to closing the employment gap and enabling Aboriginal people to avoid socially damaging welfare entrapment. The need to reform the remote working arrangements, including CDEP, is clear but this process needs to be gradual and nuanced to avoid unintended negative economic and social outcomes. This is especially evident in remote communities in the NT where CDEP reform has been introduced alongside radical change associated with the introduction of large regional shires and a strong emphasis in housing and infrastructure investments restricted to Priority Communities and Territory Growth Towns. These factors have escalated the rapid decline of often successful community based programs. While some of these programs may not fit neatly within western notions of labour markets they nevertheless employ Aboriginal people in a range of constructive activities that generate exports of goods (such as in the arts) and services (such as in cultural tourism and community enterprises) as well as a range of public goods and associated beneficial social outcomes for struggling communities.

In his recent report to the Commonwealth Government, the Commonwealth Coordinator General for Remote Service Delivery highlighted two issues of relevance:

- development progress will be highly dependent on a community-based participatory approach that has been sorely tested by top-down intervention; and,
- there is a need to plan for development to ensure that regional differences in both need and aspiration are recognised.

We would add two complementary points:

- there is emerging evidence that state agencies lack capacity to deliver in remote communities, including in the area of employment services and jobs generation; and
- there is an urgent need to realistically assess employment possibilities without being overoptimistic about prospects in the short-term in mining, tourism and renewed efforts in cattle ranching.

Region-by-region the suite of possibilities needed to create productive and rewarding activity will differ and therefore a diverse approach is required.

### **Attributes of 'work' contribute to family welfare**

APO NT considers that the following key attributes of 'work' contribute to family and child welfare in the present, and equip children to participate in the economy in the future:

- Structure and routine in daily life;
- Role modelling of disciplined and purposeful activity;
- Removing adult distractions from school attendance;
- Re-framing expectations of self-reliance through economic engagement versus dependence on government payments;
- Re-framing relationship between 'effort' and 'reward';
- Developing understanding of the relationship between education/skills acquisition pathways and timeframes and work opportunities and/or reward;

- Understanding ‘work’ as an economic exchange/social contract;
- Social inclusion (contributing to community, participating in and learning about responsibilities and benefits to broader society such as tax, superannuation, entitlements, occupational health and safety etc.); and
- Increased income to enable individuals and families to better address their own needs.

Most of the above objectives are dependent on a relationship existing with an ‘employer’ who wants to utilise a person’s purposeful effort, and is willing and able to reward or pay for this. This cannot be achieved through a relationship based on welfare and mutual obligation.

Another key problem with the welfare / mutual obligation approach is its focus on compliance and sanctions rather than rewards that encourage motivation. It is recognised almost universally in both psychology literature and human resource management literature that ‘negative reinforcement’ (punitive measures) is highly ineffective in changing behaviour and can result in ‘learned helplessness’ and other adverse consequences.

It cannot be assumed that negative reinforcement practices will push people into obtaining employment in a remote context.

### **The policy challenge for government**

The fundamental challenge in remote areas is that existing labour markets cannot provide the required relationship for the vast majority of job seekers. The amount and nature of economic activity in remote areas is inadequate to create market-based employment in required quantities. This is a result of:

- the very large number of job seekers relative to total demand;
- the generally ‘high skill’ level required for many of the jobs in the market (i.e. mining engineers, trades, teachers, nurses, administrators/managers, trainers, construction trades, etc);
- low levels of literacy and numeracy and skills gaps;
- cultural factors and locational disadvantage; and
- industry characteristics and lack of endogenous economic activity and investment.

In the absence of ‘market based’ work relationships being available for the vast majority of Aboriginal people, how else can the required work relationship be emulated to achieve the objectives for family and child welfare outlined above?

### **Re-directed focus of CDEP**

APO NT submits that effective reform of current arrangements, particularly in relation to CDEP, offers the best solution to this policy challenge in remote areas. The focus of CDEP needs to change to real ‘job creation’ through financial support to commercial enterprise development, social enterprise development and in the paid provision of services. That is the creation of real ‘work relationships’ where the treatment, expectations and development of workers is as ‘workers’ who are an economic asset, not mere ‘participants’. It needs to be recognised that the social and

economic returns from social investment in this direction are likely to significantly surpass the social returns of a welfare-based approach, with a long-term reduction in cost.

APO NT is currently working closely with Aboriginal CDEP Providers in the NT as well as the Department of Education, Employment and Workplace Relations (DEEWR) and FaHCSIA to present a submission to Government on the most appropriate model of CDEP reform. We look forward to an ongoing dialogue in this regard.

### **Support for local enterprise and land management Initiatives**

A range of other employment initiatives need to operate alongside CDEP in order to maximise pathways to employment. These include not only direct employment through enhancing job seeker networks but also innovative programs that encourage local Aboriginal enterprise and land management initiatives. Importantly, there is a need to offer on-the-ground, hands-on activities in order to deliver effective training that is responsive to local needs and levels of formal education.

The land councils have gained considerable experience through developing Rangers programs, particularly in conjunction with the Commonwealth's Indigenous Protected Areas program and joint management initiatives with the NT Government. An overwhelming factor for success is taking a long-term view which requires ongoing and consistent government support for such programs, rather than new policies and directions every few years. Strong Commonwealth support for the Ranger program is acknowledged and applauded as a good example of an approach that may have broader application.

## **5.3 Tackling alcohol abuse**

### **Way forward:**

The most effective supply restriction measure that should be adopted is to:

- Implement a minimum floor price on alcohol across the NT.

Further effective measures in tackling alcohol abuse and harm include:

- Repeal the liquor licences held by the 'animal bars' in towns such as Alice Springs.
- Adopt one day per week where take-away alcohol sales are not permitted.
- Expand the availability and remote delivery of culturally-appropriate treatment, rehabilitation and support services for people with issues with alcohol, including those in prison.
- Facilitate education of the impacts and dangers associated with alcohol within schools.
- Provide early childhood intervention programs focused on strengthening resilience.
- Ensure the proper and independent evaluation of the impact of wet canteens before allowing any expansion of wet canteens in remote areas.
- Develop Alcohol Management Plans for all communities and town camps in proper consultation with residents.
- Investigate the possibility of providing alcohol-free accommodation on town camp leases.

- Re-empower elders and community leaders to have ownership of their community's law and justice issues.

Alcohol abuse in the NT is widespread amongst non-Aboriginal and Aboriginal communities.<sup>5</sup> Unless there are effective alcohol supply reduction measures that reduce consumption, attempts to address alcohol-related harm will fail. This in turn will compromise attempts to address disadvantage more broadly. APO NT maintains that the most effective supply restriction measure that the Commonwealth Government should take is to implement a minimum floor price on alcohol across the NT.

Effectively tackling the culture and impact of alcohol on Aboriginal communities will require comprehensive, evidence-based action. We recommend further action in a number of key areas, including in relation to Alcohol Management Plans (AMPs), early childhood intervention, and increased rehabilitation services. Further action could include adopting one day per week where take-away alcohol sales are not permitted. We also have serious concerns at the prospect of wet canteens being re-introduced into bush communities despite strong evidence that they have caused harm. The government should ensure the proper and independent evaluation of the impact of wet canteens before allowing any expansion of wet canteens in remote areas.

### **Alcohol Management Plans**

The discussion paper states that 'the Government believes that current alcohol restrictions should remain'. However, the decision to restrict alcohol was, in most cases, made by Aboriginal communities that declared themselves 'dry' prior to the NTER. These community decisions should be acknowledged and respected.

Ultimately, the decision regarding alcohol restrictions should be for the relevant residents to make. APO NT opposes maintaining blanket prohibition in communities and town camps. The principal effect of these widely flouted laws has been to further criminalise and alienate many residents. Such impacts can best be addressed through community driven AMPs.

Access to alcohol should be regulated by AMPs developed by communities and town camps in consultation with residents. The development of AMPs should be coordinated by an independent, professional person (or team that includes such a person as team leader) who is a well-qualified researcher with experience in the field of Aboriginal alcohol policy, problem solving and governance, assisted by qualified and accredited interpreters.

Where community or town camp residents, or residents of sections of town camps, wish to maintain alcohol-free zones they should be assisted to do so. The Commonwealth Government should also investigate the possibility of providing alcohol-free cluster housing, hostels, boarding houses, camping areas or other alcohol-free accommodation and shelter on town camp leased areas held by the Commonwealth Government.

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<sup>5</sup> Chondur Ramakrishna and Wang Zaimin, *Alcohol Use in the Northern Territory* (October 2010) Health Gains Planning Information Sheet, NT Department of Health  
[http://www.health.nt.gov.au/library/scripts/objectifyMedia.aspx?file=pdf/51/52.pdf&siteID=1&str\\_title=Alcohol%20use%20in%20the%20Northern%20Territory.pdf](http://www.health.nt.gov.au/library/scripts/objectifyMedia.aspx?file=pdf/51/52.pdf&siteID=1&str_title=Alcohol%20use%20in%20the%20Northern%20Territory.pdf)>.

The process of developing AMPs on communities and in town camps should aim to discover what conditions each household would privately prefer in relation to alcohol consumption on:

- the whole community or town camp lease area;
- their section of the community or town camp lease area (i.e. the group of houses in their area); and
- their own household (i.e. their house and its yard).

This should be done over a period of time and in a suitable way that enables the community or town camp tenants and other residents to consider their options and develop strategies to resolve issues of concern. The process should include extensive consultation with Elders and other responsible household leaders in particular camps, and empower them to develop their collective thinking about immediate and longer-term strategies to limit the problems associated with alcohol in their area.

AMPs that do not ensure the reasonable safety and well-being of vulnerable people, including recovering alcoholics and people with mental health problems, and good environments for the health, socialisation and education of children, should not be countenanced.

### **Early childhood intervention**

We stress the long-term importance of early childhood intervention programs in raising children who will be more resilient and therefore better equipped to avoid developing substance abuse addictions and other problems. Early childhood programs can:

- reduce the incidence of addictions by up to 50%;
- more than double school retention rates;
- dramatically reduce the youth incarceration rate; and
- dramatically reduce the lifetime risk of the development of chronic disease.<sup>6</sup>

### **Increased rehabilitation services**

Without additional services, Banning Orders with referrals or mandatory treatment, as recently introduced by the NT Government, will be ineffective in helping people overcome their dependency on alcohol. APO NT is concerned that the intersection of the NT Government's Growth Town policy and the extension of treatment services to support the 'Enough is Enough' Alcohol Reforms will leave significant service area gaps for remote communities. Furthermore we are concerned that no consideration has been given by the NT Government to developing youth specific treatment programs and services.

APO NT strongly supports the development of culturally appropriate treatment and rehabilitation services. Two well-developed programs owned and operated by Aboriginal people for treatment of substance abuse are the youth program at Ilpurla Outstation, run by Ilpurla Aboriginal Corporation,

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<sup>6</sup> See Olds, D. Henderson, C. Cole, R. Eckenrode, J. Kitzman, H. Luckey, D. Pettitt, L. Sidora, K. Morris, P. Powers, J 1998 Long-term Effects of Nurse Home Visitation on Children's Criminal and Antisocial Behavior: 15-Year Follow-up of a Randomized Controlled Trial, *Journal of the American Medical Association*, Vol 280(14):1238-1244.

and the Mt Theo Program, run by Warlpiri Youth Development Aboriginal Corporation (<http://www.mtttheo.org/home/>). These programs should be enhanced and supported to develop their capacity to run professional treatment and rehabilitation programs. We urge the NT and Commonwealth Governments to work closely with both Aboriginal Corporations and other youth service providers and to consider supporting additional outstations to develop their own culturally appropriate treatment and rehabilitation services for Aboriginal young people and / or adults.

We also urge that treatment and rehabilitation programs need to go beyond addressing the issue of alcohol abuse and in specific cases may need to case manage individuals to re-engage with their community and society. This includes the support to enter into education, employment or training programs.

As articulated in recent submissions to the Youth Justice Review, APO NT is very concerned about the lack of treatment services offered to people in prison. We urge the government to increase access to effective prison rehabilitation and post-release programs, and to programs that will provide an alternative to imprisonment for less serious offenders.

**Example: Ilpurla outstation**

Ilpurla Aboriginal Corporation provides rehabilitation services for young people in relation to petrol sniffing and other forms of substance abuse, and criminal and/or antisocial behaviour. The program, run at the Ilpurla outstation, provides a safe place in which clients are able to confront and deal with their issues with the support and cultural guidance of staff and community. It focuses on:

- promotion of self-respect, respect for others, land and culture;
- developing solid and positive futures by enhancing clients' cultural identity, self esteem, skills and confidence;
- providing support and assistance to other Aboriginal groups in the area; and
- undertaking a range of community development activities including accommodation, social services and essential services infrastructure development, and social and cultural development activities.

**Example: Mt Theo outstation**

Mt Theo is a substance abuse rehabilitation program that provides care through Warlpiri leaders and elders, located at an outstation 160km north of Yuendumu. When it started in early 1990s, the program was specifically for recovering petrol sniffers. Since then, the outstation has expanded its focus and expertise to accommodate young Warlpiri people suffering from the effects of a wide range of personal problems. Alcohol and cannabis misuse, self-harm, domestic/family violence and other criminal or anti-social behaviour (such as drink-driving and property damage) are stated by the Mt Theo Committee and the Warlpiri community as being the most serious issues affecting the health and well-being of their young people. The police, Community Corrections and other government and non-government organisations regularly refer clients to the program.

## 5.4 Community safety

### Way forward:

Community safety is not simply about more police. Relevant to the Commonwealth Government's role in Aboriginal communities, the following areas should receive particular attention:

- More resources for services that promote community safety.
- Mechanisms, such as Law and Justice Groups, should be encouraged, supported and resourced to give communities ownership and leadership over their law and justice issues, and a meaningful way to exercise this leadership in partnership with the key stakeholders of the mainstream justice system.
- Better cultural understanding and adoption of community ways of working by police.

The findings of research commissioned by CAALAS and NAAJA into the new 'Themis' police stations that were established under the NTER ('the Pilkington report') affirmed the importance of engagement with the community. 75% of respondents surveyed across 14 remote communities wanted a permanent police presence in their community. 53% of people believed that police were doing a good job. The views of community members on whether police were doing a good job largely depended upon the particular police working in their community and their approach to policing. The report found:

It appears that there are two trajectories for remote community policing; one is a trajectory towards appropriate policing, where police learn to navigate the distinct characteristics of the Aboriginal domain and to adapt their practices to the local population's distinct demands. In a number of communities police appeared to be on this trajectory.

The second trajectory is towards under-policing, where police fail to take on the local population as their 'subject' and adapt their practices accordingly. Unchanged, established police practices are ineffective or cause unexpected results, including conflict. Demand falls away as local people turn to other means of dealing with problems in a process of 'mutual disengagement'. Under-policing may include violent or abusive police behaviour or it may not.<sup>7</sup>

Respondents also stated that if police understood more about Aboriginal culture and tried to work in a way that people in the community wanted them to, people would trust them more.

Respondents identified that communication between police and the community in which they operate is crucial. The Pilkington report also pointed to the need for more resources into establishing community law and justice groups and for communities to be supported to make agreements with police as to how policing should take place in their community.

### More resources for community safety services

It is crucial that more resources be urgently allocated to culturally relevant services on the ground in remote communities. Fly in, fly out services are not good enough. Early intervention and prevention

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<sup>7</sup> James Pilkington, 'Aboriginal Communities and the Police's Taskforce Themis: Case studies in remote Aboriginal community policing in the Northern Territory', CAALAS and NAAJA (2009).



services are needed to reduce offending, rather than simply respond to it. For example, there is a considerable unmet need for:

- Drug and alcohol counselling and rehabilitation services;
- Family violence and anger management counselling services;
- Mental health services;
- Interpreters;
- Mediation services;
- Men's safe houses, and strong men's programs (such as the StrongBala Men's program in Katherine);
- Legal services in remote communities in the areas of criminal and civil law (including welfare and tenancy rights);
- Employment opportunities for Aboriginal people in the law and justice sector: community justice workers for legal services, interpreters, mediators, law and justice groups;
- Aboriginal throughcare support, to assist prisoners reintegrate after their release from prison or juvenile detention; and
- Services to reduce traffic offences which now make up around 50% of bush court lists.

#### **Empowering communities to be active community justice stakeholders**

Elders and community leaders must be re-empowered to have ownership of their community's law and justice issues. Meaningful structures need to be developed to allow Elders and community leaders to exercise this leadership in partnership with the key stakeholders of the mainstream justice system.

The recommendations of the *Little Children are Sacred* report highlighted the importance of giving communities a stake in the law and justice issues that affect them and noted the role that can be played by community justice groups (CJGs).<sup>8</sup> These recommendations speak of the importance of community-driven justice responses. Local solutions are more likely to be fit for purpose and long-lasting. But without structures for Elders and community leaders to exercise leadership, it will not be possible for community-responses to community safety issues to be developed.

The *Little Children are Sacred* report made strong recommendations in relation to CJGs. The Report urged the government to establish and support CJGs on an ongoing basis in all Aboriginal communities which wished to participate. It recommended that such groups be developed following consultation with communities.

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<sup>8</sup>Pat Anderson & Rex Wild *Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse – Ampe Akelyernemane Mekemearle ('Little Children are Sacred')* (2007) Recommendations 71 and 73; see also Recommendations 29 and 79.

**Example - Lajamanu Law and Justice Group**

NAAJA has been supporting the Lajamanu Community re-establish their Law and Justice Group (LJG). NAAJA has been doing this with no additional funding. NAAJA has supported the Lajamanu LJG with two highly skilled, experienced lawyers from our Community Legal Education team who travel to Lajamanu approximately every two months for a week at a time.

The Lajamanu LJG has predominantly been engaged in pre-court conferencing, preparing sentencing information and assisting with community legal education.

In Lajamanu, the presiding magistrate identified domestic violence and traffic matters as frequent types of offences being committed. He has asked the LJG to assist with developing local solutions to these issues, and they are presently embarking on this task.

The Lajamanu LJG has expressed a desire to work with police to find out the names of people who are unlicensed or have had their licence disqualified. They would then work with those individuals to discourage them from driving. There is significant untapped potential for the Lajamanu LJG to work closely with police in relation to other criminal matters as well.

It is hoped that in the future, the role of the Lajamanu LJG may expand further, for example, to sitting as Elders in Community Courts, formally accepting referrals to mediate local disputes and supervising non-custodial sentences.

Lajamanu Community Elders have participated in mediation training provided by the NT Community Justice Centre and are on a path towards national accreditation. This would allow them to undertake local mediation sessions, court-ordered mediation, family group conferences and youth justice conferences.

## 5.5 Health

**Way forward:**

- Continue the current primary health care reforms under the coordination of the NT Aboriginal Health Forum, including regionalising of Health Service Delivery Areas.
- Continue development and support of regional community controlled health services.
- Reform MOS Plus to a more decentralised model of service delivery that is better integrated with primary health care and provides increased coverage to remote communities.
- Improve the coverage of new AOD services particularly to remote communities.
- Fund integrated AOD and mental health services within primary health care.
- Target mental health services more effectively to remote communities via Aboriginal community controlled health services.
- Reform MSOAP-ICD chronic disease outreach services to provide a more bottom-up approach and to improve its administrative responsiveness to local needs.
- There is an urgent need for dedicated housing for Aboriginal Health Workers and other clinicians to be provided in communities.

The 'Health' section of the discussion paper is brief and selective, reflecting the contingent role of NTER-related health measures within the overall NT Aboriginal primary health care (PHC) system.

### **Impact on PHC service delivery**

NTER-related health funding provided significant additional resources for PHC, mainly through the Child Health Check Initiative (CHCI) and the Expanding Health Service Delivery Initiative (EHSDI). Both the CHCI and EHSDI have been comprehensively reviewed (Allen and Clarke 2011), revealing important learnings for the continued expansion and reform of Aboriginal PHC in the NT.

The review found significant problems with the CHCI, including that it failed to meet best practice standards; was inefficient; caused disruptions and bottlenecks; and had little impact on child health. A key shortcoming was its lack of consultation.

The EHSDI, on the other hand, was described in the review 'as a cause for celebration', mainly as a result of its linkage with an existing fifteen year policy reform process that involved all major stakeholders: the NT and Commonwealth Governments and the Aboriginal community controlled health sector.

The additional funding enabled the creation of 251 full-time equivalent (FTE) positions in the remote PHC workforce. A significant number (about one third) of these positions were management or administration-focused rather than front line jobs.

The review found from surveyed services that it was too early to measure tangible impacts as a result of the new positions.

The review identified a number of pressing workforce issues, including a 30% loss in the number of Aboriginal Health Workers over the past decade, and recommended this be redressed urgently. It is therefore of concern that the NT Department of Health has concentrated on Aboriginal Community Workers, not certified Aboriginal Health Workers, in allocating new positions.

The review was strongly supportive of the process of regionalising comprehensive primary health care into Aboriginal community-controlled Health Service Delivery Areas, but noted that '(r)egionalisation processes have been under-scoped and under-resourced, and there is a lack of clarity on the tasks involved, actions required and who should undertake them'.

The February 2010 Strategic Review of Indigenous Expenditure further strongly supports the regionalisation process:

It is a model for other remote health service delivery areas, and could also form a model for other forms of remote service delivery.

The health section in the discussion paper concentrates on alcohol, mental health, allied health and 'improving services for children dealing with trauma associated with abuse, through better therapeutic and educational responses'. However, there is some concern over the targeting of additional program investment, including the \$9 million a year being expended on the MOS Plus program, focussed on traumatised children. This program has a very wide scope (all abused children including those suffering from neglect) and has a centralised model of service delivery. These factors, combined with the lack of a coherent program logic for the MOS Plus service, infrequent visits to remote communities, and very high staff turnover, all contribute to the lack of effective service delivery.

For Social and Emotional Wellbeing services, there has been some progress in expanding alcohol and drug services in remote PHC services through COAG funding. However, the reach of new AOD services is patchy with the majority of remote communities still not covered.

There remains a lack of integrated Social and Emotional Wellbeing services as most of the new funding for services within PHC has been directed at AOD services rather than to integrated AOD and mental health services within PHC. AMSANT has long advocated for Social and Emotional Wellbeing services to be provided as part of comprehensive PHC. Despite being recommended by many expert reviews, new funds continue to be directed away from the community controlled sector into ineffective service models.

The majority of mental health services to remote communities are still provided by visiting services that usually do not relate well to PHC services. The ongoing policy to award services via competitive tendering and to favour funding mainstream NGOs rather than Aboriginal community controlled health services (ACCHSs), has led to a growing plethora of siloed programs that are not integrated with Comprehensive Primary Health Care.

The advent of the MSOAP-ICD funding to support outreach services focussed on Indigenous Chronic Disease in five key areas of chronic disease is to be applauded. However, at present the process has been top-down from those wishing to provide a service, rather than bottom-up from communities and PHC services identifying a need for a particular service. The initial process for applying for MSOAP-ICD funding was unwieldy and unclear for many ACCHSs and as a result there has been significant inequity in the disbursement of MSOAP-ICD funds to date. The administration of the program thus far has also been fraught and as a result the provision of increased outreach services (particularly in the Aboriginal Community Controlled Sector) has been minimal.

A further limiting factor on local health service provision is the lack of dedicated housing for Aboriginal Health Workers and other clinicians. There is an urgent need for such housing to be provided.

## 5.6 Food security

### Way forward:

- On-going monitoring and assessments should be undertaken to ensure licensing standards are maintained by stores.
- APO NT continues to support the availability of Outback Stores as a management option for stores, but believes that the decision of communities to introduce or retain Outback Stores must be voluntary.
- The government should support the resolutions of AMSANT's Fresh Food Summit 2010.

Whilst improvements have been made to community stores, including the provision of a greater range of fruit and vegetables, Aboriginal communities in the NT continue to be greatly disadvantaged in their ability to access affordable, fresh and varied produce. APO NT notes that various contributions have been made by our organisations regarding food security in the NT,

including to the House of Representatives inquiry into remote Aboriginal and Torres Strait community stores.

Food security is critical to ensuring better nutrition and health outcomes for Aboriginal people. Governments should consider investing in tax subsidies on fresh food, price caps for basic goods and ensuring that the standard market basket is only 25% of remote families' weekly income. Advice from health experts suggests that access to good, affordable food makes more difference to what people eat than health education.

During the *Stronger Futures* consultations, many community members suggested that prices in stores are too expensive and some prefer to shop in major commercial centres. Concerns were also raised about the sale of food which have passed its use-by date.

Some communities only have access to one ATM which has fees that are higher than standard fees in major centres.

### **Store Governance**

Store committee governance structures and systems are integral in developing sustainable changes in store food supplies. No plans for long-term improvement can ignore the need to improve the ability of store committees to manage effective community stores. Governments should invest in building the capacity of store committees to contribute to improvements to community nutrition and health outcomes.

In order for community stores to benefit communities efficiently, store committees should be provided with intensive governance and financial management support and training. In addition to the strong need for more jobs for local people in community stores, local people should also own and control stores and have the chance to be managers.

### **Licensing**

Whilst the Store Licensing process adopted by the NTER is generally supported by community members and APO NT, ongoing monitoring and assessments should be undertaken to ensure licensing standards are maintained by stores. Also, concerns of higher prices since the commencement of NTER legislation need to be considered by governments.

### **Outback Stores**

APO NT continues to support the availability of Outback Stores as a management option for stores, but believes that the decision of communities to introduce or retain Outback Stores must be voluntary.

### **AMSANT Fresh Food Summit 2010**

APO NT supports the resolutions developed and adopted at the AMSANT Fresh Food Summit<sup>9</sup> in 2010 including:

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<sup>9</sup> AMSANT Fresh Food Summit, Tennant Creek, May 2010.

- Support the work of Remote Indigenous Gardens Network, and promote its extension into the NT;
- Recognise the important role of family, community and market gardens in supplying fresh food to families and communities; promoting health and well being for participants; and contributing to job creation;
- The Comprehensive Aboriginal Primary Health Care sector should be encouraged to work with existing and potential family, community and market gardens, including in supporting their growth, expansion and sustainability;
- Support urgent action in investigating the development of food labelling mechanisms that will inform, educate and promote the consumption of healthy foods, using effective cultural social marketing;
- Support the initiatives of Centrefarm in creating viable Aboriginal remote area food production enterprises. Centrefarm provides considerable opportunities for Aboriginal people to work on their land to supply their communities with fresh foods and to develop a sustainable horticultural industry that works closely with the Aboriginal health services and provide a positive step in closing the gap and an alternative to the welfare economy;
- Support the creation of an overarching body to monitor utilisation of underground waters; sustain all forms of family, community, market gardens and agribusinesses and evaluate benefits to Aboriginal health;
- Support urgent research to carry out a cost-benefit analysis of subsidising the cost of fruit and vegetables with equivalent of, for example, 1% of annual cost of running clinics, that is \$10,000 per \$1M;
- Promote research into freight, logistics and packaging and good food subsidies into remote communities to build an evidence base towards achieving food security (i.e. availability of good food);
- Encourage Outback, ALPA and other stores to work together to source competitively priced fresh food through joint purchasing;
- Encourage Outback, ALPA and other stores to support the development of community and market gardens through strategic purchasing to allow such gardens to compete against external sources of fresh food;
- Governments should improve transport networks and infrastructure in remote areas, both as a long-term mechanism to reduce freight costs, as well as to allow capacity to build large scale horticultural projects such as those proposed by Centrefarm;
- Core service standards should be developed for all stores, and these core service standards form the basis for store licensing;
- Mandate a relationship between stores and the primary health care sector, using the store licensing system, such that there are consequences on stores and their management that do not meet requirements of the PHC sector in ensuring food security;

- Recognise that the NT Market basket survey is too restricted and should extend to monitoring prices and availability across a wider range of fruit and vegetables, carried out independently by the primary health care sector represented by AMSANT; and
- Support recommendation 3 of the Parliamentary Inquiry into remote Aboriginal and Torres Strait community stores and require a nutritionist to be immediately appointed to the Outback Stores Board.

## 5.7 Housing and tenure

### Way forward:

- The Commonwealth Government must finalise negotiations with the CLC and NLC regarding the payment of 'fair rent' for the five-year leases and just terms compensation.
- The Commonwealth Government must act decisively to re-set the relationship with Aboriginal people by working with the NT land councils to transition smoothly out of the five-year leases into voluntary leasing arrangements over communities.
- The Commonwealth Government should revisit its secure tenure policy and work with the land councils to remodel the policy so property rights are recognised and traditional Aboriginal landowners' decision making processes are respected and play a leading role in community development and community management.
- In line with its commitment to voluntary leasing, the Commonwealth Government should now pursue alternative leasing arrangements and should itself apply for leases over its assets on Aboriginal land.
- A holistic 'secure tenure' policy will require the NT Government to amend the relevant legislation. The CLC's position is that specific legislation to regulate community living areas is needed that allows for leasing on Community Living Areas consistent with the NT and Commonwealth governments' secure tenure policy; and provides for CLAs to be held in perpetuity.
- The Commonwealth Government must, consistent with the NPARIH, fund, undertake and make public a rigorous and transparent assessment of housing 'needs' in remote Aboriginal communities that will then be used to allocate future housing funding.
- The Commonwealth Government must, as a matter of priority, commit to a schedule of new housing to meet the urgent needs of non-RSD/SIHIP 'priority communities' so as to avoid entrenching tiers of disadvantage.
- Consistent with the NPARSD, governments need to consistently promote a diverse housing sector that includes prioritising local Aboriginal employment. Policies, agreements and funding arrangements should all be drafted to ensure that the housing sector in remote Aboriginal communities can, over the coming decade, diversify beyond public housing.
- The Commonwealth Government should fund life skill training programs and a remote tenancy legal advice service.

- Territory Housing should conduct meaningful consultations with Aboriginal landowners, Aboriginal community residents and the Land Councils regarding its draft home ownership policy.
- The Commonwealth Government should convene a taskforce comprising land councils and lenders interested in issuing loans on Aboriginal land if the right security, in the form of a transferrable lease, could be negotiated.

Access to decent housing is fundamentally important to Aboriginal people. The Government's recognition of the importance of housing and the investment made so far is commended. Significant limitations exist, however, with continuing the current approach that will seriously hinder the ongoing effort to address the severe housing need clearly apparent in nearly all communities across the NT.

The Government's policy shift to insisting on securing leases prior to providing new housing, along with the insistence on leasing of existing housing and other government infrastructure that supports communities, has positioned leasing arrangements as a central issue for communities in relation to housing.

#### **Five-year compulsorily acquired leases over communities**

The Commonwealth Government's compulsory acquisition of five-year leases has been consistently opposed by the CLC and the NLC, traditional Aboriginal landowners and Aboriginal communities across the mainland NT. The unilateral acquisition by the Commonwealth Government, under the NTER legislation, of community land under 'five year leases' caused a great deal of distress to Aboriginal land owners. The move changed fundamentally the Commonwealth Government's relationship with Aboriginal communities. The combined effect of the NTER measures and the NT Government's introduction of shires have resulted in a prevailing sense of marginalisation and disempowerment amongst Aboriginal people. At much the same time as the Commonwealth Government acquired community land, the newly created shires subsumed the existing community councils and acquired community assets. The sum result is that there now exists a high degree of mistrust of all tiers of government amongst Aboriginal people.<sup>10</sup>

Furthermore, the compulsory five-year leases have effectively retarded the development of a systematic process to deliver secure leases for housing and other community infrastructure. The reliance on administrative approvals available under the NTER legislation has meant that grantee parties have not applied for secure leases in prescribed communities.

If any doubt exists on the part of the Commonwealth Government that this is a failed policy, then the Commonwealth Government must instigate an independent and public review to assess the impact of the five-year compulsory leases.<sup>11</sup>

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<sup>10</sup> The five-year leases compulsorily acquired under the NTER are discriminatory as highlighted by the present government's unwillingness to reinstate the RDA retrospectively. As the Native Title Report 2009 states: "The five-year leases represent a low point in the Government's treatment of Aboriginal land".

<sup>11</sup> Such a review would focus on: the legitimacy of the Commonwealth's initial rationale for compulsorily acquiring the five-year leases; the impact of the compulsory acquisitions on the Aboriginal landowners and community members; assessment of the costs and benefits of the compulsory acquisition of Aboriginal land;



The Commonwealth Government must act decisively to re-set the relationship with Aboriginal people by working with the NT land councils to transition smoothly out of the five-year leases into voluntary leasing arrangements over communities.

Accordingly, the Commonwealth Government's commitment to pursue its secure tenure policy through voluntary leasing, rather than through any further compulsory acquisition of Aboriginal land, represents the essential first step forward. We commend the fact that the Commonwealth Government has indicated it will allow the 'five-year leases' to lapse in August 2012 when the 'sunset clause' in the NTER legislation takes effect.<sup>12</sup>

Negotiated leases that are fair and reasonable for traditional Aboriginal landowners, effective for communities, and satisfy the legitimate concern of governments to security of tenure over their community investments are a key priority. Current negotiations between the CLC and NLC can be finalised readily where the Commonwealth Government is willing to pay fair rent on independent valuations and recognises that rent alone does not meet the constitutional test for 'just terms' compensation.

There should be no expectation by the Commonwealth Government that valuable interests in land in Aboriginal communities will be divested by Aboriginal landowners without the payment of rent or some other benefit.

### **Renewed secure tenure policy**

The Commonwealth Government advocates evidence-based policy development. Yet, in relation to the secure tenure policy to date, policy rhetoric, polemic and spin have dominated. Resetting the relationship with remote Aboriginal communities requires a renewed, more considered, secure tenure policy embracing the Commonwealth Government's stated commitment to 'voluntary arrangements'.<sup>13</sup>

A positive way forward exists where the 'secure tenure' policy is recast in terms of formalising tenure arrangements in remote Aboriginal communities. The land tenure arrangements that existed prior to the Intervention were not 'insecure' but were essentially informal. The informal land tenure system recognises the equitable interests in land rather than relying solely on a system of holding legal titles. The informality of the land tenure system (which is actually the starting point for formalising leases) existed not through negligence but as a result of a range of factors including the fact that government did not previously prioritise efforts and resources to enter into formal leases. Also a level of pragmatism prevailed previously to enable community infrastructure to be built and maintained outside formal lease arrangements.

Traditional Aboriginal landowners, Aboriginal communities and the NT land councils have no fundamental objection to formalising land tenure arrangements within remote Aboriginal communities. The value in providing certainty for investment and clarifying who is responsible for assets is recognised. Problems arise, however, from seeking to address entrenched economic and

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and an analysis of whether or not the five-year leases made a positive contribution to the Commonwealth's secure tenure policy.

<sup>12</sup> *Stronger Futures* discussion paper, page 24.

<sup>13</sup> *ibid.*

social disadvantage experienced in remote communities simply as a matter of securing leases. No evidence exists that economic development or even home ownership will necessarily flow from secure leasing alone. Community cohesion, capacity to engage in wider society, issues of community control and decision-making have to be addressed in conjunction with a leasing policy. An overemphasis on the potential social and economic benefits that can be achieved through ‘secure tenure’ has absorbed an unprecedented level of government attention, effort and resources.

The CLC and NLC are keen to work constructively with the Commonwealth Government to deliver secure tenure in a way that is acceptable to traditional Aboriginal landowners and Aboriginal communities. A systematic and strategic approach is advocated which respects traditional Aboriginal landowners as the landlord and recognises the need for community control while being practical to implement.

The Land Councils are agencies well placed to carry out the formalisation functions provided they are properly resourced and provided that governments and others are willing negotiate ‘fair deals’. Aboriginal landowners and Aboriginal communities want to be involved in deciding what agencies, organisations and individuals are granted leases or other land interests in their communities – this is part and parcel of communal land ownership and should not be viewed negatively.

Since the Intervention the Commonwealth Government’s preferred method of formalising land tenure in remote Aboriginal communities has been for Aboriginal landowners to grant section 19A leases over the whole of the respective community, called Township Leases or Whole of Community Leases, to the Commonwealth Government, for a term of 80-99 years.<sup>14</sup>

Traditional Aboriginal landowners consulted to date in the CLC and NLC regions have raised significant concerns over s.19A leases.<sup>15</sup> It is becoming increasingly apparent that the policy of pursuing voluntary s.19A leases cannot be implemented because the fundamental conditions underpinning the s.19A leases are considered unacceptable to the traditional Aboriginal landowners.

The criteria stipulated by the Commonwealth Government for a community leasing scheme are that it must be efficient, deliver certainty, and potentially support economic development and home ownership. The Commonwealth Government has rigidly maintained that s.19A leasing, with a Commonwealth Government entity controlling the issuance of land interests in Aboriginal communities, is the best model.

### **Alternative Community Leasing Model**

The alternate legislative route to obtaining secure leases is through section 19 leases obtained through the relevant land council on behalf of traditional Aboriginal landowners. This has always existed in the ALRA since its inception and many s.19 agreements have been successfully negotiated. The CLC recently submitted to the Commonwealth Government an alternative community leasing model proposal that provides a positive way forward and delivers the means to resolve community leasing issues:

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<sup>14</sup> Section 19A was part of a package of amendments to the *Aboriginal Land Rights Act (NT) 1976* implemented in 2006.

<sup>15</sup> The only s.19A leases granted are on the Tiwi Islands and on Groote Eylandt.

- In each large community there would be a community land corporation established for the purpose of holding leasehold title to the land within the community boundaries;
- The community land corporation would be created with rules, structures and processes that are acceptable to the Aboriginal landowners, which would be recorded in the terms of the lease; and
- The relevant land council would provide administrative and legal support to the community land corporation in relation to a range of land use matters such as subleasing, licensing or the granting of permissions. The ongoing role of the relevant land council would ensure effective process and decision-making. In this way the grantee party gets the certainty required.

The model can be differentiated from s.19A leasing to the Commonwealth Government in two key respects: the lease would only be for 40 years (compared to 80 to 99 years); and the body that makes decisions regarding the granting of leases within a community would be an Aboriginal corporation comprising Aboriginal residents and not a distant Commonwealth agency.

This model is capable of satisfying the government's criteria including 'secure tenure', legally enforceable tenancy agreements and facilitation of economic development and home ownership. Significantly and critical to workability, this model restores a level of Aboriginal control and decision-making over the future development of communities and ensures that Aboriginal land owners and community residents benefit from land reform.

### **Home Ownership**

The Commonwealth Government's concern regarding promoting economic development and home ownership are laudable. The land councils and Aboriginal landowners do not believe that tenure is currently, or need be interpreted as, an impediment to economic development or home ownership on Aboriginal land.<sup>16</sup> A suitable lease that gives certainty to a business, to a homeowner, or to a mortgagee can be negotiated where all parties are prepared to commit to such a process.

The key is to acknowledge the need for transferability and to agree on how this can be ensured in a manner acceptable to Aboriginal landowners and Aboriginal community residents. The land councils are prepared to talk with IBA or other lenders in drafting an appropriate template lease.

### **Community Living Area reform**

Not all large, remote Aboriginal communities are on Aboriginal land where the ALRA applies and s.19 leases are available. Many large communities (and small communities and outstations) are on community living areas (CLAs)<sup>17</sup>, the title for which is held by the respective Aboriginal corporations established for that purpose. An important issue exists in relation to CLA title, as it is, with very few exceptions, not possible for the Aboriginal corporation that holds the title to grant leases, licences or other interests in the land.

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<sup>16</sup> In relation to non-Aboriginal Land see section on Community Living Area reform.

<sup>17</sup> References in this document to Community Living Areas have same meaning as in the Pastoral Land ACT (NT) and refer to title granted as restricted Northern Territory freehold by way of excision from a Pastoral Lease. Unfortunately FaCHSIA and the NT Government refer to Town Camps as 'community living areas' in information relating to the SIHIP.

- The laws governing CLA title are NT laws. Reform of the *Pastoral Land Act* (NT) and other legislation affecting CLAs is overdue and readily achievable. A holistic 'secure tenure' policy will require the NT Government to amend the relevant legislation. The CLC's position is that specific legislation to regulate CLAs is needed that provides for leasing on CLAs consistent with the NT and Commonwealth Governments' secure tenure policy; and that provides for CLAs to be held in perpetuity.

The CLC provided a detailed legislative reform proposal to the NT Government. Action by the Commonwealth Government to ensure the NT amends the legislation is recommended.

Communities on CLAs stand to miss out on much needed community infrastructure investment and in particular risk being overlooked for new housing. For instance, funding identified under the NPARIH is 'conditional on secure land tenure being settled'. Urgent reform legislation that removes limitations on CLA title is needed to allow funding to be applied to communities on CLAs.

### **Meeting housing need**

Despite the substantial funding commitment by the Government under SIHIP, it is clear that chronic housing overcrowding will continue to be a significant problem for Aboriginal communities in the NT. APO NT continues its call for increased capital funding to meet this crucial need. The impacts of poor quality and overcrowded housing are well documented.

APO NT views SIHIP as a 'one size fits all' solution to what is a complex problem, with each community having a unique and distinct set of needs. An effective approach to the housing dilemma requires recognition that the situation between communities can be very different. What will be an effective use of funding, including the design of houses and how the program is implemented (for example the skills and labour engaged to deliver the work), will differ between communities and a housing program needs to be flexible enough to accommodate these variances.

APO NT also calls on the Government to consider alternative solutions that may work to increase housing stock within communities. There is an opportunity to consider alternative styles of accommodation which can cater to a specific area of need within a community, using infrastructure already available or at a lower cost than the dwellings constructed under the current program of works. As an example, consideration could be given to whether short-term accommodation or hostel-like facilities using redundant work camps would alleviate some of the housing stress within communities.

The 2008 NPARIH sets out the COAG policy approach and available funding for housing and refurbishments until 2018. The stated outcome of this NPA, that Aboriginal people have improved amenity and reduced overcrowding, particularly in remote and discrete communities, is strongly supported. How it is to be achieved in practice, and how funding will be allocated, needs to be considered carefully.

A need-based assessment, akin to the CHINS survey, is provided for under the NPARIH. It is vital that this be adequately funded. An up to date, rigorous and transparent assessment of need is necessary in order to give a clear picture of what is required to achieve the outcomes set out in the NPARIH.

The allocation of future funding for new housing should be informed by this assessment of need rather than by ideology, empirically questionable ‘hub and spoke’ theories or over-emphasis on tenure concerns. If the needs assessment shows that the allocation of funding to the NT under the NPARIH is inadequate for the achievement of the stated outcome this will need to be addressed through further funding. A needs assessment should proceed as soon as possible, well prior to the conclusion of the SIHIP funding arrangements.

The only present indication of available funding for new housing is under SIHIP for the period until 2013. SIHIP provides funding for new houses in only a small number of locations (sixteen throughout the NT that are ‘priority’ communities targeted under the NPARSD). This approach to responding to existing and unmet need is highly problematic. For example, only three of the 16 priority communities are located in the Central Australian region.<sup>18</sup>

A huge disparity exists, therefore, in the availability of funding as between ‘priority communities’ and other communities where the unmet need is just as great. Recognition of this disparity will be crucial in any genuine attempt to close the gap. It is untenable to simply not provide funding for new public or community houses in non-priority, large, established Aboriginal communities, or indeed, smaller communities in similar need. The Commonwealth Government needs to make a long-term commitment to roll-out new housing in remote Aboriginal communities other than ‘priority communities’ so as to avoid entrenching tiers of disadvantage.

The quality of existing housing stock must also be safeguarded. The increasing age of houses in remote Aboriginal communities combined with serious overcrowding of these houses, will cause ongoing and rapid deterioration of existing housing stock. Some refurbishments have occurred under SIHIP however the primary means to remedy the deteriorating housing stock is through a structured program of repairs and maintenance.<sup>19</sup> A Commonwealth Government commitment to increased recurrent funding to refurbish, repair and build housing is needed.

### **Housing tenancy management and support services**

The efficacy of the current tenancy management system in remote communities, which was put in place as a result of the NTER needs to be examined. The model involves Territory Housing, as the landlord, having ultimate responsibility for managing houses but all day-to-day management and repairs and maintenance being conducted by the Shires.

The 2008 implementation of the NPARSD needs to include provision for non-Shire housing management, including non-Shire providers of repairs and maintenance and non-Shire tenancy management contractors. The implementation of the NPARSD in the NT should be aimed at promoting a diverse housing sector that specifically prioritises local Aboriginal employment.

We welcome the fact that the discussion paper flags the possibility of ‘opportunities for viable community housing providers to have a role in managing housing’. It is well documented that a mix of social housing options and providers is most likely to lead to the best possible outcomes.

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<sup>18</sup> The three central Australian ‘priority communities’ are Yuendumu, Hermannsburg, and Lajamanu.

<sup>19</sup> Many concerns have been raised by Aboriginal people about the substandard quality of those refurbishments.

To this end, where leases are sought from communities for the purpose of tenancy management they should be drafted with the aim of delivering maximum community control and enabling flexibility and diversity in the remote housing sector, rather than seeking to lock communities in to a long term arrangement with Territory Housing.

In order to provide opportunities for viable community housing providers, arrangements that lock in Territory Housing as the housing provider should be short term, certainly no longer than 10 years. Support should be provided to Aboriginal organisations, such as the Central Australian Affordable Housing Company, to develop their capacity to manage housing in regional and remote areas.

The active promotion of a diverse social housing sector in remote Aboriginal communities (perhaps a mix of public housing, Aboriginal housing providers and Aboriginal government employee housing) is to be encouraged.

### **Tenancy agreements**

The transition to the new remote rental framework has seen residents in remote communities who occupy new houses or houses rebuilt or refurbished under SIHIP being obliged to sign formal tenancy agreements. APO NT is concerned that aspects of these agreements as they are currently written do not conform with the *Residential Tenancies Act* (NT). APO NT submits that with the implementation of a new system, there is the opportunity to provide remote tenants with the protections afforded under tenancy law in the NT and this should be ensured through appropriately drafted tenancy agreements. A careful program of education, including plain English explanations of terms, needs to accompany these agreements so that tenants understand their rights and obligations and are not set up to fail.

APO NT is also aware that there remains considerable uncertainty around the rights of residents of 'legacy' dwellings, that is, dwellings that have not been built or refurbished under SIHIP. APO NT urgently calls on the Government to ensure that tenants of legacy dwellings have appropriate rental protections and that these rights and the corresponding obligations are clearly articulated and accessible.

### **Tenancy Support**

The policy shift in moving remote tenants to tenancy agreements has significant legal and cultural implications. There is an urgent need for a specialist remote tenancy legal service to be funded to assist remote Aboriginal tenants, many of whom lack the English literacy skills or conceptual understanding to understand the tenancy agreements they are signing. As with tenants in any other part of Australia, remote Aboriginal tenants also need ready access to culturally relevant legal advice and assistance to respond to issues that arise during the term of a tenancy, such as appeals against Department decisions, breach proceedings, failure to carry out repairs, and eviction proceedings.

Remote Aboriginal residents require a range of tenancy support services. There is a clear and often articulated need to provide life skills training to support housing tenants. There is an obligation under the NPARIH to offer this type of training and support. This is welcomed and should be made available to all households with tenancy obligations.

## 5.8 Governance

### Way forward:

- There is an urgent need to investigate and invest in community-controlled governance models
- Community governance require appropriate resources, training and oversight to ensure on-going effectiveness
- No single model can be applied to all communities. Community-based and participatory research is required to develop appropriate models.

It must be emphasised that consideration of Aboriginal governance should not just focus on compliance with regulatory regimes and legislative requirements. Governance must be understood in terms of decision-making power in order that community members can shape and drive decisions made about life in Aboriginal communities in a culturally appropriate way.

The cumulative impacts of recent policies of the NT and Commonwealth Governments have denied opportunities for community leaders to govern their own communities.<sup>20</sup> There are, currently, few clear processes for community decision making about planning for the future. Community members are being left out of decisions made about their community and ‘consulted’ at the end of the process at a time where there is little scope to influence decisions. This has resulted in a feeling that Aboriginal people in the NT are ‘going backwards’ and are disempowered. Aboriginal community members sum up this frustration:<sup>21</sup>

Sometimes we whisper. All the information is coming from the outside. All the choice comes from outside. There is no community voice in the meeting. (Utju)

White people talk first, they should let Aboriginal people talk first. (Atitjere)

It’s like Anangu are invisible. Anangu are going down and all this makes us empty inside. It makes our spirit sad. (Mutitjulu)

We just give up because no one is listening. (Willowra)

Community members are hurt and disappointed by the top-down approach by the government which determines ‘how, when and on what the community’ is consulted and lament the loss of their community councils.

<sup>20</sup> See eg, Janet Hunt, Diane Smith et al ‘*Contested Governance Culture, power and institutions in Indigenous Australia*’: ‘... in contrast to earlier collaborative ‘partnership’ approaches with both the NT Government and Indigenous leaders, [the NT Emergency Response] was a return to command-and-control-style hierarchical governance (Davis and Rhodes 2000; Rhodes 2005)...Indigenous governance was to be shunted aside while public service administrators with extraordinary powers took over again (Siewart 2007)...The intervention also coincided with a period of local government reform in the NT, which had begun in 2003 (Smith 2004) and already undergone policy change in October 2006. A shift from a relatively bottom-up process of regional authority development based on culturally-defined and negotiated boundaries was shelved in favour of nine proposed shires, almost all of which were considerably larger than existing proposals, and incorporated non-Indigenous landholders and small urban areas (Smith 2007a, 2007b).

<sup>21</sup> Central Land Council, ‘*The governance role of local boards: A scoping study from six communities*’, 2009. While this report focussed on Shire local advisory boards the findings are relevant in relation to the proliferation of Commonwealth and other advisory boards and committees that typify community ‘consultation’ at present.’ See [www.clc.org.au/media/papers/CLC%20governance%20report%20A4.pdf](http://www.clc.org.au/media/papers/CLC%20governance%20report%20A4.pdf).

In contrast, APO NT notes international research that has found ‘native self-governance is an essential ingredient in overcoming poverty and related social problems in rural Alaska’.<sup>22</sup> Efforts by Indigenous Alaskans, particularly at the village and sub-regional level have produced an array of new governing strategies and institutions. The study concluded:

Governing institutions that advance self-determination, have legitimacy with the relevant community, are effective, and fit the internal capabilities of the community are likely to succeed not only as vehicles of self-governance, but as keys to improving the socioeconomic welfare of Native communities.<sup>23</sup>

The National Partnership Agreement on Closing the Gap in the Northern Territory includes welcome ‘outputs’ with respect to leadership development, engagement and community development workshops to build local capacity. Further, the discussion paper states that:

The Government believes more needs to be done to foster local and community governance. People need to have a clear say about what is happening in their communities. Positive, sustainable change will only happen when Aboriginal people, working closely with government, develop and drive their own solutions.<sup>24</sup>

APO NT welcomes this recognition. Such an outcome will be best achieved through acknowledging existing community leadership structures and developing best practice models that are sensitive to the local cultural and social setting, and backed by appropriate and responsive support and governance training.

To exemplify this approach the CLC has commissioned a governance project in Lajamanu that will work closely, over a number of years, with the community and traditional owners to create a legitimate community governance entity that can:

- ascertain and articulate the aspirations of the community;
- provide a strong community voice;
- act as a central point for government agencies and other organisations, consultations and engagement; and
- fulfill the CLC’s consultation requirements for matters inside the community including s.19 leasing requests and planning consent processes.

The indications to date suggest that such an approach would be strongly supported by other central Australian communities. Additionally, other communities in the Top End are currently exploring ways to adapt governance structures to align with Aboriginal decision-making processes.

The NT Government, through the Department of Business and Employment, has instigated a research project that is assessing governance and community engagement.<sup>25</sup> The research will contribute to improving governments’ understanding of the existing western and traditional

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<sup>22</sup> Cornell et al. 1999, *Achieving Alaska Native Self-Governance: Towards Implementation of the Alaska Natives Commission Report*. The Economics Resource Group Inc., Cambridge MA.

<sup>23</sup> *ibid.*

<sup>24</sup> Stronger Futures Discussion paper, p 24.

<sup>25</sup> NTG Request for Tender K10-0023 Consultancy – Assessment of Governance and community engagement.



leadership and governance structures; identify incompatibilities between western-centric and traditional governance and leadership structures; and strengthen governance and leadership structures based on the research findings. The aim is to raise the standard and quality of community engagement by governments and increase and strengthen community participation and engagement with government.

This is a progressive initiative and commended by APO NT. Key features of the research include that it is to be carried out in consultation with an academic institution and use trained local researchers to assist where practicable. The research gives weight to existing community governance, including traditional governance and seeks to understand what the community would like to see and how communities wish to engage with government and have government engage with them.

A compelling aspect of the project is the development of a Local Community Awareness Program (LCAP) aimed at providing local, community-driven cross cultural awareness training for government staff. Such training will cover the contact and post-contact history; a cultural and historical profile of the community; and the current local context for the environment in which government and the community are working.

The Commonwealth Government should consider the findings of such participatory-based research and its application to future initiatives to foster healthier and more prosperous communities.

## 6 Unaddressed priority areas

APO NT urges that attention also be given to the following additional priority areas.

### 6.1 Role of the social security system in developing stronger futures

#### Way forward:

- Repeal compulsory income management that is based on the age and length of time a person has been in receipt of Centrelink benefits.
- A voluntary system of income management with an option for case-by-case trigger-based income management is preferred to the current model. It is noted however that triggers for income management should not be continually expanded, as currently under consideration, without proper consultation and consideration of likely consequences and discriminatory impacts.
- BasicsCard could be retained as a standalone option that Centrelink customers can choose to utilise in the same way as they do Centrepay. Customers should exercise control over the percentage of income allocated to a BasicsCard or Income Management account.
- Community consultation should occur on how financial literacy can best be developed and improved in communities.
- Financial literacy and education services to adults and to school students must be developed and improved.

- If/while NT income management is retained in its current form, the Government should consider a number of practical changes.

Central to a true partnership will be involving communities in discussions and decisions about how the social security system can best be used to help realise community aspirations.

Both government and communities can benefit from detailed and informed discussion and debate about how to best design and deliver social security payments in remote communities.

For example, as part of the *Stronger Futures* consultations, government asked if linking parents' payments to their children's school attendance was a good idea. As with other aspects of the consultations, meaningful context and valid alternatives were not put forward. To take one example, incentive payments, similar to the Maternity Immunisation Allowance scheme, rather than a punitive approach, could also have been explored.

### **Revisiting Income Management**

An important element in resetting the relation between government and Aboriginal people is a willingness to revisit the issue of income management. Although the new income management regime now applies across the whole of the NT and a variant of the scheme is slated to be introduced to five communities outside the NT, its impact is still greatest on Aboriginal people living in remote NT communities, particularly given the operation of compulsory income management.

Income Management must be part of the conversation, not only because it remains the source of much mistrust and hurt for many Aboriginal people. The legislative framework specifically opens the possibility to communities to request the Minister to introduce an income management model that is tailored to their particular community. As the decision to declare an area for income management rests with the Minister, communities should also be on notice that they may propose to the Minister that income management has no useful role in their community. It is essential that government takes the opportunity to inform communities of their options and to hear from communities what model of income management would work best for their community.

APO NT is particularly concerned about the absence of evidence to support the effectiveness of income management. Government estimates are that income management will cost approximately \$350 million to administer over four years.<sup>26</sup> Communities are justified in asking what proportion of the cost of income management goes to the delivery of the measure by Centrelink and what proportion goes to the costs of the BasicsCard alone (eg, hardware, software, merchant teams, automated call service and card provider contractor costs). Does the evidence of the efficacy of and outcomes produced by income management justify the cost of its administration? Would other options be able to achieve similar goals at lesser cost?

One difficulty is that income management was introduced and has been implemented without clear measurable goals or targets being identified. Such goals and targets must be set if government is to re-establish its credibility with Aboriginal people.

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<sup>26</sup> Federal Budget 2009-2010.

APO NT considers that a voluntary system of income management with an option for case-by-case trigger-based income management is preferred to the current model, with its significant compulsory element and disproportionate impact on Aboriginal people. However, APO NT also cautions the Government to not extend the triggers that may result in income management without thorough consultation and consideration of likely consequences and discriminatory impacts. During Senate Estimates on 1 June 2011, the Government advised there is an interest in including ‘risk of homelessness due to eviction from public housing due to rental arrears’ as a trigger for income management. This would be determined by the relevant public housing authority.<sup>27</sup>

It is noted that where a referral for income management is generated by an assessment conducted by an agency other than Centrelink, significant complications are often involved. For example, child protection income management is determined by the Department of Children and Families (DCF) in the NT who direct Centrelink to income manage an identified individual or family. As Centrelink are required to follow this direction and have no discretion, an appeal against the decision must be lodged with DCF. APO NT experience is that although a review process has been established with DCF, the process is currently operating poorly with minimal compliance with internal policies. This impacts on the efficacy and community perceptions of fairness of the income management regime.

Aside from this, other options to improve on the current NT income management system might include:

- Retention of BasicsCard as a standalone option that Centrelink customers can utilise in the same way as they do Centrepay, rather than applying the entire machinery of income management to people who may have no need or desire for that level of intervention;
- Enable customers to exercise control over the percentage of income allocated to a BasicsCard or Income Management account;
- Community consultation on how financial literacy can best be developed and improved in communities, with the aim of moving towards financial literacy for all Aboriginal families;
- Financial literacy and education services to adults and to school students must be developed and improved.

While NT income management is retained in its current form, the Government should consider the following practical changes:

- Enlarging the exemption criteria to include people engaged in CDEP, part-time study or voluntary work or a combination of study and work, in light of opportunities available to Aboriginal people residing in remote communities;
- Enlarging the exemption criteria to include people who have completed a comprehensive money management, consumer awareness and budgeting course;
- Providing financial training to Centrelink staff and training staff in working with customers to empower them to further develop their money management, consumer awareness and budgeting skills;

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<sup>27</sup> Ms Heffren-Webb, Senate Estimates, Commonwealth Senate Hansard, Wednesday 1 July 2011, p62.

- Ensuring Centrelink staff and associated agencies, such as Job Services Australia, and NGOs are aware of and facilitate people to exercise their right to seek exemptions;
- Simplifying and streamlining the exemption process for customers, for example by Centrelink obtaining health records rather than putting this impost on customers;
- Providing an automatic callback service to people calling the Indigenous Call Centre or Income Management line in relation to income management issues (families' grocery money should not be spent on phone calls arranging access to their grocery money);
- Consideration of reforming the parental exemption criteria in situations where it is impossible for parents to meet the necessary requirements due to practical limitations, such as attendance at pre-schools and crèches where none exist in the community or are only available for restricted hours.

## 6.2 Outstations, Homelands and Small Communities

### Way forward:

- The Commonwealth Government should clearly state that its policies are not aimed at moving Aboriginal people into growth towns or regional centres.
- The Commonwealth Government should renegotiate the 2007 Memorandum of Understanding with the NT Government to provide for ongoing Commonwealth Government involvement in the resourcing of outstations, and seek to re-negotiate the NIRA and related NPAs to include effective Aboriginal participation, input and consent.
- Support should be provided for innovative housing and shelter options for outstations that foster the capacity for greater self-sufficiency.
- CDEP should be reformed to provide real 'job creation' through financial support to commercial enterprise development, social enterprise development and in the paid provision of services on homelands and outstations.
- Support should be provided to local Aboriginal organisations, such as resource agencies, to deliver services to outstations.
- Funding should be provided so that Aboriginal people can be trained to deliver repairs, maintenance and construction services, rather than relying on outside contractors.

There is an urgent need for a sustainable and innovative approach to resourcing of homelands into the future. The Commonwealth Government has heard on countless occasions of the concern about the ongoing sustainability of outstations. It is irrefutable that they remain of the utmost importance to Aboriginal people in the NT. Amnesty International recently released an authoritative report on outstations, *The Land Holds Us*, which highlights the benefits outstations can provide in terms of better health, reduced social problems, economic development, and, importantly maintaining strong cultural connection to land. Kathleen Ngai, Anmatyerr elder and Central Australian artist explains:

My paintings are 'maps' of our country ... through my art I am educating the world about my country and my culture. I cannot paint when I'm not on my land. My art exists because of my

connection to my homelands. I would love my grandchildren to have the chance to live on their country, to know the stories.<sup>28</sup>

The absence of future funding or support for outstations is causing a great deal of concern. There is a need to clearly state that the Commonwealth Government is not pursuing policies aimed at moving Aboriginal people to reside in growth towns or regional centres.

The Commonwealth Government needs to invest in a sustainable future for small, remote communities and outstations. As a starting point, the Commonwealth Government should renegotiate the 2007 Memorandum of Understanding with the NT Government to provide for ongoing Commonwealth Government involvement in the resourcing of outstations.

The Commonwealth Government needs to support innovative housing and shelter options for outstations that foster the capacity for greater self-sufficiency. There is urgent need to support local Aboriginal organisations, such as resource agencies, to deliver services to outstations. Such service delivery has been compromised by changes to the CDEP and the introduction of the Shires. A further key element will be the provision of funding to enable Aboriginal people to be trained to deliver repairs, maintenance and construction services at outstations, rather than relying on outside contractors.

Investment in a sustainable future for homelands, outstations and small communities will involve Commonwealth Government support for a regional development approach which links investments in infrastructure and services in small communities and outstations to economic development and livelihood opportunities. Such a regional development approach should be based on recognised and existing linguistic regions of mobility and interaction rather than arbitrary conceptions of ‘hubs and spokes’ that are neither sufficient in coverage nor empirical.

### 6.3 Inter-agency collaboration and coordination

#### Way forward:

- Improved inter-agency collaboration and coordination must be fostered so agencies are aware of, and better communicate to clients, new and existing options.
- In the context of social security measures, it must be ensured that Job Services Australia providers, schools, health clinics, crèches, Commonwealth-funded financial counsellors, Money Management and Money Business providers and others both understand and communicate all relevant options to their clients.

The government is to be commended for initiatives designed to encourage people to take up employment and study. These include the student start-up scholarships and relocation scholarships. The Commonwealth Government has endeavoured to design income management exemptions to encourage people without dependent children to study, and people with dependent children to get their children to school. While it remains unclear whether these measures can or will be effective, they have no chance of success if no one knows about them.

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<sup>28</sup> Anmatyere elder quoted in Amnesty International 2011 *The Land Holds Us*.

It is the experience of our members that many government agencies and their remote-based staff are entirely unaware of these options.

In looking for ways to create stronger futures, government should ensure not only that community has input into initiatives that will work for them but also that agencies are aware of new and existing options and keep community members informed of all their options. This will ensure the measures have maximum impact.

Specifically in the context of social security measures, Job Services Australia providers, schools, health clinics, crèches, Commonwealth-funded financial counsellors, Money Management and Money Business providers and others must both understand and communicate all relevant options to their clients.