



## Inquiry into the Social Services Legislation Amendment (Cashless Debit Card) Bill 2017

### INTRODUCTION

1. This submission is made by MG Corporation in relation to the *Social Services Legislation Amendment (Cashless Debit Card) Bill 2017*.
2. MG Corporation was established in 2006 to represent the interests of the Miriwoong and Gajerrong (**MG**) people, who are the native title holders of large areas in the East Kimberley region, including areas in and around Kununurra - one of two sites selected by the federal government to trial the Cashless Debit Card (**CDC**). As the leading Indigenous membership based organisation in the East Kimberley, MG Corporation's vision is to achieve a healthy, wealthy and culturally strong MG community.
3. MG Corporation objects to the passing of the *Social Services Legislation Amendment (Cashless Debit Card) Bill 2017* as it provides legislative authority to enable the extension of the CDC in current trial sites and its expansion to further sites.
4. The extension and expansion of the CDC anticipated by the proposed Bill undermines our vision of achieving a healthy, wealthy and culturally strong MG community. The government's approach to social welfare reform has been entirely inconsistent with its commitment to the empowerment agenda, particularly with respect to empowering those who are most affected by the CDC in Kununurra, the majority of whom are local Indigenous people. Moreover, the proposed extension and expansion of the CDC has been justified by the government on the basis of flawed evaluation methodology.

### UNDERMINING THE EMPOWERMENT AGENDA

5. The continuation and expansion of the CDC undermines the government's commitment to the empowerment agenda. The federal government, through the Department of Prime Minister and Cabinet (**PM&C**), supports the Indigenous-designed and led Empowered Communities reform initiative, which '*aims to increase Indigenous ownership and give people a greater say in decisions that affect them*'.<sup>1</sup>
6. At the heart of the Empowered Communities reform initiative is the principle of subsidiarity: *that authority to decide and act should rest at the closest level possible to the people or organisations the decision or action is designed to serve*.<sup>2</sup>
7. In contrast to the government's commitment to the empowerment agenda, the implementation of the CDC trial in Kununurra in April 2016 failed to take into account the views of those most affected by the CDC - local Indigenous people.
8. The Department of Social Services (**DSS**) states that the '*Cashless Debit Card program was co-designed with local leaders in Kununurra....*'.<sup>3</sup> In reality, only four local leaders

<sup>1</sup> Department of the Prime Minister and Cabinet: <https://www.pmc.gov.au/indigenous-affairs/empowered-communities>.

<sup>2</sup> Empowered Communities Design Report p. iii and 23: <http://empoweredcommunities.org.au/f.ashx/EC-Report.pdf>.

<sup>3</sup> Department of Social Services Cashless Debit Card information: <https://www.dss.gov.au/families-and-children/programmes-services/welfare-conditionality/cashless-debit-card-overview/kununurra-and-wyndham-cashless-debit-card>.

were consulted in relation to the introduction of the CDC in Kununurra, all of whom expressed personal views in support of the proposed social welfare reform. One of those local leaders was Lawford Benning, who is the Chairperson of MG Corporation and a Director of Binarri-binyja yarrowoo Aboriginal Corporation – the backbone for Empowered Communities in the East Kimberley. Mr Benning publicly and politically actively advocated for the introduction of the CDC trial in Kununurra just over a year ago, but has since withdrawn his support for the CDC in light of the government's failure to deliver on the following key commitments as promised:

- a) The local Indigenous community will be provided with sufficient support to deliver wrap around services for alcohol, drug and employment issues prior to the introduction of the CDC;
  - b) The local Indigenous community will be empowered to assess and review local service providers for the wrap around services and, if necessary, shift the funding and support to a more effective providers; and
  - c) The local Indigenous community will be given delegated authority to easily assess and remove CDC recipients from the trial without the process being intrusive.
9. Mr Benning has been actively canvassing MG people and community members about their support of the CDC and has found that the overwhelming majority of CDC recipients do not support the trial. Whilst some recipients do support the trial as it currently operates and others would support a modified version, they make up a very small minority. Some recipients would rather not be part of the CDC trial and have removed themselves off all Centrelink benefits.
10. In August 2017, Mr Brent McIntyre, Assistant Director for Department of Social Services met with Mr Ian Trust, Mr Des Hill and Mr Benning, being three of the four original supporters of the CDC trial in Kununurra. Mr McIntyre wanted to engage with the three about:
- a) Finishing the current trial and making the CDC permanent; and
  - b) Implementing the CDC across Australia.

When queried by Mr Hill and Mr Benning, Mr McIntyre confirmed the Minister had already presented the two points above to the Legislative Council. Mr Benning saw this as rubber stamping a process that is already underway to legitimise a trial that does not have broad support of CDC recipients.

11. Mr Benning does not shy away from the fact that he was part of the four supporting the CDC trial and makes mention of this every time he canvasses community members. He is also very disappointed in the inaccurate recent publicity regarding the call to extend the Kununurra trial site as well as expanding the number of trial sites. Mr Benning is speaking up for the low profile majority to help counter what some of the high profile minority are saying about the CDC.
12. The government's failure to deliver on each of the three key commitments set out above has resulted in at least one of the four key local leaders withdrawing support for the CDC. This is the very support relied on by the government to justify the proposed extension and expansion of the CDC.
13. While it is acknowledged that the four local leaders took a public stance on a highly contentious issue, it does not follow that these four leaders speak on behalf of the entire community. The CDC trial was implemented without widespread consultation and the government now proposes to expand and extend the CDC without consulting those who are most affected by the CDC.

14. It has been reported that at least one of the local leaders who was initially consulted is of the view that there was no time to '*wait for consensus*' and further, that a '*democratic process, asking people with a drinking problem if they want to change, obviously they're going to say no, so I think that's doomed to fail*'.<sup>4</sup> This view fails to account for the sophisticated representative governance structures already established by the MG people.
15. Following recognition of their native title rights and interests, the MG people established a complex governance structure that ensures that each Dawang (traditional land or estate group) participate at all governance levels of MG Corporation and its subsidiaries (**MG Group**). There are a number of Dawang groups within the MG native title determination area. Each Dawang group appoints a representative to sit on the Dawang Council. In turn, the Dawang Council provides guidance and advice to the broader MG Group. Even a cursory analysis of the views of each Dawang Council representative indicates that the native title holders are overwhelmingly opposed to the extension and expansion of the CDC.
16. While not all local Indigenous people on the CDC are MG native title holders, the government's failure to draw on well-established representative structures for the purposes of consultation demonstrates a continuation of the government's top-down approach to the development and implementation of policy without properly engaging Indigenous Australians.
17. Had the government drawn on these well-established MG representative structures, it would be aware of the many concerns raised by MG people in relation to the CDC. Gailene Chulung is a Miriwoong woman who was born and raised in Kununurra. She sits on the Dawang Council as a representative for the Dulbung Dawang. Ms Chulung is also the Vice Chair of the Ord Valley Aboriginal Health Services (**OVAHS**) and a member of the MG Social Task Force. Ms Chulung describes the CDC as a throw-back to the 'dog tag days', when Indigenous Australians were forced to renounce their culture and heritage in order to be considered citizens and move freely. Ms Chulung says that the CDC severely restricts individual liberty and significantly contributes to mental health problems that already plague her community. Ms Chulung did not have an opportunity to voice her concerns about the CDC trial prior to its implementation and, consistent with the empowerment agenda, would like the opportunity to participate in policy decisions that affect her life and the wellbeing of her community.

## RELIANCE ON FLAWED EVALUATION METHODOLOGY

18. The DSS commissioned two evaluation reports of the CDC trial in Kununurra through Orima Research. A number of experts have cast doubt on the validity of the evaluation methodology used by Orima Research and cited by the government in support of the proposed expansion and extension of the CDC.
19. While a detailed analysis of the Orima Research is beyond the scope of this submission, MG Corporation would like to draw the Inquiry's attention to the assessment carried out by the Deputy Director of the Australian National University's Centre for Aboriginal Economic Policy Research, Janet Hunt. Ms Hunt points out serious flaws in the evaluation methodology and has warned that it is '*unwise*' to place too much emphasis on the Orima

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<sup>4</sup> Parke, E 'East Kimberley cashless card advocate defends scheme during inquest into youth suicides', *ABC* 18 August 2017: <http://www.abc.net.au/news/2017-08-18/cashless-card-advocate-defends-scheme-in-court-wa/8821252>.

Research.<sup>5</sup> Among other issues, Ms Hunt notes that the initial Orima evaluation ‘*suffers from recall bias, uses flawed weightings for the two locations and fails to take into account crucial external factors that may be simultaneously improving conditions in Indigenous communities*’.<sup>6</sup> Likewise, Ms Hunt’s analysis of the second and final Orima evaluation released in August 2017 casts serious doubt on the validity of the evaluation methodology. Notably, Ms Hunt highlights that the evaluation ‘*has serious flaws*’.<sup>7</sup>

20. Ms Hunt is not alone in her critique of the evaluation methodology relied on by the government to justify the extension and expansion of the CDC. Social policy analyst Eva Cox has highlighted a number of problems with the evaluation methodology, including in relation to the survey design, the interview process and the ethical approach to the process.<sup>8</sup>
21. The extension and expansion of the CDC as anticipated by the *Social Services Legislation Amendment (Cashless Debit Card) Bill 2017* demands far greater justification than the evaluation process relied on.

## CONCLUSION

22. MG Corporation objects to the passing of the *Social Services Legislation Amendment (Cashless Debit Card) Bill 2017* as it provides legislative authority to enable the extension of the CDC in the current trial sites and its expansion to further sites.
23. The CDC was imposed without any meaningful engagement with the native title holders for areas in and around Kununurra – one of two sites selected to trial the CDC. The government not only failed to engage with those most affected by the CDC in Kununurra, it also ignored complex social and historical factors.
24. The government’s top-down imposition of the CDC resulted in an erosion of individual liberty. Those placed on the CDC have lost the capacity to control their own lives. Such an approach is entirely inconsistent with the government’s commitment to the empowerment agenda. As well respected Senator for Western Australia, Patrick Dodson observed, the CDC policy is ‘*grounded in a philosophy of institutional control. Top-down measures which seek to address the behaviour of people who are vulnerable breeds a situation of hopelessness, dependency, and destabilisation...*’.<sup>9</sup>
25. The solution to social problems related to drugs, alcohol and gambling is complex and must be tackled in a comprehensive way by the MG people, not in their absence.

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<sup>5</sup> Knaus, C ‘Cashless welfare card: doubt cast on study used to justify expansion’ *The Guardian*, 8 June 2017: <https://www.theguardian.com/australia-news/2017/jun/08/cashless-welfare-card-doubt-cast-on-study-used-to-justify-expansion>.

<sup>6</sup> Ibid.

<sup>7</sup> Hunt, J ‘The Cashless Debit Card: Does it Really Prove Success?’ *The Centre for Aboriginal Economic Policy Topical Issue* (No. 2/2017), p. 1.

<sup>8</sup> Cox, Eva ‘Much of the data used to justify the welfare card is flawed’ *The Guardian*, 7 September 2017: <https://www.theguardian.com/commentisfree/2017/sep/07/much-of-the-data-used-to-justify-the-welfare-card-is-flawed>.

<sup>9</sup> Dodson, P ‘Indigenous communities need to be part of the solution. Top down measures don’t work’ *The Guardian*, 22 September 2017: <https://www.theguardian.com/commentisfree/2017/sep/22/indigenous-communities-need-to-be-part-of-the-solution-top-down-measures-dont-work>.