

Aboriginal Peak Organisations Northern Territory (APO NT)

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

Submission lodged via email community.affairs.sen@aph.gov.au

Friday 23 October 2020

Dear Committee Secretary,

RE: Aboriginal Peak Organisations Northern Territory submission to the Senate Community Affairs Legislation Committee on the Social Security (Administration) Amendment (Continuation of Cashless Welfare) Bill 2020

1. I write on behalf of the Aboriginal Peak Organisations Northern Territory (**APO NT**) to make a submission on the Social Security (Administration) Amendment (Continuation of Cashless Welfare) Bill 2020.
2. APO NT urges the Committee to recommend that the Bill not proceed on the basis that it is expensive, paternalistic, not based on the evidence and is a top-down blanket approach that will not address the real needs, or complex systemic issues, impacting Aboriginal people living in the Northern Territory (**NT**).
3. APO NT believes that imposing the Cashless Debit Card on approximately 25,000 Aboriginal Territorians will fundamentally impinge on the equal enjoyment of human rights and freedoms. APO NT recommends that the Committee read APO NT's 2019 submission on CDC, because the concerns raised then are even more relevant today (see **Attachment A**).
4. Established in 2010, APO NT is an alliance of Aboriginal organisations working to promote and protect the rights of Aboriginal people living in the NT and is committed to improving the conditions across the broader social determinants of health. As peak organisations in the NT, we share the aim of protecting and advancing the leadership, wellbeing and socioeconomic and cultural rights of Aboriginal people and communities. Aboriginal empowerment and self-determination through local ownership and community control are critical factors underpinning our work and advocacy.
5. APO NT members have been actively advocating against the discriminatory policies of compulsory Income Management since 2017 and between us, we have not found that compulsory and widespread income management works to positively change behaviour or community wellbeing.

6. APO NT believe that compulsory and conditional income management is a vehicle for disempowerment and continuing the stigmatisation and trauma of Aboriginal people.¹
7. The argument that cashless welfare will limit income spent on gambling and substances misuse is a flawed approach that targets individual choices, rather than historical and social structures.²
8. Rather than building capacity and independence, the program has had the opposite effect, by further entrenching an individual's dependence on welfare. Yet, the Government is heralding that 'this bill...will deliver a real difference to the lives of all Australians.'³
9. Aboriginal people want to regain control over their lives, not be trapped in the system. We want to be in control of our lives, and to be afforded our rights as Aboriginal people to free, prior and informed consent over the policies that affect us. This control is essential to self-determination and is enshrined in the United Declaration on the Rights of Indigenous Peoples 2007, which the Australian Government endorsed in 2009.
10. APO NT is a member of the Coalition of Peaks and we stress that any policy that directly impacts on Aboriginal people must be underpinned by the National Agreement on Closing the Gap, which was endorsed in May 2020. In particular, we recommend that current and future legislative and policy reform must be grounded in the priority areas for reform (see **Attachment B**). As it currently stands, the National Agreement on Closing the Gap and the priority areas for reform stand in stark contrast to the government's approach in imposing the CDC, and further, this current Bill is likely to undermine the Government's commitment and progress on closing the Gap.
11. This time last year, APO NT provided a submission to this Committee on the Income Management to Cashless Debit Card Transition Bill 2019. APO NT was strongly opposed to the Australian Government's plan to extend compulsory income management and establishing a CDC trial to replace the Basics Card. APO NT's position was based on the following:
 - 11.1. extending compulsory income management in the NT perpetuates the imposition of a one-size-fits-all policy on income recipients that largely targets Aboriginal people. It is a top-down policy which, in the case of the NT, will be imposed on a significant number of Aboriginal people regardless of their circumstances.
 - 11.2. the continued imposition of compulsory income management contradicts the Commonwealth and NT Governments' commitments through Closing the Gap that, "Aboriginal and Torres Strait Islander peoples must play an integral part in the making of the decisions that affect their lives – this is critical to closing the gap."⁴

¹ Greenacre, L., Akbar, S., Brimblecombe, J., & McMahon, E. (2020). Income Management of Government Payments on Welfare: The Australian Cashless Debit Card. *Australian Social Work*.
<https://doi.org/10.1080/0312407X.2020.1817961>.

² Ibid.

³ Commonwealth, Parliamentary Debates, House of Representatives, Thursday 8 October 2020, (Trevor Mark, Member for Brisbane, Queensland).
<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2Fa28c39ce-4e49-4b78-914d-ccca686a471e%2F0018%22>

⁴ Council of Australian Governments. (2018). *COAG Statement on Closing the Gap Refresh* [available at <https://www.coag.gov.au/sites/default/files/communique/coag-statement-closing-the-gap-refresh.pdf>]

- 11.3.** it contradicts the requirement stipulated under the Order to Establish the National Indigenous Australian Agency (NIAA), that it “enable policies, programs and services to be tailored to the unique needs of communities.”⁵
- 11.4.** the UN Committee on the Elimination of Racial Discrimination has expressed concern about the discrimination faced by Aboriginal and Torres Strait Islander people and recommended that Australia “maintain only opt-in” forms of social security quarantining.⁶ The Australian Human Rights Commission has also raised concerns about the compulsory CDC trials being inconsistent with the *Racial Discrimination Act 1975* (Cth).⁷
- 11.5.** the continuation of compulsory income management through the transfer to the CDC is being rushed forward despite the lack of any strong or positive evidence drawn from either the 2014 Social Policy Research Centre evaluation of New Income Management in the NT, the 2017 Orima Research evaluation of the Cashless Debit Card Trials in Ceduna, the Goldfields and East Kimberley (Western Australia), or University of Queensland study from February this year.
- 11.6.** the proposal has not been widely discussed nor explained to income recipients across the NT. It is our understanding from briefings with staff from the Department of Social Services, that consultations undertaken focused on the logistics of when and how the changes will be implemented. This is not the same as offering people a chance to give their views on whether compulsory income quarantining should continue or whether the CDC should be introduced. Further, the Department says it has engaged with nearly 3,500 people in the NT, but there will be more than 23,000 people affected by the changes. Many people currently on income management are unlikely to be aware of the planned changes until they are delivered a notification letter or receive a card from Indue.⁸
- 11.7.** the proposal has not been evaluated in the context of the impact of other social policy reforms in the NT that are achieving the behavioural change that income management has failed to achieve, particularly in relation to alcohol consumption and related harm. The implementation of the majority of the recommendations from the 2017 Riley Review into Alcohol Policies and Legislation, has seen reductions in alcohol related assaults in all jurisdictions (including a 60 percent drop in Alice Springs), reductions in alcohol-related hospital emergency presentations, car accidents and deaths in most of the NT’s jurisdictions, as well as a drop in alcohol consumption overall.⁹ Compulsory income management did not achieve these changes, and the improvements further undermine any supposed policy rationale for enforcing income management across the entire NT.
- 11.8.** income management in the NT has had a detrimental impact on key indicators of health including birth weights. In a paper delivered at the National Bureau for Economic Research Indigenous Health, Wellbeing, and Children's Outcomes workshop in Boston in November

⁵ Australian Government. (2019). *Order to Establish the National Indigenous Australians Agency as an Executive Agency NIAA*, [available at <https://www.legislation.gov.au/Details/C2019G00474>]

⁶ United Nations Committee on the Elimination of Racial Discrimination, (2017) *Concluding Observations on the eighteenth to twentieth periodic reports of Australia*, UN doc CERD/C/AUS/CO/18-20 (8 December 2017) [23].

⁷ Australian Human Rights Commission. (2017). Submission No 30 to the Senate Community Affairs Legislation Committee, *Inquiry into Social Services Legislation Amendment (Cashless Debit Card) Bill*.

⁸ CLC met with DSS staff at the Central Land Council Office in Alice Springs, 23 August 2019.

⁹ Northern Territory Government. (2019). *Northern Territory Alcohol Policies and Legislation Reform*, [available at <https://alcoholreform.nt.gov.au/data-and-evaluation/assaults>]

2019, researchers identify an average drop in birth weights for income management participants of more than 100 grams with a 30 percent greater likelihood of a low birth-weight outcome of that scale compared to prior to the 2007 Intervention and the introduction of income management.¹⁰

11.9. the continuation of compulsory income management in the NT will further disempower income recipients and deny them control over their lives and is contrary to the principles of self-determination, and established evidence that disempowerment and lack of control results in worse health and wellbeing outcomes.

11.10. income management cannot provide a transition to employment in locations where few employment opportunities exist and those that exist are largely undertaken by outsiders. Instead, for many Aboriginal residents of the NT, particularly those living remotely, compulsory income management is long term and, regardless of a person's lifestyle and financial management capacity, it is almost impossible to exit the program.¹¹ The 2014 independent evaluation of New income management conducted by the Social Policy Research Centre found that:

*percent of those on income management in the Northern Territory were Indigenous and 76.8 of those were on compulsory income management. More than 60 percent of this group were on IM for more than 6 years. Of those Indigenous people on compulsory income management 4.9 percent gained an exemption compared to 36.3 percent of non-Indigenous people.*¹²

12. The Federal Government claims the cashless debit card is intended to be a "financial literacy tool", but in practice this is little more than another tool to micro-manage people's lives and deny people the right to make basic decisions about where to buy food and clothes, and the option of buying cheaper goods with cash.

13. The paternalistic aspect of the restriction of welfare is intended to increase the chances that children's basic needs are being met resulting higher school engagement and greater educational attainment. However, in 2017 Clark, Kettlewell, Schurer & Silburn found no evidence that school attendance increased after the introduction of income management.¹³ In fact, it was estimated that attendance fell by 2.7 percentage points on average in the short-run. Income management also did not affect student enrolments or mobility patterns into and out of Aboriginal communities.¹⁴ Recent sales data from the Arnhem Land Progress Association demonstrate a 3.04 percent decrease in liquor sales, but

¹⁰ Doyle, M., Schurer, S., & Silburn, S. (2019). *Why does income quarantining worsen birth outcomes in indigenous communities?*, Conference paper for presentation at the NBER workshop Indigenous Health, Wellbeing, and Children's Outcomes, Boston Massachusetts, November 2019. University of Sydney, Institute for the Study of Labour, Menzies School of Health Research.

¹¹ Allam, L. (2019, September 17). Exiting the Cashless welfare card trial is almost impossible, critics say. *The Guardian*. https://www.theguardian.com/australia-news/2019/sep/17/exiting-the-cashless-welfare-card-trial-is-almost-impossible-critics-say?CMP=share_btn_link

¹² Bray, R., Gray, M., Hand, K., & Katz, I. (2014). Evaluating New Income Management in the Northern Territory. Australian National University, 117. https://www.dss.gov.au/sites/default/files/documents/12_2014/evaluation_of_new_income_management_in_the_northern_territory_full_repor.pdf

¹³ Clark, D., Kettlewell, N., Schurer, S., & Silburn, S. (2017). The effect of quarantining welfare on school attendance in Indigenous communities. *Life Course Centre Working Paper Series*. <https://www.lifecoursecentre.org.au/wp-content/uploads/2018/06/2017-22-LCC-Working-Paper-Cobb-Clark-et-al..pdf>

¹⁴ Ibid, 5.

increases in clothing (110 percent), furniture (171.08 percent) and electrical (112.11 percent) sales. See table in **Attachment C**.

14. The Northern Territory has not been subject to a trial, yet the government intends to introduce the CDC permanently and does not allow for the process to be tested in the unique NT context. APO NT is concerned that there has been no discussion around the absence of any cap on the number of people who will be subjected to the CDC. Parts of the NT could be excluded through legislative instrument and provisions requiring independent evaluations of the card would be removed. We are also extremely concerned about the Minister's ability to increase the portion of income that is quarantined up to 80%, without any requirement in legislation for consultation with communities. In light of COVID-19, APO NT is surprised and disappointed at the Government's rush to implement this permanent income management system despite little engagement with the people that will be most affected.
15. In February this year, the Central Land Council met with Senator Jacqui Lambie in Canberra after the Senator completed a fact-finding trip in the NT and WA with Senator Malarndirri McCarthy, Dr. Josie Douglas (CLC) and staff and board members from the Arnhem Land Progress Association (ALPA). The trip was aimed at assessing how well income recipients understood the planned rollout of the Cashless Debit Card. Not surprisingly, remote income recipients reported a widespread lack of awareness and understanding of the CDC plans.
16. At the time, Senator Lambie appropriately called for more extensive and meaningful consultation by Minister Ruston and APO NT were very supportive of that call. The Arnhem Land Progress Association's submission to this Committee last year highlighted that consultation with their members means 'sitting down with individual families and clans, translating words and concepts between languages and dialects.'¹⁵ We do not believe this has occurred.
17. Minister Ruston visited the NT in late January 2020 for meetings with stakeholders in Darwin, the Tiwi Islands, Ali Curung, Tennant Creek and Alice Springs. Following their meeting with the Minister, Members of the Patta Native Title group in Tennant Creek contacted CLC staff to express their disappointment and frustration that their meeting with the Minister was short and did not allow time for questions or discussion. Following the January visit, Minister Ruston stated that, "we will continue to consult, visit communities and talk to people over the next five months."¹⁶ Unfortunately the COVID-19 restrictions put a stop to those plans and those consultations remain incomplete. Despite this, the Federal Government is attempting to rush the passage of this legislation.
18. With little progress on consultation and no new evidence supporting the CDC our concerns about the introduction of the card remain unchanged. We maintain that no Bill of this type should be adopted without evidence that the Government has consulted fully and openly with affected communities and that affected communities have given their consent. We also maintain that benefits attributed to compulsory income management by the Australian Government are not supported by evidence. Evaluations of compulsory income management in the NT and of the CDC trial sites are not conclusive and in fact point to concerning levels of psychological harm and a range of serious practical challenges for income recipients.¹⁷ The long-awaited evaluation of CDC trial sites being conducted by the

15 Arnhem Land Progress Aboriginal Corporation. Submission to the Social Security Amendment (Income Management to Cashless Debit Card Transition) Bill 2019.

<https://www.aph.gov.au/DocumentStore.ashx?id=d9a7b937-e3ca-4e3b-b980-be1577866dec&subId=671534>

¹⁶ Centralian Advocate, January 2020

¹⁷ Hunt, J. (2018). The Cashless Debit Card Trial Evaluation: A Short Review. *CAEPR Topical Issue No.1/2017*; Hunt, J. (2017). The Cashless Debit Card evaluation: does it really prove success? *CAEPR Topical Issue*

University of South Australia was supposed to be completed in early 2020 but the results remain unforthcoming.

19. In February 2020, the University of Queensland released a joint study into the impacts of the Cashless Debit Card in four trial sites; Playford (SA), Shepparton (Vic), Ceduna (SA) and Hinkler (Qld). The study found that the majority of survey participants reported that they had no trouble managing their own money before being placed on CDC (67 reported no issue) and that participants reported they did not have a problem with alcohol (87 percent), drugs (95 percent) or gambling (91 percent) prior to being put on CDC. Overall, 87 percent of survey respondents on CDC did not see any benefits in the scheme, while only 13 percent thought there were some advantages. The majority of respondents did not have enough cash for essential items (76 percent). This resulted in difficulty providing for children and other family members, participating in the cash economy and paying rent and other bills – often as a result of glitches in the CDC bills payment system, forcing participants to resort to what cash they had to pay bills. A total of 26 (32 percent) respondents indicated that they had used the exemption, review and appeal procedures to try and exit the CDC, or reduce the amount of money that is quarantined. Most applications were undecided (42 percent) or unsuccessful (35 percent). Only two (8 percent) had a successful outcome, while a further four (15 percent) were unsure of the outcome of their application.¹⁸
20. The exemptions that currently exist under the NT's current income management scheme¹⁹ will not apply under CDC. APO NT are aware of complaints on the CDC exemption process, such as delays to exit the scheme, or the department rejecting applications where individuals believed they met the criteria. These instances have been reported in the ABC and The Guardian.²⁰
21. Like Senator Siewert has expressed, we are concerned that individuals on the CDC are being asked for evidence that goes above and beyond the objectives of the trial, which is an onerous and patronising process.²¹

No.2/2017. https://caepr.cass.anu.edu.au/sites/default/files/docs/CAEPR_Topical_Issues_1_2017_0.pdf; Martin, P. (2017, September 7). The cashless welfare card may not be the success it seems. *The Sydney Morning Herald*. <https://www.smh.com.au/opinion/the-cashless-welfare-card-may-not-be-quite-the-success-it-seems-20170906-gybm0q.html>

¹⁸ Marston, G., Mendes, P., Bielefeld, S., Peterie, M., Staines, R., & Roche, S. (2020). *Hidden costs: An independent study into Income Management in Australia*. University of Queensland. <https://research.monash.edu/en/publications/hidden-costs-an-independent-study-into-income-management-in-austr>

¹⁹ See ss 123UGC and 123UGD, as well as the Secretary's power to exempt classes of persons under s 123UGB. These exemptions were broadly in two categories applying to individuals who care for children and those that do not. For individuals with children, it was necessary to show an absence of financial vulnerability and also a certain level of school attendance in order to be exempt. Individuals without children needed to demonstrate they were working a certain number of hours a week.

²⁰ Allam, L. (2019, September 17). Exiting the cashless welfare card trial is almost impossible, critics say. *The Guardian*. <https://www.theguardian.com/australia-news/2019/sep/17/exiting-the-cashless-welfare-card-trial-is-almost-impossible-critics-say>; Henriques-Gomes, L. (2020, May 26). Welfare recipients facing five-month delays to exit cashless debit card scheme. *The Guardian*. <https://www.theguardian.com/australia-news/2020/may/26/welfare-recipients-facing-five-month-delays-to-exit-cashless-debit-card-scheme>; Marchant, G. (2020, August 21). Cashless welfare card recipients denied exit from trial claim unfair treatment. *ABC News*. <https://www.abc.net.au/news/2020-08-21/queensland-cashless-welfare-card-exit-applications-exit/12579856>;

²¹ Michael, L. (2019, August 1). Government shakes up process to get off the cashless welfare card. *Probono Australia*. <https://probonoaustralia.com.au/news/2019/08/government-shakes-up-process-to-get-off-the-cashless-welfare-card/>

22. APO NT understands that there are two options for exemption under CDC. The first is that the individual can exit the CDC if the Secretary determines that being a trial participant is a serious threat to the individuals' mental, physical or emotional wellbeing. Yet, the Secretary does not need to make inquiries on the individuals' wellbeing before they are placed on the CDC, which places an unreasonable burden on participants who are already experiencing difficult circumstances. The second option is for an Individual to apply to the Secretary to be exempt from the CDC or through the Department of Social Services if they can demonstrate reasonable and responsible management of their affairs. This is demonstrated through the following criteria:

- The interests of any children the person is responsible for
- Any convictions or prison sentences in the last 12 months
- Risk of homelessness
- Health and safety of individual and the community
- Responsibilities and circumstances of the individual; and
- Engagement in the community, including employment of efforts to obtain work; and
- Any other requirements that the Minister has issued by legislative instrument (after consultation with communities and program participants).

23. APO NT are particularly alarmed at the relatively low rate of individuals being granted an exemption from CDC. As at September 2020, 64 percent of Aboriginal participants were not approved on a well-being exemption²² in the East Kimberley region and 45 percent were not approved in the Ceduna region.²³

24. For those participants that applied to exit the program demonstrating reasonable and responsible management of their affairs, including financial affairs; 53 percent of Indigenous participants in the Ceduna region were not approved; 87 percent in the East Kimberley region; 41 percent in the Goldfields region in Western Australia and 13 percent in the Bundaberg and Hervey Bay region Queensland.²⁴ APO NT also believes that if this criteria were applied in the NT, many individuals would find it difficult to meet the criteria. Many aspects of these criteria are outside the control of participants, including the health and safety of the community in which they live.

25. It is also important to highlight that the NT population is particularly vulnerable with:

- 12 times the rate of homelessness²⁵;
- 81 percent of all homelessness caused by overcrowding²⁶;

²² Section 124PHA of the Act.

²³ See Table 3 Well-Being Exemptions (Section 124PHA of the Act as at 4 September 2020).

<https://data.gov.au/data/dataset/e5a6ca38-b17c-4e65-af70-84e7759a0ffa/resource/bfd433d0-f41f-4d2b-8848-287d16e0cdd8/download/cashless-debit-card-data-summary-september-2020.pdf>

²⁴ See Table 4 Exits (Section 124PBH of the Act) as at 4 September 2020

<https://data.gov.au/data/dataset/e5a6ca38-b17c-4e65-af70-84e7759a0ffa/resource/bfd433d0-f41f-4d2b-8848-287d16e0cdd8/download/cashless-debit-card-data-summary-september-2020.pdf>

²⁵ NT Shelter. (2019). Homelessness in the Northern Territory. <https://ntshelter.org.au/educational-resources/>

²⁶ Northern Territory Government. Pathways to the Northern Territory Aboriginal Justice Agreement. Department of the Attorney-General and Justice, 28.

- 84 percent of adult prisoners were Aboriginal, accounting for 25.9 percent of the total NT adult population²⁷;
- 96 percent of the youth detention population were Aboriginal, at 30 June 2018²⁸;
- 36 percent of Aboriginal people over the age of 55 have completed year 10²⁹;
- 27 percent of Aboriginal people aged 15 years and over were employed in 2016³⁰; and
- In 2014-15 Aboriginal people over the age of 18 reported high or very high levels of emotional distress; and were hospitalised for a mental or behavioural disorder at three times the rate of any other jurisdiction³¹.

26. These figures indicate that Aboriginal people in the NT are likely to find it more difficult to meet the requirements for exiting compulsory income management under the CDC.

27. As it currently stands, the CDC bill may infringe upon a women's right to be free from violence given the compulsory application of the CDC. All women have a fundamental right to live free from violence, and this right is protected in both domestic and international human rights law.

28. The Australian Women Against Violence Alliance identify specific vulnerabilities faced by women in their submission to this Inquiry and APO NT notes the following considerations listed on page four of the submission³²:

- the receiving of social security support through CDC will impact the ability of victims/ survivors to leave violent relationships given the lack of disposable cash. If a woman has children, the available 20 percent may be further reduced considering all necessary school and other child-related expenses that cannot be paid via direct debit;
- the lack of options for financial independence may force women back into violent relationships.
- The list of exemptions as it stands does not foresee any exemptions for women experiencing family violence; and that
- All other types of payment including a crisis payment that victims/ survivors may be eligible to access in situations of domestic and family violence, and disability payments, are subject to the CDC.

29. Administrative arrangements supporting the card remain unclear. Centrelink resources have been pared back in remote NT communities in recent years with further widespread cuts prior to the COVID-19 pandemic. The impact of this reduced workforce will be significant in remote areas and exacerbated by the increasing reluctance of regional councils to assist community members with banking and

https://justice.nt.gov.au/_data/assets/pdf_file/0009/728163/Pathways-to-the-northern-territory-aboriginal-justice-agreement.pdf

²⁷ Ibid.

²⁸ Ibid, 34.

²⁹ Ibid, 28.

³⁰ Ibid, 28.

³¹ Ibid, 27.

³² Australian Women Against Violence Alliance. (2020). Submission to the Social Security (Administration) Amendment (Continuation of Cashless Welfare) Bill 2020.

Centrelink matters. This resource-intensive work will fall to local non-government organisations and Aboriginal controlled organisations who are not adequately resourced.

- 30.** APO NT have heard that there has been a significant increase in individuals seeking support to access financial and other online services, such as online banking, MyGov account, Centrelink benefits and superannuation in remote communities. This situation has come about due to a combination of two factors, the first being that the national COVID-19 policy response instigated a range of additional motivations for people to access financial services, and the second being that some services historically being provided by other service providers were reduced or closed during the period.

- 31.** According to the North Australian Aboriginal Justice Agency (NAAJA) last year:

*'NAAJA lawyers are often approached for assistance with problems with banking or for assistance with setting up automatic debits or payments for fines, dealing with superannuation and insurance companies or for advice about financial affairs. In some communities, a service provider or program will be available to provide assistance with financial matters. However, in our experience funding is only available for a fly-in-fly out service provider who is unable to spend significant periods of time in community and is thus has a limited ability to address the significant unmet need for financial literacy education, access to financial services and financial counselling. In our experience, the availability of registered financial counsellors in community is even more limited, further reducing the scope of financial issues that service providers can assist with.'*³³

- 32.** This demand for support is expected to increase with the expected roll-out of the CDC, particularly if inadequate resources are allocated to client support services. If the Cashless Debit Card is rolled out across the Territory, the Government will also need to provide funding for social security legal help, as well as in the other regions the CDC is applied. There has been no funding for social security legal help during the piloting of the Card in the East Kimberley and Ceduna and the same presumably applies to other locations.³⁴

- 33.** A recent research project between the National Social Security Rights Network (NSSRN) and NAAJA on the impact of penalties on Community Development Program participants identified that Aboriginal participants have low legal literacy and:

*'Addressing the lack of community knowledge about what constitutes a legal issue, and how to resolve it, would require significantly more resources than currently exists within the community legal education team at NAAJA.'*³⁵

- 34.** Yet, NAAJA does not have specialist social security funding. NAAJA's generalist civil lawyers do their best to identify legal issues that their clients face, but their capacity is limited to what can be achieved during legal clinics that span a few days every two months.³⁶ The Government needs to recognise the significant legal and social needs that impact on Aboriginal people disproportionately in remote

³³ North Australian Aboriginal Justice Agency [NAAJA]. 2019. Submission to the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019. <http://www.naaia.org.au/wp-content/uploads/2019/11/NAAJA-Submission-to-Social-Security-Administration-Amendment-Income-Management-to-Cashless-Debit-Card-Transition-Bill-2019-Cth.pdf>

³⁴ An email to Senators from Judith Harrison (Australian National University) where the issue of funding for social security legal help was mentioned.

³⁵ National Social Security Rights Network. (2020). Community Development Program – The impact of penalties on participants, 29. http://ejaustralia.org.au/wp/wp-content/uploads/2020/03/NAAJA-NSSRN-Report_FINAL.pdf

³⁶ Ibid, 6.

communities, especially those individuals that are currently on income management, and potentially the CDC.

- 35.** It is anticipated that participants may need to seek legal help at all stages of the CDC, in particular seeking an exemption or exiting the program. There are also affiliated legal issues, which may include housing; debt; the Community Development Program³⁷ and Centrelink. These issues have been raised in the past by NAAJA and the Kimberley Community Legal Services in 2019.³⁸
- 36.** There is an opportunity here for the Government to resource the establishment and implementation of health-justice partnership models in remote communities to encompass the broad and often complex health and legal concerns that Aboriginal people face on a daily basis.³⁹
- 37.** The Government will provide \$17.5 million to assist the transition process in the NT and Cape York area, but APO NT finds it unsettling that no details have been published on how this funding will be allocated.⁴⁰
- 38.** Minister Ruston claims that one of the benefits of CDC is convenience. This will not be the case in the NT where access to the internet and mobile phone coverage are not guaranteed, technological proficiency is not high and English can be a third or fourth language for many. With limited support from Centrelink and access to a single phone for queries and complaints, there are significant challenges for people living remotely. This is significant considering that the Cashless Debit Exit Application Supporting Information⁴¹ states that applicants seeking exemption:
- 38.1.** *'will be contacted to complete a phone interview. We will try to call you 2 times. If we are not able to contact you, we will not be able to assess your application.'*
- If Aboriginal people have limited, if any access to telecommunications, a computer and, or working broadband, does this mean that they will remain in the system indefinitely? This is not good enough.
- 38.2.** *'In the interview you may be asked to provide extra information.'*
- Acknowledging the lack of access to personal information or storefronts in remote communities, where individuals can seek guidance or help to find information or complete paperwork, this may also be a burden. Before even reaching this interview stage, an individual should be provided with a list of the relevant paperwork or information required, so that this can be arranged well in advance of the meeting. Otherwise, these meetings could turn cyclical, with no real outcomes, which will keep Aboriginal people trapped within the system.
- 38.3.** *'All applications will be considered on a case-by-case basis. Application times will vary.'*

³⁷ In particular, the restoration of mutual obligations in nine days time, which have been considerably high.

³⁸ Kimberley Community Legal Services. (2019). Submission to the Senate Community Affairs References Committee Inquiry into the ParentsNext Program, Submission 72.

³⁹ Health Justice Australia. (2017, March 27). Letter to Dr. Jim Chalmers MP. Consultation on Federal Budget Policy. <https://www.healthjustice.org.au/wp-content/uploads/2017/01/Jim-Chalmers-MP-Budget-consultation-270317.pdf>

⁴⁰ Commonwealth of Australia. (2020). *Social Security (Administration) Amendment (Continuation of Cashless Welfare) Bill Explanatory Memorandum*. House of Representatives. https://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r6608_ems_291e3448-b2fb-4116-b3df-d5759b59cb05/upload_pdf/JC000186.pdf;fileType=application%2Fpdf

⁴¹ Australian Government. (2020). Cashless Debit Card Exit Application form (SS526). <https://www.servicesaustralia.gov.au/individuals/forms/ss526>

There is a concern that these barriers will result in Aboriginal people experiencing delays in receiving a decision on their application for exemption. This could compound the anxiousness and trauma felt by Aboriginal people in relation to paternalistic compulsory income management. It is critical that when an individual applies for an exemption, Services Australia provide an adequate response outlining the reasons within a specified time frame and refrain from ghosting⁴² individuals who are seeking answers.

38.4. *‘If a health or community worker believes you should be placed back on the program for medical or safety reasons, they may contact Services Australia to request this.’*

After a person has received an exemption or an approval to exit the CDC program, if an employee or officer of a state or territory government, or in other cases a health or community worker, considers that a person should be on the card for “medical or safety reasons”, they can request the Secretary to review the exemption. This Bill would also enable the Secretary to decide to revoke an exit approval without any referral from a health or community worker. This Bill gives the Secretary the power to obtain information that they consider may be relevant to the operation of Part3D. The Secretary can compel a person to give the department information, if considered relevant to any aspect of CDC and also enables the Secretary to obtain information from individuals, government departments or a body. This means that information can be shared between government departments, services and individuals. This is an extremely broad power, where the Secretary and Department can engage in intense and unchecked scrutiny of the personal lives of individuals on the program.⁴³ Monitoring and surveillance of behavioural data by welfare authorities and private actors has been raised as important human rights concerns by the UN Special Rapporteur on Extreme Poverty and Human Rights.⁴⁴

39. Bielefeld noted that the 2017 ORIMA report recommended education to help welfare recipients be ‘more confident’ using their cards and ‘more assertive with merchants’ who say they cannot accept the card for transactions.⁴⁵ However, Marston, Mendes, Bielefeld, Peterie, Staines and Roche found that the Indue Card places considerable stigma and stress on the individual.⁴⁶

40. It is APO NT’s strong view that an indefinite extension of compulsory income management in the NT in the form of the CDC is not good policy. In the current Bill, people in the NT will remain on their existing income management levels when transitioned to the CDC. Long term welfare recipients, disengaged youth and vulnerable welfare recipients will be quarantined 50 percent, welfare recipients referred for

⁴² ‘Ghosting’ is a colloquial term used to describe the practice of ceasing all communication and contact with a partner, friend, or similar individual without any apparent warning or justification and subsequently ignoring any attempts to reach out or communicate made by said partner, friend, or individual.

⁴³ North Australian Aboriginal Justice Agency [NAAJA]. 2019. Submission to the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019. <http://www.naaaja.org.au/wp-content/uploads/2019/11/NAAJA-Submission-to-Social-Security-Administration-Amendment-Income-Management-to-Cashless-Debit-Card-Transition-Bill-2019-Cth.pdf>

⁴⁴ Ibid and United Nations Office of the High Commissioner of Human Rights, Report of the Special Rapporteur on Extreme Poverty and Human Rights, 11 October 2019, UN Doc A/74/48037, p 24.

⁴⁵ Bielefeld, S. (2017). *Cashless Welfare Cards: Controlling spending patterns to what end?* Submission No.55 Attachment 1 to the Social Services Legislation Amendment (Cashless Debit Card) Bill 2017.

⁴⁶ Marston, G., Mendes, P., Bielefeld, S., Peterie, M., Staines, R., & Roche, S. (2020). *Hidden costs: An independent study into Income Management in Australia*. University of Queensland, 106. <https://research.monash.edu/en/publications/hidden-costs-an-independent-study-into-income-management-in-austr>

income management by a child protection officer will be quarantined at 70 percent and voluntary income management participants will be quarantined at 50 percent, but the Minister will have the unrestricted power to increase these amounts up to 80 percent. There is nothing in the Bill to limit when or why the Minister could increase the amount quarantined.

41. APO NT holds little faith in the Government's commitment to maintain a 50:50 ratio between income-managed funds and cash as promised given that all current trial sites have required 80 percent of income to be quarantined and just 20 percent made available as cash. This means that while some participants have 50 percent of their income to spend in cash on things like purchasing fruit and vegetables from markets, purchasing second-hand goods, attending the local swimming pool, school excursions and the school canteen, other participants will be limited. Given the inadequate consultation that has occurred in relation to this Bill, we also hold little faith that the Government will genuinely consult with communities before changing these levels.
42. We support options for alternative voluntary income management programs that are far more suitable to the context of the Northern Territory and have been shown to work.
43. One example is the ALPA FOOD card instituted by Arnhem Land Progress Association (ALPA).⁴⁷ The ALPA FOOD card emerged from community consultations in Gapuwiyak in 2004 and is a family budgeting mechanism that ALPA customers can opt to use. Customers can determine how much money they would like to add to their card, giving the customer control over their personal financial capacity. In the establishment of the card, there was extensive consultation with members and the community, which resulted in a card that met the community's needs. The ALPA card allows customers to purchase grocery food items; baby requirements and cooking equipment to support food security, but excludes the purchase of soft drinks, cigarettes, tobacco, and toys. The benefit of early community support and involvement has meant that the community has greater uptake and use of the card, benefitting the individual and the broader community, with reduced shame and stigma.
44. APO NT is frequently told that Aboriginal people in the Territory want real jobs in their communities, particularly for young people and individuals living with a disability.
45. APO NT encourages the Committee to read the Fair Work and Strong Communities Proposal (see **Attachment D**). This proposal would create up to 5,000 jobs in communities by providing wage packages to enable Aboriginal community controlled organisations to take on new workers. Creating real jobs in real communities will have a far more positive impact on the lives of Aboriginal people than continuing and expanding compulsory income management.
46. APO NT are constantly responding to the Government's band-aid solutions attempting to address complex issues in remote communities.
47. There is strong evidence that such short-term knee-jerk responses are often more expensive in the long term, as compared to a committed investment to sustainable solutions, based on what works on the ground locally and developing the evidence-base. These solutions cause greater harm over time.
48. In Dr. Elise Klein's evidence provided to the Coroner's Court of Western Australia in the Kimberley Inquest, before State Coroner Mr. R V C Fogliani in 2019, Dr. Klein stated that the CDC trial further disempowered vulnerable families in the region, with many considering the card akin to "ration

⁴⁷ ALPA. (n.d). *Health and Nutrition*. <https://www.alpa.asn.au/health-and-nutrition>

days”.⁴⁸ Dr Klein stated that “community-led development of therapeutic-based services” would lead to greater preventative outcomes”.⁴⁹

49. What we want and need in the Territory is strengths based⁵⁰, preventative approaches that focus on finding solutions that address the root causes of these issues and real investment in employment, education and capacity building of our own structures, as identified in the Closing the Gap National Agreement.
50. APO NT concludes our submission by reminding the Committee of Priority Reform 1 of the 2020 National Closing the Gap Agreement to ‘acknowledge that genuine partnership is critical to accelerating policy and place-based progress against Closing the Gap’. This commitment is undermined by the imposition of the CDC which has not been done in partnership with Aboriginal people but is being done *to* them.
51. APO NT stresses that the CDC Bill should not be passed and we invite the Government, Senators and Shadow Ministers to work with us to progress policies and programs that will positively impact on the wellbeing and prospects of Aboriginal income recipients and their families in the NT through the creation of training opportunities and pathways to real jobs.
52. If you have any queries relating to APO NT’s submission, please contact Brionee Noonan on 0488 006 680 or via email brionee.noonan@amsant.org.au.

Yours sincerely,

John Paterson

On behalf of the APO NT Governing Group.

⁴⁸ National Social Security Rights Network. (2017). Submission to the Social Services Legislation Amendment (Cashless Debit Card) Bill 2017. Submission 25, 5-6.

⁴⁹ Ibid, 6.

⁵⁰ A strength’s based approach refers to concepts and themes such as: asset-based approaches, resilience, cultural appropriateness, social determinants of health and ecological theories, protective factors, empowerment, holistic approaches, wellness and wellbeing, strength’s based counselling approaches, positive psychology and decolonisation. A strength’s based approach places emphasis on building on positives – see Kimberley Community Legal Services. (2019). Submission to the Senate Community Affairs References Committee Inquiry into the ParentsNext Program, Submission 72, 14.

ATTACHMENT A

Aboriginal Peak Organisations NT (APO NT) Submission to the Senate Community Affairs Legislation Committee Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, lodged 17 October 2020.

<http://www.amsant.org.au/apont/wp-content/uploads/2019/11/APONT-Submission-Cashless-Debit-Card-Bill-October-2019.pdf>

ATTACHMENT B

National Agreement of Closing the Gap:

Priority Areas for Reform

1. Developing and strengthening structures to ensure the full involvement of Aboriginal and Torres Strait peoples in shared decision making at the national, state and local or regional level and embedding their ownership, responsibility and expertise to close the gap.
2. Building the formal Aboriginal and Torres Strait Islander community-controlled service sector to deliver closing the gap services and programs in agreed priority areas.
3. Ensuring all mainstream government agencies and institutions undertake systemic and structural transformation to contribute to Closing the Gap.
4. Ensuring Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally relevant data and information to monitor the implementation of the Priority Reforms, Closing the Gap targets and drive local priorities.

For more information on these areas and the National Agreement, visit the Coalition of Peaks website <https://coalitionofpeaks.org.au/>

ATTACHMENT C

Arnhem Land Progress Association Sales by Category % to 2019

This table shows by category the percentage increase on 2019, year to date from the 1st of May 2020.

Department	Diff %
CHILLER FREEZER	54.83%
CIGS & TOBACCO	36.54%
CLOTHING/MNCHST	110.60%
ELECTRICAL	112.11%
FRUIT & VEG	30.00%
FURNITURE	171.08%
GROCERY	16.46%
LIQUOR	-3.04%
MEAT	47.23%
PREPARED FOODS	15.10%
TAKEAWAY	33.36%
TOYS	73.19%
VARIETY	83.53%
Total	36.97%

ATTACHMENT D

The following links relate to the Fair Work and Strong Communities Proposal.

- **The Fair Work and Strong Communities Proposal** <http://www.amsant.org.au/apont/wp-content/uploads/2020/10/Fair-Work-and-Strong-Communities-Model-2018.pdf>
- **Summary of the Proposal** http://www.amsant.org.au/apont/wp-content/uploads/2017/07/RDES-Summary_online.pdf
- **Infographic of the proposal** http://www.amsant.org.au/apont/wp-content/uploads/2017/07/RDES-Summary_online.pdf