



Reconciliation Australia
Submission to the Community Affairs Legislation Committee

*Inquiry into Social Security and Other Legislation Amendment
(Welfare Reform and Reinstatement of Racial Discrimination Act)
Bill 2009*

*Families, Housing, Community Services and Indigenous Affairs
and Other Legislation Amendment (2009 Measures) Bill 2009*

*Families, Housing, Community Services and Indigenous Affairs
and Other Legislation Amendment (Restoration of Racial
Discrimination Act) Bill 2009*

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Attachment A

Reconciliation Australia’s submission to the NTER Review Board

Attachment B

Reconciliation Australia’s submission to the Reform of Australian Government Administration

Attachment C

The Balgo Community Capacity Building Model, a paper presented by Maggie Kavanagh to the Desert Knowledge Symposium, Alice Springs, 3-6 November 2008.

Attachment D

Reconciliation Australia press release dated 7 August 2007.

1. Introduction

Reconciliation Australia welcomes the opportunity to make a submission to the Community Affairs Legislation Committee's inquiry into the *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009* and the *Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009* along with the *Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009*.

Reconciliation Australia has been supportive of the original aims of the Northern Territory Emergency Response to protect children, make communities safe and to 'create a better future for Aboriginal people in the Northern Territory'. We agree that the extreme disadvantage facing many Indigenous people in the Northern Territory – the 'gap' - warrants a continuing and concentrated investment of resources and effort from all levels of Government. We also note that this disadvantage is not confined to the Northern Territory and equal focus and investment is required in the States. The Federal Government, and COAG, has made significant commitments aimed at making progress in closing the gap throughout the country and in the Northern Territory. We commend the Government's effort to improve the effectiveness of the Northern Territory Emergency Response (NTER), engage more closely with affected communities and redesign the laws to make them compliant with the Racial Discrimination Act (RDA).

In order for these efforts to be successful, they need to be underpinned by evidence of what works. Where there are new strategies, they need to be evaluated against the basic criteria of whether they are working and closing the gap. Evidence and evaluation, the foundation stones of good policy in any area, need to become more central to the process of closing the gap in the Northern Territory in order to have any success.

The issue of capacity building, both in relation to Government delivering on their commitments and within communities themselves, requires significant attention. The success or failure of these measures in achieving their stated aims hinges on Government's capacity to effectively

deliver on the ground and the support for communities to strengthen their governance, leadership and ability to manage their own issues over the long term.

While we support the reintroduction of the RDA and the redesign of some measures to meet with community feedback, this submission includes some recommendations for the Senate Committee to consider when it evaluates these bills against their stated aims.

RA's position reinforces the fact that examples of Indigenous communities overcoming disadvantage and achieving success, in Australia and internationally, uniformly have Indigenous people leading and owning the ideas, and other parts of the community encouraging, enabling and supporting them over the long term. RA believes that, in moving forward, Governments must take a coordinated, long-term community development approach.

We would welcome the opportunity to appear before the Senate Committee to discuss these matters further.

2. Summary of Recommendations

- That while the role of Government Business Managers (GBMs) as placed based representatives of Government should be maintained, the GBM area powers should cease, as originally intended, in August 2012, with Government working with communities in the interim to develop plans to support and strengthen their governance arrangements.
- That because improvement in the quality of governance by public sector institutions is equally vital as improving governance in Indigenous communities, action be taken to develop and administer policy flexibly across widely differing areas and to ensure that public servants are trained and equipped adequately to work with Aboriginal people and communities.
- That governance training and governance capacity development be a priority for the Government in implementing this legislation, with specialised assistance provided to high-need communities or regions to address governance issues.

- Government provides support to communities to facilitate the process of matching alcohol and other special restrictions to local needs and circumstances.
- Include additional detail in the proposed amendments to outline circumstances where the Minister may make changes to restrictions of prohibited material, community stores and policing without consultation with the affected community.
- Income management measures are assessed on a case-by case basis and/or through locally tailored processes that have the support of the community.
- That income managed persons are offered support in the form of education, employment and economic development programs.
- That the detail of decision-making principles and other matters relating to income management proposed to be included in legislative instruments are made available for public comment and debate in advance of the passage of the legislation.
- Individuals must be provided procedural fairness before being assessed as vulnerable and placed on income management.
- That proposed amendments to the five year lease arrangements are consistent with the RDA.
- That all measures of the NTER be open to review under the RDA.
- That the Government commits to work with communities to develop “Place-Based” plans for key issues like community safety, income management, economic participation, education, employment and governance based on local needs and circumstances
- That the Government invest in training for NTER staff to prepare them for engagement and work in Aboriginal communities, focusing on building capacity to administer policy flexibly across widely differing areas, building expertise in service delivery to Aboriginal communities and providing long term career paths for public servants working in these areas.

- That, to improve program accountability and transparency, Government report regularly on the nature and outcomes of relevant public service training and implement a random performance audit process to ensure that training goals are being achieved.
- In line with recommendation 52 of the 2008 NTER Review Board report, RA recommends that widespread data collection mechanisms are put in place to measure, over time, the impact and possible unintended consequences of these measures.
- That the original NTER Review Board be retained as an evidence review board with the power to make recommendations and suggest research directions based on reviewing data.
- That a clear communications strategy for the implementation of this legislation be developed to ensure communities are aware of the proposed changes. To ensure it is effective, this communication strategy needs to include scope for community input so that it incorporates language and cultural issues.

3. Effectiveness of the amendments proposed in the Bills

RA's submission to the Northern Territory Emergency Response Review Board focused on an analysis of the NTER against a framework of proven success factors in making progress in addressing Indigenous disadvantage. The submission ([Attachment A](#)) outlined these success factors, drawn from a large collection of reports on and inquiries into addressing Indigenous disadvantage.¹ They are:

1. Genuine engagement with communities in designing, developing and implementing policies
2. Active and well-supported Indigenous led decision-making in program design
3. Grass-roots, bottom-up approaches that knit together local knowledge within a national framework

¹ These reports included, the Overcoming Indigenous Disadvantage reports, the Aboriginal and Torres Strait Islander Social Justice Commissioner's Social Justice Reports, the Telethon Institute for Child Health Research Aboriginal Child Health Survey 2006, the "Little Children are Sacred" Report and research undertaken by Reconciliation Australia and the Centre for Aboriginal Economic Policy Research on Indigenous Community Governance.

4. Local and region specific programs that are tailored to the needs of particular communities rather than one size fits all approaches
5. Investment in and support for local Indigenous leadership
6. Long-term investment in strengthening communities at a local level to decide and manage their own lives
7. Programs and policy approaches that are geared towards long-term achievements
8. Real investment of dollars and people based on need and ongoing support for programs that work
9. Regular and independent public evaluation of Government programs and policies to make sure we learn from mistakes and successes
10. Co-operative approaches by State, Federal and Local Governments and their agencies which reduce the burden of duplication and red-tape on community organisations.

In summarising how these approaches could be best adapted to the aims of the NTER Reconciliation Australia continues to recommend the adoption of a community development approach to addressing disadvantage, child safety and other problems in Northern Territory Aboriginal communities. A community development approach involves Governments, and other parties involved, working closely with a community to simultaneously develop their capacity and design combined approaches to addressing problems in the community.

Local and international development evidence of the last 40 years shows that the genuine engagement of Indigenous communities in the early stage development of policy and in the design of implementation plans is pivotal to success. Policies that are developed with little input or ownership from target communities, especially where those communities believe that they have not been consulted in a bona fide way, are generally unsuccessful. A 'one-size-fits-all' approach across very diverse communities typically achieves poor outcomes over time.

RA recognises that consultation with Indigenous communities regarding the NTER has improved substantially since its introduction and that Government has acknowledged the need for respectful engagement with Indigenous people, and close community involvement in

developing and managing long-term solutions.² While there has been an increased emphasis on consultation and engagement, RA believes that substantial outcomes would be achieved if the Government applied a community development approach to the proposed amendments. Therefore, the following section includes an assessment of some of the new measures in light of the community development 'success factors' to assist the Committee in evaluating their potential efficacy.

3.1 Government business managers and governance

The proposed amendments indicate that the 'areas powers' provided to Government Business Managers (GBM) will continue as a special measure under the RDA to support the provision of basic services to remote Indigenous communities so as to maintain health, safety and living conditions.³ These 'areas powers' enable the GBM to vary and terminate Commonwealth funding agreements and place organisations under administration for failures relating to the provision of Government services.

The Report on the NTER Redesign Consultations notes that some of those consulted felt it was good to retain the powers of the GBM to provide a safeguard where the Office of the Registrar of Indigenous Corporations (ORIC) was not effective in regulating Indigenous corporations.⁴ Others felt the powers reflected a lack of confidence in the capacity of Indigenous communities to manage their own affairs and was contrary to notions of community control and local autonomy.⁵

RA acknowledges that place-based GBM and Indigenous Engagement Officers (IEO) have focused implementation at the ground level and provided a Government interface with communities. While RA believes that the role of GBM as place based representatives of Government should be maintained, the retention of the GBM areas powers continues a top-down approach to Indigenous governance and the emphasis on oversight rather than capacity development does not enable local organisations to develop and strengthen leadership or governance arrangements. Long-term sustainable change in communities requires support for

² Australian Government, 2009. *Policy Statement: Landmark reform to the welfare system, reinstatement of the Racial Discrimination Act and strengthening of the Northern Territory emergency response.*

³ Australian Government, 2009. *Policy Statement: Landmark reform to the welfare system, reinstatement of the Racial Discrimination Act and strengthening of the Northern Territory emergency response.* p 21

⁴ Australian Government, 2009. *Report on the Northern Territory Emergency Response Redesign Consultations* p.58

⁵ Australian Government, 2009. *Report on the Northern Territory Emergency Response Redesign Consultations* p.59

strengthening community governance and a significant improvement in the way Government works with communities. RA's recent submission to the Advisory Group on Reform of Australian Government Administration highlights the need for the Australian Public Service (APS) to enhance its capacity to effectively develop and implement policy in collaboration with citizens (Attachment B). In addition to building the capacity of GBM and other public service staff, the employment of local Indigenous people in GBM positions will assist in ensuring the effective engagement of communities.

Both the Australian National Audit Office's report on the COAG Indigenous trials and Reconciliation Australia's governance research indicates that longer term outcomes are more likely when local Indigenous leaders and organisations are well-supported and appropriately engaged by Governments. The issue of Government support for community governance arrangements in the Northern Territory has also been highlighted recently by the Commonwealth Coordinator-General for Remote Indigenous Services. The Coordinator-General's first report on the 29 communities identified by the Remote Service Delivery Partnership (many in the NT) notes the importance of the capacity of local governance to work with governments to develop the community.⁶ He notes in particular the need to engage and develop young people in community governance and recommends that Government focus on ensuring governance support and training is effectively delivered.⁷

The NTER has, thus far, not included an investment in local Indigenous leadership or support for community governance arrangements. However, the fact that governance and leadership is recognised as one of the six COAG building blocks shows awareness that they are critical to achieving the improvements in community safety, local social and economic engagement and employment.

Supporting and strengthening community governance arrangements and building the capacity of local organisations to work for their communities are key ways in which the aims of this legislation can be met. Attached (Attachment C) is an example of a successful trial project in a remote Aboriginal community in Western Australia where a Community Capacity Builder was employed to work closely with the community to transition their local council out of administration and strengthen and improve their representative structures. The Council is now

⁶ Coordinator General for Remote Indigenous Services, 2009. *Six Monthly Report July – November 2009* p.9

⁷ Coordinator General for Remote Indigenous Services, 2009. *Six Monthly Report July – November 2009* p.28

functioning well, with a more successful representative model and far higher community engagement in local decision-making.

Recommendations

- That while the role of GBMs as placed based representatives of Government should be maintained, the GBM area powers should cease, as originally intended, in August 2012, with Government working with communities in the interim to develop plans to support and strengthen their governance arrangements.
- That because improvement in the quality of governance by public sector institutions is equally vital as improving governance in Indigenous communities, action be taken to develop and administer policy flexibly across widely differing areas and to ensure that public servants are trained and equipped adequately to work with Aboriginal people and communities.
- That governance training and governance capacity development be a priority for the Government in implementing this legislation with specialised assistance provided to high-need communities or regions to address governance issues.

3.2 Alcohol, store licensing, policing and prohibited material

In its study of the efficacy of alcohol restrictions across a range of different contexts, the National Drug Research Institute found that there was no one measure or suite of measures that could be assessed as universally effective but those that were developed with the support and involvement of particular communities based on the needs and circumstances of those communities were most likely to achieve success.⁸

The Government Policy Statement highlights that community solutions to restrict alcohol can be more effective than blanket restrictions and acknowledges that there are examples of effective local plans for managing alcohol supply and consumption that had been in place long before the

⁸ National Drug Research Institute, 2007. *Restrictions on the sale and supply of alcohol; evidence and outcomes*, Curtin University of Technology.

NTER.⁹ RA is, therefore, supportive of amendments that provide more flexibility to allow for alcohol management plans which ensure that they are able to be tailored according to:

- Evidence regarding alcohol-related harm in each community;
- Community consultation about the effectiveness of restrictions; and
- Consideration of whether alternative restrictions are appropriate, such as alcohol management plans.

As well a greater flexibility relating to alcohol restrictions, the proposed amendments allow residents in affected communities to request that restrictions on the possession and supply of sexually explicit or very violent material not apply to that area. However the burden remains on communities to request changes to both alcohol management arrangements and changes to restrictions of prohibited material. It is therefore crucial that Government assists communities to take advantage of new avenues that enable them to apply to have restrictions on alcohol and pornography matched to local needs and circumstances.

The Government Policy Statement states that any decisions on changes to restrictions of prohibited material requests would include consideration of the prevalence on sexually explicit and very violent material in the community, the well-being of people in the community and the views of those in the community.¹⁰ While the amendments state that the Minister must undertake consultation with affected communities before making certain decisions on pornography restrictions, a failure to undertake consultation would not affect the validity of a decision made by the Minister on this matter (section 100A(4)) of the *Classification (Publication, Films and Computer Games) Act 1995*).

Similarly the Minister must consult with communities before making a decision on the application of the Police Administration Act (section 18(3)) and licensing of community stores (Section 123A). However, a failure to undertake the consultation will not affect the validity of a decision. To ensure that the views of the community are considered before a decision is made on any of these matters, further detail should be included in the proposed amendments outlining the circumstances under which consultation may not be necessary. This may include when a request for changes is accompanied by sufficient evidence to indicate community support.

⁹ Australian Government, 2009. Policy Statement: Landmark reform to the welfare system, reinstatement of the Racial Discrimination Act and strengthening of the Northern Territory emergency response p.11.

¹⁰ Australian Government, 2009. Policy Statement: Landmark reform to the welfare system, reinstatement of the Racial Discrimination Act and strengthening of the Northern Territory emergency response p.13.

Alongside the proposals to allow greater flexibility for alcohol and prohibited material restriction the Government has also committed to work with Indigenous communities to look at ways to make the alcohol and prohibited materials road signs more acceptable to local people. Given the concerns raised by community members that overt signage unfairly stigmatised Indigenous communities and resulted in many indigenous people feeling ashamed, a proposal to enable more discretion in signage and notice of alcohol bans is a welcome amendment.

RA is also supportive of proposed amendments that repeal the provisions applying to the Police Administration Act (NT) enabling police to enter into private homes as if they were a public place. RA believes that local police should be provided with additional support for police to develop local policing strategies with individual communities.

Recommendations

- Government provides support to communities to facilitate the process of matching alcohol and other special restrictions to local needs and circumstances.
- Include additional detail in the proposed amendments to outline circumstance where the Minister may make changes to restrictions of prohibited material, community stores and policing without consultation with the affected community.

3.3 Income management

RA previously recommended that, in line with the RDA, income management measures should be assessed on a case-by-case basis to ensure that a) the application of welfare quarantining is not based on racial discrimination and b) that people doing the right thing are not being unfairly punished ([Attachment A](#)).

The proposed amendments relating to income management represent a large policy shift in social security. While decisions on income management will no longer be based on race, the proposed amendments indicate the retention of the blanket application of income management

to certain categories of income support recipients and a centrally imposed program with a one size fits all approach to its delivery.

The Government's Policy Statement indicates that communities have expressed a strong preference to be actively involved in income management decisions in their communities.¹¹ While community-based approaches to income management have been facilitated in other parts of Australia, and the Government indicates that it will support the development of community based approaches to re-establishing social norms, the administrative processes associated with income management as outlined in the proposed amendments would make it difficult, if not impossible, for the Government to be flexible and respond to community based solutions in the Northern Territory. The proposed amendments will also continue to result in families or individuals who are effectively managing their finances being caught up by an imposed system that reduces their choices and limits their personal responsibility for financial decision-making.

Locally tailored approaches to income management that are case managed are more likely to encourage financial responsibility and are less likely to produce confusion and minimise unintended impacts such as restrictions on the ability of individuals to travel, meet emergency financial commitments, cultural responsibilities or other fundamental needs. As mentioned above, there is considerable evidence to show that approaches developed with the support and involvement of individual communities, approaches based on their needs and circumstances, are more likely to achieve success. Therefore, Governments should further consider options for community involvement in developing and managing long-term solutions and approaches to income management in the Northern Territory.

The Government has indicated that income management is a key tool in its broader welfare reforms and that the proposed amendments are designed on the principles of engagement, participation and responsibility.¹² The Government also states that it is committed to progressively reforming the welfare and family payment system to foster individual responsibility and to provide a platform for people to move up and out of welfare dependence.

¹¹ Australian Government, 2009. *Policy Statement: Landmark reform to the welfare system, reinstatement of the Racial Discrimination Act and strengthening of the Northern Territory emergency response*, p.7.

¹² Australian Government, 2009. *Policy Statement: Landmark reform to the welfare system, reinstatement of the Racial Discrimination Act and strengthening of the Northern Territory emergency response*, p.1.

While RA is supportive of these broad objectives, it is concerned that any success will depend on the proposed measures being supported by education and employment programs as well as improving outcomes in community safety and health. As RA highlighted in its submission to the Advisory Group on Reform of Australian Government Administration, new approaches are needed to working across policy silos in order to provide a platform for people to move up and out of welfare dependence (Attachment B). A similar conclusion was reached by the board established by the Australian Government to review the Northern Territory Emergency Response. Their report stated:

Just as housing issues underpin community health, so policing issues intermesh with family support which, in turn, is intimately connected with child and family health.¹³

For income management to be an effective step towards greater self-reliance and economic engagement, it needs to be designed and implemented in a way that does not create long term dependence on income management. It needs to target individuals who require assistance and not assume that all income support recipients are unable to manage their income without Government intervention.

The proposed amendments are supported by a commitment for financial management training and other financial incentives for people subject to income management. While this is a welcome proposal, the Australian Institute of Health and Welfare report on the evaluation of income management in the Northern Territory highlights issues with these types of activities under the current arrangements.¹⁴ The report notes that only a small proportion of clients accessed money management services to complement income management, with less than one in five clients reported seeking assistance with managing their money and less than one in ten receiving advice from Centrelink. This highlights the need for further research on the different types of support as well appropriate delivery methods to ensure that any additional Government support suits the individual needs of an income support recipient.

RA recognises that there are individuals who may benefit from income management but who do not receive the income support that automatically trigger the provisions. To address this issue

¹³ NTER Review Board, 2008. *Northern Territory Emergency Response: Report of the NTER Review Board*. Report to the Minister for Families, Housing, Community Services and Indigenous Affairs. See http://www.nterreview.gov.au/docs/report_nter_review/docs/Report_NTER_Review_October08.pdf

¹⁴ Australian Institute of Health and Welfare, 2009. *Report on the evaluation of income management in the Northern Territory*. p.iv.

the proposed amendments provide a delegated Secretary with the authority to deem an individual vulnerable and therefore subject to income management. It appears that a criterion for 'vulnerability' will not be included in the legislation. However, in making a determination, the Secretary must comply with any 'decision-making principles' set out by the relevant Minister in a legislative instrument (section 123UGA (2)). Similarly the Minister may, by legislative instrument:

- set decision-making principles for determining financial vulnerability (section 123UGD (5))
- determine that a class of persons are to be exempt 'welfare payment recipients' (section 123UGB (2))
- specify activities that dependent children must participate in for a parent to become an exempt welfare recipient (section 123UGD (2)).

Allowing a Minister to determine these types of decision-making principles, criteria or 'classes of people' through legislative instruments gives him or her considerable discretion subject only to parliamentary disallowance motions. In particular, decision-making principles for an assessment of vulnerability are not the type of administrative concern ordinarily dealt with by delegated legislation, but are an important policy issue that requires open and accountable discussion and debate.

Without the content of decision-making principles and other matters to be set by legislative instrument it is difficult to comment on the effectiveness or appropriateness of these provisions. For example, it is not possible to determine if the principles will take into account the cultural and locational differences of individuals, the circumstances of the community or the level difficulty for individuals to negotiate their way out of imposed income management.

RA believes that, before a person is deemed to be vulnerable and placed on income management, they must be provided with procedural fairness, that is, they must be provided with an opportunity to consider the Government's assessment of their vulnerability and provide comment before a decision is made.

Recommendations

- Income management measures are assessed on a case-by case basis and/or through locally tailored processes that have the support of the community.

- That income managed persons are offered support in the form of education, employment and economic development programs.
- That the detail of decision making principles and other matters relating to income management proposed to be included in legislative instruments are made available for public comment and debate in advance of the passage of the legislation.
- Individuals must be provided procedural fairness before being assessed as vulnerable and placed on income management.

3.4 Five year leases and the Racial Discrimination Act

It is recognised throughout Australia that Indigenous people's relationship with land is of critical importance culturally, socially and economically. While RA supports measures to make the objectives of the five-year leases clearer, we are concerned that measures relating to five year leases may not meet the definition, or the intent, of the special measure provisions in the RDA.

As the Social Justice Commissioner noted in the 2007 Social Justice Report, the compulsory acquisition of property where negotiations for a lease have not been sought from the landowners limits the ability of the measure to be legitimately characterised as special measures under the RDA.¹⁵

During negotiations for the five year lease arrangements it is critical that local communities are able to engage in a meaningful way so that free, prior and informed consent can be demonstrated. The concept of 'free, prior and informed consent' is outlined in the United Nations Committee on the Elimination of All Forms of Racial Discrimination General Recommendation concerning Indigenous Peoples (General Recommendation XXIII(51)). It also appears in several articles of the Declaration on the Rights of Indigenous Peoples. RA believes that this principle should be reflected in the Government's proposed amendments, especially those relating to land.

¹⁵ Aboriginal and Torres Strait Islander Social Justice Commissioner, 2007. *Social Justice Report 2007*. Human Rights and Equal Opportunity Commission.p.264.

In order to ensure the reinstated Racial Discrimination Act is applied in its intended manner, five year leases and other special measures that will continue to apply under this legislation, as well as all other measures of the NTER, should be open to be challenged, reviewed and - if necessary - changed if found to not comply with the RDA.

Recommendation

- That proposed amendments to the five year lease arrangements are consistent with the RDA.
- That all measures of the NTER be open to review under the RDA.

4. Future direction

Different communities have different needs. Despite the large base of evidence supporting the success of community-based approaches and the need for tailored solutions, in many cases the proposed amendments continue to apply a 'one size fits all' approach with only limited scope for community based planning. Findings from research by RA and CAEPR on community governance recommend that Governments develop an improved conceptual underpinning for their policy frameworks and program guidelines to more accurately reflect the diversity of conditions and needs in different types of Indigenous communities.¹⁶

RA regards the findings of the Northern Territory Emergency Redesign Consultations as significant in considering the proposed amendments. The report highlights the high variance from community to community. This was because the legislation took in not only vastly different types of communities (town camps, regional centers, remote communities, outstations) but also communities in very different regions with different circumstances.

Based on this evidence, RA believes it is important that, in going forward, communities are able to engage with Government to design and develop "Place-Based" strategies appropriate to their needs and circumstances. Communities need to be involved in the development and implementation of processes for income management, alcohol management, education and

¹⁶ Hunt, J. and D. Smith, 2007. *Indigenous community governance project: Year two research findings*. Report to Reconciliation Australia and the Centre for Aboriginal Economic Policy Research. See <http://www.reconciliation.org.au/home/projects/indigenous-governance-research-project>.

employment programs or community safety. Evidence from Cape York reinforces this point. As a report on the Cape York Welfare Reform trials noted, “Much of the success on the Cape is due to the fact that solutions have not been imposed by outsiders, but come from local elders, who make up the Family Responsibilities Commission in each community. They understand the local people, speak their language and in most cases, encourage and help them to avoid welfare quarantining, which is an effective last resort.”¹⁷ The opportunity for each community to work on the development of management plans should be seen as a critical step in transitioning to a ‘sustainability’ phase of the NTER at their own pace, as the blanket application of timeframes for NTER measures is inconsistent with the Government stated aim of a heightened focus on respectful engagement.¹⁸

Investment in supporting community engagement and ownership needs to sit alongside investments in service delivery or physical infrastructure as essential in achieving lasting results. Crucial to the effective implementation of the proposed amendments is the capacity of Government staff to engage with and communicate with Aboriginal people in the Northern Territory. The capacity of Government staff in these areas has been identified by numerous studies and evaluations as a frequent barrier to policy rolling out ‘on the ground’ and achieving its intended outcomes. RA’s recent submission to the Reform of Australian Government Administration noted that the capacity of Government is critical, emphasising the importance of ensuring departmental staff have strong interpersonal skills and a thorough understanding of remote communities (Attachment B). This submission also highlights that fact that while the Australian School of Pacific Administration had provided specialist training for public servants to deliver certain services to New Guinea and Indigenous people in Northern Australia, currently there are no APS-wide training programs focusing on building the capacity of the APS to effectively develop policy and deliver services to Indigenous Australians. This lack of training and expertise is impacting on the effectively delivery of Government services and the ability of Government to achieve outcomes required to close the gap.

Recommendations

- That Government commits to work with communities to develop “Place-Based” plans for key issues like community safety, income management, economic participation, education, employment and governance based on local needs and circumstances.

¹⁷ “Tough Love Changes Lives on the Cape” *The Australian*, 01.10.2009

¹⁸ Australian Government, 2009. *Policy Statement: Landmark reform to the welfare system, reinstatement of the Racial Discrimination Act and strengthening of the Northern Territory emergency response*, p.2.

- That the Government invest in training for NTER staff to prepare them for engagement and work in Aboriginal communities, focusing on building capacity to administer policy flexibly across widely differing areas, building expertise in service delivery to Aboriginal communities and providing long term career paths for public servants working in these areas.
- That, to improve program accountability and transparency, Government report regularly on the nature and outcomes of relevant public service training and implement a random performance audit process to ensure that training goals are being achieved

4.1 Data gathering and evidence base

In a statement in August 2007 Reconciliation Australia's co-chairs called on the Government to make public its evaluation of the intervention and clarify which aspects of the Bill were needed to protect Indigenous children (Attachment D). They asked that all non-urgent aspects of the legislation be extracted and delayed to allow for respectful consultation and communication with the affected communities.

Since the introduction of the NTER there have been a number of evaluations that can be used as a basis for assessing the proposed amendments.¹⁹ However, the lack of baseline data and in some cases the application of inappropriate methodology means that the quality of the evidence may not be sufficient to inform long term policy direction. For example, the Australian Institute of Health and Welfare evaluation of the income management arrangement highlight the very small sample size and limited scope of the sample (76 surveyed of 15,152 clients on income management).²⁰ Other reports have focused on the outputs of Government action rather than the outcomes being achieved for communities or progress towards achieving stated aims like child safety.

¹⁹ See Coordinator General for Remote Indigenous Services, 2009. *Six Monthly Report July – November 2009*. NTER Review Board, 2008. Northern Territory Emergency Response: Report of the NTER Review Board. Report to the Minister for Families, Housing, Community Services and Indigenous Affairs.

Australian Institute of Health and Welfare, 2009. *Report on the evaluation of income management in the Northern Territory*.

Australian Government, 2009. *Report on the Northern Territory Emergency Response Redesign Consultations*

²⁰ Australian Institute of Health and Welfare, 2009. *Report on the evaluation of income management in the Northern Territory*

The issue of data quality is not a stand-alone issue for the Northern Territory. It is an overall issue across many policy areas in relation to Aboriginal and Torres Strait Islander Australians. The Productivity Commission's Gary Banks made special note of the impact of poor data on being able to measure change over time across the key areas of Indigenous disadvantage. In a paper on evidence based policy, he argued that good data was essential to good policy, suggesting that data deficiencies inhibit evidence-based analysis and can lead to reliance on 'quick and dirty' surveys.²¹

In order to make informed policy decisions and to ensure that data is collect in a consistent manner, all NTER measures should be assessed against standard criterion. This may include elements such as:

- Improved social and economic engagement
- Increased community safety
- Increased food security
- Compliance with the RDA

These criteria should be developed in partnership with communities to ensure community-specific and unintended outcomes are incorporated. For example, one of the issues brought up in the NTER redesign consultations was the issue of 'shame' or the stigma associated with being targeted for special Government intervention. In monitoring and evaluating the progress of these measures there needs to be close attention paid to the occurrence of significant social stigmas associated with measures like income management to assess whether target groups are experiencing indirect discrimination.

Recommendations

- In line with the recommendation 52 of the 2008 NTER Review Board report, RA recommends that widespread data collection mechanisms are put in place to measure, over time, the impact and unintended consequences of these measures.

²¹ Banks, Gary "Evidence-based policy-making: What is it? How do we get it?" speech at the Australian and New Zealand School of Government (ANZSOG)/Australian National University (ANU) Lecture Series on 4 February 2009.

- That the original NTER Review Board be retained as an evidence review board with the power to make recommendations and suggest research directions based on reviewing data.

4.2 Communication

A key concern raised by members of affected communities in surveys and consultations since the launch of the NTER has been confusion and uncertainty on the ground about the measures being introduced and changes to those measures as they've rolled out. "Confusion" was also a frequent response to NTER measures found in NTER redesign consultations and the Australian Institute of Health and Welfare's evaluation of the current income management arrangements found that a significant proportion of clients (39%, or 30 participants) could not explain the purpose of income management.²² In addition, the Coordinator General's recent report notes discrepancies in views highlighted the need for better communication, to ensure that communities are better informed by Government about issues affecting them.²³

Ensuring communities are properly informed and understand the measures they are subject to, and changes to existing measures should be a priority for the roll-out of this legislation. For this strategy to be successful, it must be developed with significant community input. Given the difficulties inherent in working in cross-cultural contexts where English is often not the first language and where concepts familiar to public servants may not be known on the ground, it's important that communities and their representatives are engaged in designing appropriate and comprehensive communication methods and tools.

In addition to strategies designed to ensure the effective communication, there is equal need for ongoing communication from affected communities/target groups to Government. Given the experimental nature of many of these measures, it's crucial that avenues of communication be open in order for communities to 'speak' to Governments about the effects of these measures. Establishing mechanisms for capturing the input of communities – through local forums, regional meetings, surveys etc should be a priority of the implementation strategy as well as the overall efforts to gather data.

²² Australian Institute of Health and Welfare, 2009. *Report on the evaluation of income management in the Northern Territory*.

²³ Coordinator General for Remote Indigenous Services, 2009. *Six Monthly Report July – November 2009* p.9

Recommendation

- That a clear communications strategy for the implementation of this legislation be developed to ensure communities are aware of the proposed changes. To be developed and implemented effectively, such as communication strategy must offer scope for community input so that it incorporates language and cultural issues.

5. Conclusion

While Reconciliation Australia supports the overarching aims of most of the measures under consideration by the Committee, their implementation, evaluation and the issues of Government and community capacity building require far greater attention and will, if ignored, undermine the intended outcomes of these bills.

Through more effective communication and respectful long-term engagement with the citizens affected by these bills, significant progress could be achieved in closing the gap in the Northern Territory.

Reconciliation Australia is ready to assist or provide advice on these matters and any of the recommendations in this submission to the Committee.



August 2008

NTER Review Board Secretariat
GPO Box 7576
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ACT 2610

Members of the Review Board

Reconciliation Australia welcomes the opportunity to tender a submission to the Northern Territory Emergency Response (NTER) Review Board. We see this process as not only valuable for the future direction of the NTER but also a chance to contribute to the broader discussion on building a national framework to close the gap.

Given the relatively short duration of the NTER and the extensive range of measures involved, we believe individuals and organisations in the affected areas and those with access to specific data are best placed to evaluate the NTER's progress in achieving its stated short term goals. Therefore, Reconciliation Australia's submission does not follow the questions suggested by the Review Board. Instead, this submission examines the NTER within a 'community development' framework and associated set of criteria on which good public policy should be designed, implemented and evaluated:

A community development framework for Indigenous Affairs would include the following ten principles or criteria. Reconciliation Australia has previously referred to these as the 'ten things that work' in Indigenous Affairs:

1. Genuine engagement with communities in designing, developing and implementing policies
2. Active and well-supported Indigenous led decision-making in program design
3. Grass-roots, bottom-up approaches that knit together local knowledge within a national framework
4. Local and region specific programs that are tailored to the needs of particular communities rather than one size fits all approaches
5. Investment in and support for local Indigenous leadership
6. Long-term investment in strengthening communities at a local level to decide and manage their own lives
7. Programs and policy approaches that are geared towards long-term achievements
8. Real investment of dollars and people based on need and ongoing support for programs that work
9. Regular and independent public evaluation of government programs and policies to make sure we learn from mistakes and successes
10. Co-operative approaches by State, Federal and Local governments and their agencies which reduce the burden of duplication and red-tape on community organisations.

Reconciliation Australia's recommendations to the Review Board are the result of analysis of the NTER against the principles listed above. We believe that in moving forward, governments must take a coordinated, long-term community development approach. The Communiqué to the Australian Government from Yolngu and Bininj Leaders at Yirrkala (23 July 2008) is a recent example of a process which is based on this type of community development approach (see Appendix A).

Recommendations

Reconciliation Australia recommends that:

1. the future implementation of the NTER should be based on a community development model – providing a national framework for locally driven solutions.
 - Consistent with this overarching framework, RA also:
 - supports the overarching aims of the NTER, stated as “to protect children and make communities safe” and to ‘create a better future for Aboriginal people in the Northern Territory’
 - endorses the recommendations and ‘rules of engagement’ of the Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, *Little Children are Sacred*¹
 - supports the Human Rights and Equal Opportunity Commission (HREOC) Social Justice Commissioner’s ten point action plan for a rights-based approach to the NTER outlined in the 2007 Social Justice Report²
2. the *Racial Discrimination Act (RDA)* be fully reinstated to ensure policy directed at Indigenous Australians living in the prescribed areas is applied in a fair and non-discriminatory manner
3. in line with the RDA, income management measures be assessed on a case-by-case basis to ensure that a) the application of welfare quarantining is not based on racial discrimination and b) that people doing the right thing are not being unfairly punished.
4. the Government create an ‘Indigenous Development Authority’ with the statutory power to deliver meaningful ‘joined up’ or ‘whole of government’ service delivery through flexible locally driven actions. This idea is explored further in our submission.

We have attached a range of supporting documents to assist the Review Board in its evaluation process.

We would welcome the opportunity to discuss these matters further.



Mick Dodson AM
Co-Chair



Mark Leibler AC
Co-Chair

¹ Anderson, P. & Wild, R. *Ampé Akelyernemane Meke Mekarle “Little Children are Sacred”*
The Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse 2007

² Human Rights and Equal Opportunity Commission, *Social Justice Report 2007*
http://www.hreoc.gov.au/social_justice/sj_report/sjreport07/chap3.html#part4

Building a community development approach to the NTER and Indigenous Affairs going forward

Introduction

A community development approach to the NTER going forward would mean adopting a set of principles as outlined below that would guide and underpin all future Indigenous Affairs policy and programs. (We have collapsed the ten things that work in the covering letter to a shorter list and included our proposed reform of the machinery of government in latter sections of the submission.)

The Government should draw on the experience of development agencies such as Ausaid in developing a community development approach adapted for Indigenous Affairs in Australia. Ausaid's Reconciliation Action Plan includes actions by Ausaid to share their expertise and experience in overseas community development work with government agencies such as FAHCSIA

“AusAID has over 50 years of experience working to alleviate poverty and achieve sustainable development in the Asia-Pacific Region. The agency will work to ensure this expertise is effectively brought to bear in addressing Indigenous disadvantage in Australia.” (AusAID Reconciliation Action Plan 2008).

While the Review Board is focused on the NTER our proposed approach should be applied nationally. Our submission addresses how such a community development approach might be implemented through changes in both the machinery of government and the culture and behaviours within government agencies.

Our submission draws extensively on the paper prepared by Meredith Edwards from the University of Canberra in March 2008 on ‘Participatory Governance’. This paper discusses the challenges for the Australian Government in moving to a ‘participatory governance’ model which is closely aligned to our suggested community development approach. Dr Edwards’ paper cites much national and international evidence, including evaluations of previous Indigenous Affairs policy experiments such as the COAG trials – these evaluations appear to have been ignored so far in the design and implementation of the NTER, leading governments to repeat mistakes.

1. Genuine engagement with communities in designing, developing and implementing policies and programs

When the Board of Inquiry into the Protection of Children from Sexual Abuse completed its extensive report based on widespread evidence from communities throughout the Northern Territory its first, well documented, recommendation was that “Aboriginal child sexual abuse in the Northern Territory be designated as an issue of urgent national significance by both the Australian and Northern Territory governments”.³ The recommendation continued: “It is critical that both governments commit to genuine consultation with Aboriginal people in designing initiatives for Aboriginal communities”.

³ Op Cit. Recommendation 1, p22

The NTER was subsequently developed and rolled out rapidly with little structured input from the communities most affected. There is a growing body of evidence⁴ that tells us policies that are developed with little input or ownership from Indigenous people and imposed without genuine consultation and engagement are less likely to be successful than those developed cooperatively.

In her work on participatory governance, the University of Canberra's Meredith Edwards writes that when work between governments and communities to develop policy begins, a 'deep divide' between their structures and processes can be anticipated. "If these are not understood and addressed early on," she writes, "then all the commitment and rhetoric that can be brought to bear on the task at hand will not be enough to ensure implementation success."⁵

While it is important to address crises as they arise, sustainable Indigenous-led solutions to the underlying causes of crises need to emerge from a partnership between governments and Indigenous communities. Therefore, we suggest timely and respectful consultation with Indigenous people and organisations in the areas affected by the NTER should be built in from the outset of any further initiatives.

Appropriate consultation and engagement form the core of mutually respectful relationships. Too often consultation with Indigenous communities is conducted as an uneven exercise with the interests of governments dominating the interests of communities. Government consultation schedules tend to be driven by program or electoral timeframes that inhibit rather than encourage effective engagement by communities. There is often insufficient understanding and appreciation of the uneven power relationships underpinning these consultations and an unwillingness to genuinely share power.

As the ANAO noted in its lessons from the COAG Indigenous trials: "...Governments must be willing to understand and work respectfully with Indigenous communities, and Indigenous communities must be willing to understand and work with governments. Both may need to review the ways in which they interact with one another to ensure that interactions are appropriate and foster the development of productive and lasting relationships."⁶

Governments and others need to realign their thinking around the economic value of investing in relationships and the human resources and longer timeframes required to deliver effective and sustainable partnerships. Investment in relationships should sit alongside investments in service delivery or physical infrastructure as essential ingredients in community development and achieving lasting results.

⁴ See Human Rights and Equal Opportunity Commission (HREOC) Social Justice Reports http://www.hreoc.gov.au/social_justice/sj_report/index.html ; The Productivity Commission's Overcoming Indigenous Disadvantage Key Indicators Reports <http://www.pc.gov.au/gsp/reports/indigenous/keyindicators2007> ; The Harvard Project on American Indian Economic Development <http://www.hks.harvard.edu/hpaied/>; The Indigenous Community Governance Project http://www.anu.edu.au/caepr/ICGP_home.php .

⁵ Edwards, M. "Participatory Governance" Participatory Governance Issues Paper Series No. 6 March 2008, Corporate Governance ARC Project, University of Canberra

⁶ Meredith Edwards Participatory Governance March 2008 University of Canberra, quoting the ANAO summary of lessons from the Indigenous trials

The investment in relationships in Indigenous affairs needs to be made over the long-term with bi-partisan support to ensure a development dividend. Relationships should not be seen as some lofty ideal or incidental outcome of the process, they must be seen as essential and practical contributors to closing the gap. See Appendix C (“Reflections on the 2020 Summit, Options for the Future of Indigenous Australia” by Barbara Livesey and Jason Glanville, Reconciliation Australia) for a more detailed discussion of the importance of mutually respectful relationships as the essential foundation for all future policy approaches in Indigenous Affairs.

2. Active and well supported Indigenous led decision-making in program design

One of the missing ingredients in the development of the NTER was that there was no evident input from Indigenous people or key Indigenous stakeholder organisations from the Northern Territory in its development or implementation. This ‘missing step’ in the policy process not only denies the affected people the opportunity to ‘own’ the outcomes but can also lead to wasted resources, misunderstandings and unintended consequences.

Our research into Indigenous community governance (Appendix C)⁷ has found that “once Indigenous people have developed representative structures and governance processes that make cultural sense to them, governments and other stakeholders can make a major contribution to their sustained legitimacy and effectiveness by recognising and dealing with those arrangements.” Therefore while it may seem more expedient to roll-out policy which by-passes existing leadership structures, doing so both undermines these structures and weakens the capacity of communities in the long term.

In addition, support for Indigenous-led decision making in program development increases the likelihood of culturally appropriate models that take into account the historical and social complexities of particular groups or communities. Or as one resident of Yuendumu, Robbie Jangala Walit, put it “Yapa (*Warlpiri word for Aboriginal people*) know how yapa people live – they understand their way of living, their culture, their tradition and they should make decisions on behalf of their people.”⁸

The benefit of investing in effective Indigenous led decision-making is demonstrated in the excellence achieved by organisations involved in Reconciliation Australia’s Indigenous Governance Awards program. During a recent judges’ visit to one of this year’s finalists, Yawoorroong Miriuwung Gajerrong Yirrgab Noong Dawang Aboriginal Corporation (MG Corp), the mutual benefits of well supported Indigenous-led decision making were recognised by a senior government official who said “we are now rewriting policy for the Department because of the engagement we are having with MG Corp...MG Corp are leading the way for our Department and

⁷ Our research partners, The Australian National University’s Centre for Aboriginal Economic Policy Research are tendering a submission to the NTER Review Board containing a full complement of the Indigenous Community Governance Project’s research findings.

⁸ Warlpiri Media, Reconciliation Australia and The Australian *Voices from the Heart of the Nation* series; Robbie Jangala Walit in *Voices from the Heart of the Nation* Part 7 19/11/2007

other Departments on joint management and we've got to re-think the way we do business."⁹

3. Grass-roots, bottom-up approaches that knit together local knowledge within a national framework

The NTER has, to date, been a centrally imposed program with a one size fits all approach to its delivery and no national policy framework to underpin it. In its design and implementation, the NTER has not reflected local knowledge, nor has it drawn on existing grass roots programs that have been working. This inflexible approach has left local communities feeling disempowered and with little value placed on their knowledge and experience.

Local approaches which are developed in partnership with communities are less likely to produce unintended consequences, confusion and poor on-the-ground involvement in the long term. Furthermore, a multitude of government reviews¹⁰ have found governments liable for, in the words of Productivity Commissioner Gary Banks “a consistent failure to acknowledge Indigenous cultural perspectives in policy design and implementation, despite acknowledgement of its importance in achieving successful outcomes”.¹¹

Last year, Reconciliation Australia, working together with the Yuendumu-based Warlpiri Media and *The Australian* newspaper, produced a fortnightly series documenting directly the thoughts and feelings of a sample of residents of Yuendumu over the first months of the NTER. (Appendix D – *Voices from the Heart of the Nation* series).

Chief among residents’ concerns was their lack of information about the NTER measures and how they would impact their lives. Residents felt confused and consistently reiterated the desire for solutions to the problems in their community to be discussed with them. Indigenous people of Yuendumu constantly referred to a concept of ‘two-way’ approaches – that is, approaches that incorporated their knowledge and values with those of the government or non-Indigenous people. “We need to work together – y’know white people and Aboriginal people to work together, share ideas.”¹²

On the topic of community based housing, Yuendumu resident Francis Kelly said, “I don’t think the right sort of house (are built for yapa), yapa should look into that. We should have yapa consultants here. We know more about this country.”¹³ Or, as

⁹ Notes from judges meeting – Kununurra – 17 July 2008

¹⁰ Morgan Disney and Associates, “Synopsis Review of the COAG Trial Evaluations” November 2006; The Productivity Commission’s Overcoming Indigenous Disadvantage Key Indicators Reports <http://www.pc.gov.au/gsp/reports/indigenous/keyindicators2007> ; ANAO 2007, Whole of Government Indigenous Service Delivery Arrangements, Performance Audit Report No. 10, 2007–08, Commonwealth of Australia, Canberra, <http://www.anao.gov.au>

¹¹ “Overcoming Indigenous Disadvantage in Australia” Gary Banks, Chairman, Productivity Commission, Australia address to the Second OECD World Forum on "Statistics, Knowledge and Policy", *Measuring and Fostering the Progress of Societies*, Istanbul, Turkey, 27-30 June 2007.

¹² Kurt Japanangka Granites in, *Voices from the Heart of the Nation* Part 2 10/09/2007

¹³ Francis Jupurrula Kelly in *Voices from the Heart of the Nation* Part 5 22/10/2007

Treasury Secretary Dr Ken Henry suggests “program delivery must be targeted to local needs, integrated and delivered in a cost effective and non-threatening way”.¹⁴

Many of the Yuendumu interviewees felt that their values, specifically those central to land and culture, were not being respected or integrated into the way the NTER was being rolled out. This not only led to feelings of confusion and frustration, but also to a sense of disempowerment and disengagement, “It made me think twice whether to vote or not vote. Because of this intervention things are going (back to the) past and not giving a chance for yapa to really think about what they’re going to do. Where are our rights? They put us into the corner where there are no rights”.¹⁵

As NTER taskforce head David Chalmers acknowledged, a major challenge facing the intervention had been "cross-cultural" communication and government departments working co-operatively. "Government in the past has not been particularly good at empathising with the culture of our Indigenous people."¹⁶

4. Local and region specific programs that are tailored to the needs of particular communities rather than one size fits all approaches.

In a visit to Walgett in NSW this year the Prime Minister spoke about the importance of place-based solutions in achieving results in Indigenous Affairs, “we have multiple levels of government dealing with Indigenous policy in Australia and Indigenous communities have multiple organisations. Maybe it is time for us to start to look at much more of a whole of local community focus, whereby you have around the one table, not just all the representatives of Indigenous organisations and groups but the various levels of government too so there is a complete, from the ground up, community driven response to the challenge which closing the gap represents”.¹⁷

As noted earlier, this locally or regionally tailored approach has not been adopted by the NTER to date. Instead all designated communities in the Northern Territory have been treated the same, ignoring the varying aspirations, capacities and past and present experiences within them.

Going forward, local Indigenous organisations and leadership structures are best placed to work with governments on solutions for their communities and regions. In their study of the efficacy of alcohol restrictions across a range of different contexts, the National Drug Research Institute found that there was no one measure or suite of measures that could be assessed as universally effective.¹⁸ Instead, they found that those that were developed with the support and involvement of particular communities based on the needs and circumstances of those communities were most likely to achieve success.

¹⁴ Addressing extreme disadvantage through investment in capability development
Keynote Address to the Australian Institute of Health and Welfare Conference on ‘Australia’s Welfare 2007’, Canberra, 6 December 2007

¹⁵ Robbie Jangala Walit in *Voices from the Heart of the Nation* Part 7 19/11/2007

¹⁶ Cited in Smiles, S. “Five years too short for NT Intervention” *Brisbane Times* 19/06/2008

¹⁷ Prime Minister of Australia Joint Doorstop Interview with Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, Walgett, NSW 22 February 2008

¹⁸ National Drug Research Institute “Restrictions on the sale and supply of alcohol; evidence and outcomes”, Curtin University of Technology 2007

To maximise the success of its goals, the NTER should recognise and support locally developed solutions and programs that are aimed towards strengthening communities and increasing the safety of children. The Mt Theo Youth and Substance Misuse program in Yuendumu is a good example of a locally-driven solution to local issues which has achieved outstanding results including the eradication of petrol sniffing long before the introduction of non-sniffable fuel.

5. Investment in and support for local Indigenous leadership

The NTER, as initially rolled out, did not include any support for local Indigenous leadership, ignoring earlier lessons of the value of investing in it. The ANAO reported in its findings on the COAG Indigenous trials that: “Community leaders in Indigenous communities demonstrated that they can engage actively in initiatives to find solutions which work for families and communities. The evaluations provide evidence of the value of governments and communities working together and sharing responsibility for establishing foundations for achieving longer-term outcomes through locally agreed solutions.”¹⁹

Similarly findings from Reconciliation Australia’s governance research suggest that governments have a far better chance of implementing successful policy when they work with well-supported local Indigenous leaders and organisations. Given the opportunity and resources, Indigenous people more effectively determine their own representative and decision-making processes.

The need to invest in local Indigenous leadership also appears to be understood by the Minister for Indigenous Affairs who said in her address to the Cape York Institute for Leadership in July, “...strong Indigenous leadership is critical for closing the gap. We know that government efforts to rebuild Indigenous communities won’t get far unless Indigenous leaders drive the change”.

Therefore, to be effective in going forward, the NTER needs to recognise and respect the different leadership networks and leadership selection processes operating in communities. Investment in local leadership will be crucial to ensure communities are equipped with the tools to build their own solutions to the problems identified by the NTER.

When considering investment in Indigenous leadership the youthful profile of the Indigenous population stands out - with 50% of the population aged under 21 years (2006 census). This demographic profile means that building leadership and capacity must begin with a top priority on every Indigenous child being educated to the same standard as every non-Indigenous child. Long term investment of physical, cash and human resources in the education system to create an environment where every Indigenous child is expected to attend and succeed is essential.

Locally driven programs that can demonstrate sustained results should be supported within a national framework that sets clear expectations for the education systems to deliver for every Indigenous child – as Chris Sarra says, there should be no excuses. New programs should not be introduced unless there is clear evidence that they will work and be supported in the long term by families, communities and governments.

¹⁹ Meredith Edwards Participatory Governance University of Canberra March 2008 p 8

6. Programs and policy approaches that are geared towards long-term achievements, real investment of dollars and people based on need, and ongoing support for programs that work

While the NTER initially set out to address problems of child protection and safety in Indigenous communities which were identified as crises requiring dramatic action, it is now clear that the Government wishes to turn around the entrenched disadvantage faced by Indigenous people in the Northern Territory and elsewhere.

There is a commitment by both the Federal and State/Territory governments to ‘close the gap’. If this is to be achieved, it will be critical to acknowledge up front that there are no quick fixes or silver bullets that will bring an end to the multifaceted disadvantage that is at the heart of the crises the NTER seeks to address. “The path forward will not be through searching for some ‘magic bullet’ but from many small initiatives over a lengthy period of time.”²⁰

The Combined Aboriginal Organisations, in their preliminary response to the NTER last year, called for; “A more comprehensive plan and costed financial commitment that addresses the underlying issues within specific timeframes and has bi-partisan political support”.²¹

This review process provides an opportunity for the foundation of a plan for long-term, sustainable and well-resourced measures to address some of the immediate symptoms and underlying causes of Indigenous disadvantage in the Northern Territory.

In his address to the National Press Club last year, less than a month after the NTER commenced, Reconciliation Australia director Fred Chaney said of the crisis in the Northern Territory, “an actual solution involves long-term, properly resourced action - across governments and across ministers and across all the interrelated aspects of disadvantage, just as Anderson/Wild identify”. (Full transcript of speech Appendix E) Referring to the battery of reports and recommendations calling for long-term policy goals and real investments in them, Mr Chaney said, “the answers, while complex, are now known. And that means... all of us involved have no excuses left for failure”.

While it is important that crisis situations are addressed expediently, long-term improvements in the communities targeted by the NTER will only be possible if there is real investment in capacity building within communities. This should go hand in hand with addressing the significant backlogs in basic infrastructure and essential services that exist in many communities, particularly in housing, education, health, communication and transport. This is aligned with Principal 8 of *Little Children are Sacred* which called for “adequate and ongoing support and resources”.²²

²⁰ Edwards, M p 12 quoting David Zussman 2007:22

²¹ Combined Aboriginal Organisations submission to the Senate Standing Committee on Legal and Constitutional Affairs,
http://www.aph.gov.au/Senate/committee/legcon_ctte/completed_inquiries/2004-07/nt_emergency/submissions/sub125.pdf

²² Rex Wild and Pat Anderson *Little Children are Sacred* Report 2007 p56

7. Reform of machinery of government including reform of Commonwealth-State relationships and the burden of administration on Indigenous communities

Perhaps the most important point for governments that has emerged out of the Indigenous governance research pertains to the ‘governance of governments’. The sometimes limited capacity of governments to successfully engage with and deliver services and resources to Indigenous communities should be a point of focus for the Review Board.

Our findings are supported by various reports including evidence gathered by The Australian National Audit Office (ANAO) from a 2007 survey of Indigenous Coordination Centre (ICC) managers, which found that “departmental culture and systems” along with “red tape or bureaucracy”, “rigid funding arrangements” and “centralised delegations and funding allocation methods”²³ were among the main weaknesses of the Government’s Indigenous Affairs arrangements.

The review of the NTER is an ideal opportunity for the Australian Government to reflect not only on the situation in the Northern Territory but to learn from 40 years of policy inertia and program failure and to frame a new national approach.

Government must tackle its part of the challenge by developing a comprehensive, long-term community development approach to Indigenous affairs in Australia. Reconciliation Australia recommends that the Government consider the issues posed in the Australian Public Service Commission report on “wicked policy problems” which discusses the need to change public accountability mechanisms for addressing such wicked problems of which Indigenous Affairs is clearly one.

Based on the ideas canvassed in that report, Reconciliation Australia suggests that the Government consider the establishment of an independent authority – the Indigenous Development Authority - to draw up and oversee an implementation plan for the Government’s target of closing the life expectancy gap within a generation.

The Authority would need to address a range of issues including:

- Reform of Commonwealth-State responsibilities
- Reform of machinery of government at the Commonwealth level for delivering policies and programs for Indigenous people
- Capacity of governments to deliver services to Indigenous people
- How to build on success and minimize failure
- Flexibility of program and policy design based on evidence of what works and empowering of local communities
- Roles and capacity of civil society - business, non-government organizations etc to contribute to closing the gap
- Resources required to meet specific targets within timeframes across health, education, housing, employment and shared pride/community education.

The Authority would differ from the current COAG process that is working on developing such an implementation plan because it would be made up of the best and brightest people from within **and** outside the public service. The current COAG

²³ The Australian National Audit Office, “Whole of Government Indigenous Service Delivery Arrangements”, Commonwealth of Australia 2007, p133

process is driven entirely but State and Federal public servants and, based on the evaluations of the COAG trials, is likely to fail once again.

Under the alternative approach, the Indigenous Development Authority would have legal powers to cut across departmental boundaries and accountabilities to drive a real ‘whole of government’ response. People would be seconded from across governments, corporations, academic and other sectors to work within the Authority and would include Indigenous and non-Indigenous people with expertise in particular policy areas such as health, housing or education and others who would bring experience in reform of public service machinery; corporate –community partnerships; relationship development and management; research and evidence gathering; community development and service delivery.

A similar model has been used successfully in the UK in the Strategic Policy Unit of the Cabinet Office to address their ‘wicked policy problems’ although this Unit does not have the legal powers to cut across departmental boundaries in service delivery.

The Indigenous Development Authority would have legislative backing either as a statutory authority or bi-partisan commission to direct agencies to act outside their normal boundaries and accountability mechanisms. There are similar models for disaster relief that could be drawn on. The Authority would have regionally based operations responsible for developing partnerships and delivering flexible solutions at the local community level. Locally based solutions would be a key driver for the Authority and it would have responsibility for ensuring that decision-making at the local level was encouraged not hindered by layers of bureaucracy or by departmental turf warfare as currently exists.

The Authority’s purpose would be to ‘enable’ rather than ‘control’ locally driven solutions based on partnerships with communities, corporations and civil society organisations.

Staff employed to work in the Authority would be skilled in relationship management, partnership development, community development and some would be further trained specifically to work in remote communities. They would be recognised as having specialist skills similar in some ways to the specialist skills that are recognised for those working in international aid and foreign policy. They would be rewarded for continuity and capacity to build trusting relationships.

The evaluations of the COAG trials identified the necessary skills to work in Indigenous Affairs as being: “good listening; acting in good faith; high levels of good will; willingness to share power;; recognising and acknowledging intra-community and familial relationships and how these impact on leaders; understanding the pressures on communities; being honest and open; and being human.”²⁴

These skills are not recognised as traditional skills of public servants and would require cultural transformation within the public service or the separate Authority. This approach would require “...giving public officers (or others in the Authority)

²⁴ Morgan Disney and Associates Pty Ltd Synopsis Review of the COAG Trial Evaluations, Report to the Office of Indigenous Policy Co-ordination 2007 p 27

...increased discretion to form...relationships and re-conceiving the basic normative foundations of public administration to accommodate attachment rather than detachment. Under this view, values such as trust, engagement and self-disclosure would come to characterise bureaucratic behaviour”.²⁵

8. Regular and independent public evaluation of government programs and policies to make sure we learn from mistakes and successes

The NTER was set up without any formal evaluation process in place and without any mechanism for collection of baseline data to assess its effectiveness over time. This is counter to the development of best practice public policy.

Program and policy outcomes related to the NTER require regular transparent evaluation over the long-term. This is crucial for forming an evidence base for the measurement of the success or otherwise of the NTER’s core measures. The review must result in an immediate focus on collecting baseline data to enable longitudinal measurement of initiatives.

Unplanned outcomes or “unintended consequences” particularly those which may increase disadvantage²⁶ should also be monitored closely. Meredith Edwards’ research suggests that “essential ingredients” for good accountability systems include “that expectations of all parties are agreed and explicit; expectations balance respective capacities; reporting arrangements are credible; and there is carefully designed and appropriate monitoring and evaluation mechanisms”.²⁷

9. Conclusion

This submission presents a national policy framework for Indigenous Affairs going forward against which all future initiatives could be assessed. It poses a community development approach as the way forward for Indigenous Affairs policy and programs. It also suggests that such an approach will not succeed without reforming the machinery and culture of government to enable a real whole of government approach to be delivered at the local level.

Finally, we should continue to accept that mistakes will be made. But the critical point is that we learn from the mistakes.

‘There will be stumbles. There will be learning. It means changing the culture of public administration and, I surmise, the governance of communities. It will require generational commitment to building a partnership between communities and government with ongoing participatory arrangements.’ (Shergold quoted in Gray and Sanders 2006:27).

²⁵ Meredith Edwards Op Cit quoting Sossin 2002 p 89-90

²⁶ Ongoing research into the internally displaced Indigenous people ‘living rough’ in and around Darwin being conducted by the Larrakia Nations Research Division, Dr Catherine Holmes et al.

²⁷ Edwards p. 15

List of Appendices

Appendix A

[Communiqué to the Australian Government from Yolngu and Bininj Leaders at Yirrkala](#), 23 July 2008

Appendix B

Reconciliation Australia 2007 [“What Works in Indigenous Affairs”](#)

Appendix C

Reconciliation Australia 2008 [“Reflections on the 2020 Summit, Options for the Future of Indigenous Australia”](#) by Barbara Livesey and Jason Glanville,
Reconciliation Australia

Appendix D

Reconciliation Australia and the Australian National University Indigenous Community Governance Research Project, [Summary of Preliminary Research Findings 2006; Summary of Year Two Research Findings 2007](#)

Appendix E

Warlpiri Media, Reconciliation Australia and News Limited 2007, *Voices from the Heart of the Nation* 8 part series

[Part 1](#), [Part 2](#), [Part 3](#), [Part 4](#), [Part 5](#), [Part 6](#), [Part 7](#), [Part 8](#)

Appendix F

[Address given by Fred Chaney, Director, Reconciliation Australia](#) to the National Press Club 2007



Reconciliation Australia's
Submission into the Reform of Australian Government
Administration
Building the world's best public service

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Introduction

Reconciliation Australia welcomes the opportunity to contribute to a discussion on the Reform of the Australian Government Administration.

Reconciliation Australia is an independent, not-for-profit organisation that was established in 2000 by the former Council for Aboriginal Reconciliation. It seeks to build and promote reconciliation between Indigenous and non-Indigenous Australians for the well-being of the nation. Our vision is for an Australia that provides equal life chances for all, recognising and respecting the special place, culture and contribution of Aboriginal and Torres Strait Islander peoples as the First Australians. Equal life chances for all Australians means eliminating the glaring gap in life expectancy between Indigenous and non-Indigenous children.

The Australian Government has stated it is determined to close the fundamental divide in health outcomes and life expectancy between Indigenous and non-Indigenous Australians.¹ The demographics of Indigenous disadvantage are stark. Based on the findings of the Productivity Commission's 2009 report on *Overcoming Indigenous Disadvantage*, there is a reasonable prospect that the national outcomes for Indigenous health, employment, housing and income could get worse.² The consequence of this occurring would be disastrous on both the social and economic front.

Reconciliation Australia believes that reform of the machinery and culture of government is needed to achieve effective whole-of-government policy development and service delivery that is attuned to the diverse needs and priorities of Indigenous Australians. This submission addresses two areas identified in the Advisory Group's discussion paper which we believe to be critical to closing the gap and creating equal life chances for all Australians. These are:

- High quality, forward thinking and creative policy advice; and
- High quality, effective programs and services focused on the needs of citizens

We would urge the Advisory Group to recognise that sustained improvement in public sector outcomes for Indigenous Australians will have significant benefits for all Australians.

¹ Close the Gap, Indigenous Health Equality Summit Statement of Intent.

² Steering Committee for the Review of Government Service Provision, 2009. *Overcoming Indigenous Disadvantage*. Commonwealth of Australia.

High quality forward thinking and creative policy advice

Reconciliation Australia believes that creating high quality, forward thinking and creative policy advice requires:

- structural change to embed the genuine participation of citizens in policy and program development. This means significant strengthening of, and support for, community development approaches that are responsive to local needs.
- Prime Ministerial backing for a new national framework for Indigenous policy development and implementation, placing a high priority on harnessing the knowledge and leadership of local communities.
- enhanced capacity of the Australian Public Service (APS) to effectively develop and implement policy in collaboration with citizens. Increasing levels of Indigenous employment across the APS, specialist training, targeted recruitment and an emphasis on on-the-ground experience will improve the ability of the APS to respond to critical policy challenges.

Policy formulation

There is an existing body of evidence to support the three recommendations mentioned above. The key messages from this material are summarised in a brief appendix to this submission – ‘Things that work’ (Appendix A).

It is clear from this body of work and from the international development literature of the last 40 years that the genuine engagement of Indigenous communities in the early stage development of policy and in the design of implementation plans is pivotal to success. Policies that are developed with little input or ownership from target communities, especially where those communities believe that they have not been consulted in a bona fide way, are generally unsuccessful. A ‘one-size-fits-all’ approach across very diverse communities typically achieves poor outcomes over time.

Reconciliation Australia and the Centre for Aboriginal Economic Research (CAEPR)’s Indigenous Community Governance Research Project was a detailed two year study of what works in Indigenous community governance. The research found that cooperative approaches and community involvement in program design and delivery were necessary to best match the diversity of Indigenous communities around Australia.

The Australian National Audit Office’s evaluation of government service delivery in remote Indigenous communities also found that meeting community needs was often linked to the level of community involvement in the program’s planning and delivery. Those programs that engaged the community in the development and implementation of the program best meet community needs.

While the findings of this report pertain directly to remote Indigenous communities, the findings are supported by similar evidence across urban and regional contexts. The Advisory Group would find of special interest the successful examples highlighted by the Indigenous Community Governance Research Project.³ This project involved researching the governance of Indigenous organisations across urban, regional and remote Australia. It features policy arrangements with a community development approach that allowed communities to participate as partners with governments in designing frameworks to meet their needs.

The Indigenous Community Governance Research Project highlighted the need for program design to match diverse community circumstances. It indicated that federal and State government agencies need to apply a more sophisticated understanding of the different types of Indigenous communities to maximise the likelihood of positive program outcomes in very diverse types of Indigenous communities.

These findings are also supported by the board established to review the Australian Government's Northern Territory Emergency Response. The board stated that:

'...there needs to be adjustments in the machinery of government enabling better coordination of services, greater responsiveness to the unique characteristics of each community and higher levels of community participation in the design and delivery of services.'⁴

Local approaches, developed in partnership with communities are, not surprisingly, less likely to produce unintended consequences, confusion and poor on-the-ground involvement in the long-term. In their study of the efficacy of alcohol restrictions across a range of different contexts, the National Drug Research Institute found that there was no one measure or suite of measures that could be assessed as universally effective.⁵ Instead, they found that those that were developed with the support and involvement of particular communities, based on the needs and circumstances of those communities, were most likely to achieve success.

Reconciliation Australia believes that a sustained improvement in public sector outcomes in this area will not be attainable if based solely on individual agency improvement efforts. We believe that structural change is required across the APS to provide the necessary coherence and effective focus of federal effort over the coming decade. Given the

³ Hunt, J. and D. Smith, 2006. Building Indigenous community governance in Australia: Preliminary research findings. Report to Reconciliation Australia and the Centre for Aboriginal Economic Policy Research.

Hunt, J. and D. Smith, 2007. Indigenous community governance project: Year two research findings. Report to Reconciliation Australia and the Centre for Aboriginal Economic Policy Research. See <http://www.reconciliation.org.au/home/projects/indigenous-governance-research-project>

⁴ NTER Review Board, 2008. Northern Territory Emergency Response: Report of the NTER Review Board. Report to the Minister for Families, Housing, Community Services and Indigenous Affairs. See http://www.nterreview.gov.au/docs/report_nter_review/docs/Report_NTER_Review_October08.pdf

⁵ National Drug Research Institute, 2007. *Restrictions on the sale and supply of alcohol; evidence and outcomes*. Curtin University of Technology.

seriousness of the findings about ineffective program outcomes in the 2009 Overcoming Indigenous Disadvantage report, Reconciliation Australia believes that a better coordinated federal framework is needed – one that is based on a community development approach. A guiding principle of such this framework must be that communities have a genuine voice in policy and program development, implementation and financial decisions on matters which affect them. This may require the devolution of authority and service delivery structures from a centralised bureaucracy to regions. Reconciliation Australia Director Fred Chaney states:

‘There is really no contest either about the fundamental importance of Indigenous engagement as a prerequisite for success – this is what reconciliation is all about these days – building the respectful partnerships that underpin every example of success we have at our disposal, locally and around the world.

Let’s be upfront and learn from our mistakes - centralised, imposed programs delivered from Canberra or state/territory capitals have not delivered the success we must now expect.’⁶

There is a large volume of evidence highlighting the need for structural change across the APS to embed the genuine participation of citizens in policy and to ensure responsiveness to local needs. Given the complex changes required, Reconciliation Australia suggests that the Advisory Group draw together experts in community development approaches to explore options for this type of reform.

Policy integration

A continuing challenge for policy development is to maintain a cross-departmental and multi-tiered approach. The Indigenous Community Governance Research Project found that Indigenous organisations faced, as one of their major challenges, very poor coordination across departments. Unnecessary duplication and failure to properly coordinate often left Indigenous organisations with burdensome reporting requirements and complex service delivery arrangements. The recommendation of the 2007 Indigenous Community Governance Research Project report was for regional developments and partnerships with integrated funding mechanisms and highly skilled government officers to facilitate and monitor arrangements, supported by effective departmental back-up within government.

Reconciliation Australia believes that the 2009 Overcoming Indigenous Disadvantage report was correct in identifying the following pre-requisites for program success:

- cooperative approaches between Indigenous people and government — often in partnership with the non-profit and private sectors
- community involvement in program design and decision-making — a ‘bottom-up’ rather than ‘top-down’ approach
- good governance — at organisation, community and government levels; and

⁶ Fred Chaney, address to the National Press Club 4 July 2007

- ongoing government support — including human, financial and physical resources.

In addition to working across department silos, the APS will also need to consider innovative approaches to working across policy silos. For many communities policy areas are difficult if not impossible to separate. As the board established by the Australian Government to review the Northern Territory Emergency Response states:

‘Just as housing issues underpin community health, so policing issues intermesh with family support which, in turn, is intimately connected with child and family health.’⁷

We believe that the APS needs to provide a variety of incentives and support mechanisms for agencies to be innovative and flexible. At a minimum, there is a need to find ways to reduce the Canberra silo syndrome which has sometimes led to Indigenous communities receiving numerous visiting delegations from different agencies over a short time. Given that the delivery of the majority of basic services is the responsibility of the States and Territories, finding efficiencies and ways to improve the pattern of partnership with this level of government is critical to success.

Reconciliation Australia believes that the Australian and State and Territory governments have made significant progress in coordinating their actions. Governments are increasingly coordinating priorities and resources through mechanisms like the Council of Australian Governments (COAG) and bilateral agreements. Tailoring these existing mechanisms to local or regional areas will build on this momentum and increase the impact of government actions.

Human capital

For effective policy and program development, as well as service delivery, the APS requires people with the necessary expertise to tailor policy solutions to match different Indigenous communities.

Both the Desert Knowledge remoteFOCUS⁸ initiative and Reconciliation Australia’s Indigenous Community Governance Research Project have recommended strengthening the provision of public sector training in relation to Indigenous policy and program implementation in order to enhance the capacity of the public service to effectively deliver the outcomes required. The Indigenous Community Governance Research Project recommended that ‘bureaucratic skills need to be enhanced to meet the challenges of shaping and implementing policy to develop stronger Indigenous governance’.

⁷ NTER Review Board, 2008. Northern Territory Emergency Response: Report of the NTER Review Board. Report to the Minister for Families, Housing, Community Services and Indigenous Affairs. See http://www.nterreview.gov.au/docs/report_nter_review/docs/Report_NTER_Review_October08.pdf

⁸ Desert Knowledge Australia 2008. *PROSPECTUS remoteFOCUS: Revitalizing Remote Australia*. See <http://www.desertknowledge.com.au/dka/index.cfm?fuseaction=remoteFocus>

Additionally, the Australian National Audit Office's *Evaluation of Service Delivery in Remote Indigenous Communities 2009* report found that capacity of government is critical, emphasising the importance of ensuring departmental staff have strong interpersonal skills and a thorough understanding of remote communities.⁹

For decades the Australian School of Pacific Administration provided specialist training for public servants to deliver certain services to New Guinea and Indigenous people in Northern Australia. While the Australian and New Zealand School of Government has developed a program in conjunction with AusAID for public sector officials in the executive ranks to build capacity and strengthen reform in the Pacific region, currently there are no APS-wide training programs focusing on building the capacity of the APS to effectively develop policy and deliver services to Indigenous Australians.

Increasing Indigenous employment levels across the APS will also assist to build its the capacity to provide more effective policies and service delivery to Indigenous people as well as contribute to increased social equity by improving Indigenous peoples' income levels and employment opportunities.

While the APS has programs and policies in place to increase the recruitment and retention of Indigenous staff, the APS reform Discussion Paper indicates that Indigenous employment in the APS has been falling, from 2.7% in 1999 to 2.1% in 2008. This is particularly concerning when the Indigenous population of Australia is in fact growing.¹⁰

Reconciliation Australia's Reconciliation Action Plans (RAP) provide some valuable insights with regard to strategies to recruit and retain Indigenous staff in the APS.¹¹ The RAP program, launched in 2006, turns 'good intentions into action' by supporting organisations to engage within their sphere of influence in the national effort to close the gap in life expectancy between Indigenous and other Australians. Organisations set targets within three areas, 'respect', 'relationships' and 'opportunities', and produce a yearly progress report indicating whether or not these targets have been achieved. Forty Australian Government Departments have completed RAPs and six agencies have submitted progress reports. These six progress reports provide valuable evidence on the current situation regarding Indigenous employment in the APS and indicate ways in which the situation could be improved.

⁹ Office of Evaluation and Audit (Indigenous programs) *Evaluation of Service Delivery in Remote Indigenous Communities* see <http://www.finance.gov.au/oea/docs/ESDRIC.pdf>

¹⁰ The Australian Bureau of Statistics states that the Indigenous population of Australia is projected to grow by 2.2% per year between 2006 and 2021, compared with an annual growth rate of between 1.2% and 1.7% per year for the total Australian population see <http://www.abs.gov.au/AUSSTATS/abs@.nsf/mediareleasesbyReleaseDate/5D8264F4B083F282CA25762A002726E3?OpenDocument>

¹¹ Reconciliation Australia's RAP program turns "good intentions into action" by encouraging and supporting organisations, large and small, to engage within their sphere of influence in the national effort to close the 17-year gap in life expectancy between Indigenous and other Australians. For further information see <http://www.reconciliation.org.au/home/reconciliation-action-plans/what-is-a-rap>

Reconciliation Australia recognises that the use of RAP progress reports to make recommendations about Indigenous employment in the APS is problematic on several counts. In addition to the RAP program being voluntary, resources and capacity to implement Indigenous employment strategies varies across the public services. However, we do believe that the RAP progress reports provide an important insight into the level of commitment to Indigenous employment in the APS at the departmental level. Reconciliation Australia has noted that the time and effort invested in the corporate RAP progress reports is significantly greater than those of the Australian Government Departments. We also believe that the RAP progress reports provide important information on which strategies are working and which are not in individual government departments.

Six Australian Government Departments have completed RAP progress reports. These reports highlight poor data collection in the APS relating to Indigenous employment, as well as the substantial gaps in data. One department's RAP progress report noted that they did not know the number of their existing Indigenous employees. Another department aimed to have a 5% increase in Indigenous applicants. The subsequent progress report received by Reconciliation Australia stated that the department did not have data in relation to the number of Indigenous applicants to department jobs.

The RAP progress reports also indicate that initiatives to increase Indigenous employment are not being followed through due to time pressures, high workloads and cost restrictions in combination with a lack of ownership and responsibility and very few of the retention and recruitment strategies executed in the APS are being carefully monitored. For example, one agency implemented a policy regarding Indigenous representation on interview panels yet no evidence was provided in their RAP progress report as to whether or not this initiative had been successful. Additionally, an Indigenous Employee Officer was appointed at a different agency, but neglected to note in the progress report whether or not this had been a positive change for the human resources branch.

Successful Indigenous recruitment strategies have been initiated in some Australian Government Departments. An Australian Government Department's RAP progress report indicated that three Indigenous graduates, five Indigenous trainees and two Indigenous cadets were engaged at the department in early 2009. This is likely to be due in part to their strategy of promoting the department as an employer of choice to universities and high schools with a high population of Indigenous students. Another department noted the Australian Public Service Commission's Indigenous Traineeship Program is very successful in the department's regional operating locations.

In general, however, recruitment processes across the APS often appear inflexible and remain a major barrier to recruiting and retaining more Indigenous staff. The RAP progress reports indicate several Australian Government Departments had difficulty implementing non-traditional recruitment strategies. One Department was unable to implement the school-based traineeships they had aimed to execute in their RAP, while another decided

not to implement an agency-specific Indigenous cadetship program following a feasibility study. Yet corporate groups are becoming increasingly aware of the need to adapt their recruitment strategies to successfully attract Indigenous staff. Qantas, for example, noted that to deliver on their RAP goals, they had to broaden their traditional approach to recruitment to include a range of initiatives aimed at building the pipeline of Indigenous talent such as school-based traineeships, university cadetships, engineering apprenticeships and partnerships with other corporate groups.

The six RAP progress reports from Australian Government Departments indicate that the provision of training opportunities for Indigenous staff is the main focus of retention strategies. Training opportunities have included the Australian Public Service Commission's Indigenous development programs and training offered by the Australian Indigenous Leadership Centre.

Reconciliation Australia emphasises the importance of flexible working arrangements and cultural training for staff as a crucial element in retaining Indigenous employees. This point was noted in *An Evaluation of the Australian Public Service Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees* produced by Dominic Downie and Associates for the Australian Public Service Commission.¹² The evaluation noted the poor promotion and retention outcomes for Indigenous staff in the APS and stated that 'a key driver of retention is whether or not APS workplaces provide an environment that is sensitive to and supportive of Indigenous culture.' It is also important to note that Indigenous staff consulted as part of the evaluation identified a lack of workplace support as a factor in Indigenous staff retention.

An analysis of the six RAP progress reports from Australian Government Departments indicate that the APS would benefit from:

- accurate data collect on Indigenous employment levels, retention and turn over by agency;
- an effective governance structure to achieve outcomes in Indigenous employment; and
- sharing information about best practice among each other and also private sector employers, including creative employment and retention strategies.

¹² Dominic Downie and Associates, 2008. *An Evaluation of the Australian Public Service Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees*. Unpublished report to the Australian Public Service Commission.

High quality, effective programs and services focused on the needs of citizens

Reconciliation Australia believes that for the APS to provide high quality, effective programs and services focused on the needs of citizens, it requires:

- the ability to devolve authority and service delivery structures from a centralised bureaucracy to a more tailored approach that responds to cultural needs and the needs of regions or local areas; and
- good accountability systems that provide for ongoing independent evaluation and one that focuses on clear outcomes developed in consultation with citizens.

Citizen centered

Currently, program and service delivery across Australia is generally based on the ‘one size fits all’ approach. Research from the Desert Knowledge remoteFOCUS initiative indicates that:

‘Government programs operate in a manner that marginalises Indigenous peoples’ access to mainstream services (and confines them to a labyrinth of individual or one-off programs and related funding sources) that are poorly delivered and take little account of the individual circumstances...’¹³

As previously stated, Reconciliation Australia supports architectural change to the APS which embraces the genuine participation of citizens in policy and program development, implementation and financial decisions on matters that affect them. However, too often consultation with Indigenous communities is conducted as an uneven exercise with the interests of individual agencies dominating the exchange of information unduly within communities. Government consultation schedules tend to be driven by program or electoral timeframes that inhibit, rather than encourage, effective engagement by communities. There is often insufficient understanding and appreciation of the uneven power relationships underpinning these consultations and an unwillingness to genuinely share power.

As the Australian National Audit Office noted in its lessons from the COAG Indigenous trials:

‘...governments must be willing to understand and work respectfully with Indigenous communities, and Indigenous communities must be willing to understand and work with governments. Both may need to review the ways in which they interact with

¹³ Desert Knowledge Australia 2008. *PROSPECTUS remoteFOCUS: Revitalizing Remote Australia* see <http://www.desertknowledge.com.au/dka/index.cfm?fuseaction=remoteFocus>

one another to ensure that interactions are appropriate and foster the development of productive and lasting relationships.’¹⁴

Meredith Edwards’ research on participatory governance indicates that the key ingredients for successful creation of participatory policy mechanisms include strong leadership, trusting relationships and the willingness of those with power to share it.¹⁵ This indicates the need for ministerial level support for the devolution of authority and for many aspects of service delivery decision-making to regional and local areas.

This would necessitate a more tailored approach to program and service delivery by the APS, one that is linked up with State and Territory service provision. To ensure the effective delivery of services, the APS must increase partnerships with organisations outside of government. Using local or specialised organisations to deliver programs and services would increase flexibility and innovation and help to ensure services are delivered in a way that meets the needs of citizens.

While recognising the general benefits of a mobile workforce that can readily move into and across the APS, a high turnover of staff within the APS, especially in areas of service delivery, undermines the creation of viable relationships at community level. Governments need to realign their thinking around the economic value of investing in relationships, human resources and longer timeframes required to deliver effective and sustainable partnerships. Investment in relationships should sit alongside investments in service delivery or physical infrastructure as essential ingredients in community development and achieving lasting results.

Well designed

Perhaps the most important point for governments that has emerged out of the Indigenous Community Governance Research Project is that the complexity of government arrangements in Indigenous communities is a barrier to successful Indigenous governance. The research recommends that, while there has been some movement towards more regionalised, decentralised approaches, departmental funding silos remain predominant. Combined with the relative lack of field experience among many central policy makers, this constrains the development of optimal regional governance strategies and priorities.

Reconciliation Australia believes that its recommendations in this submission are supported by the Australian National Audit Office’s 2007 survey of Indigenous Coordination Centre (ICC) managers, which found that ‘departmental culture and systems’ along with ‘red tape or bureaucracy’, ‘rigid funding arrangements’ and ‘centralised delegations and funding

¹⁴ M. Edwards, 2008. *Participatory Governance and the Indigenous Agenda: From Rhetoric to Reality*. Centre for Policy Development.

¹⁵ M. Edwards, 2008. *Participatory Governance and the Indigenous Agenda: From Rhetoric to Reality*. Centre for Policy Development.

allocation methods' were among the main weaknesses of the Government's Indigenous Affairs arrangements.

Chief among issues highlighted in the Office of Evaluation and Audit's evaluation of *Service Delivery in Remote Indigenous Communities* is the need to have decision-making power invested in local entities with better on-the-ground knowledge and relationships.¹⁶ The report found that there was a 'block' between those on the ground and centralised decision-makers and that this block was harmful to effective and efficient policy development and implementation. It is also essential for the APS and governments to stop the 'start again' syndrome and build on areas of success.

While Reconciliation Australia believes that well designed programs and services are those designed to respond to local issues, programs must also be designed with a clearly defined purpose. Productivity Commission Chair, Gary Banks notes:

'...a consistent failure to acknowledge Indigenous cultural perspectives in policy design and implementation, despite acknowledgement of its importance in achieving successful outcomes.'¹⁷

Past experience tells us:

- The natural tendency of mainstream agencies is to cater to the mainstream. Without strong and consistent political and administrative leadership, agencies generally fail Indigenous communities.
- Mainstream service delivery not delivered in culturally appropriate ways is unlikely to succeed.
- Indigenous organisations that are appropriate to particular community setting and have authority in the community are essential to obtaining the engagement of those communities.

Delivered by capable people

This submission has already discussed the importance of enhancing the capacity of the APS to effectively develop policy and deliver services in collaboration with citizens. In addition to the points already raised, it is also important to recognise the need for specialised positions within the APS and that a recruitment approach based on generic capabilities may not produce a workforce able to deliver outcomes for Indigenous people. The Australian Public Service Commission's Integrated Leadership System¹⁸ identifies five core capability clusters for APS employees:

¹⁶ Office of Evaluation and Audit (Indigenous programs) *Evaluation of Service Delivery in Remote Indigenous Communities* see <http://www.finance.gov.au/oea/docs/ESDRIC.pdf>

¹⁷ Gary Banks, Chairman, Productivity Commission, Australia address to the Second OECD World Forum on "Statistics, Knowledge and Policy", *Measuring and Fostering the Progress of Societies*, Istanbul, Turkey, 27-30 June 2007.

¹⁸ See <http://www.apsc.gov.au/ils/index.html>

- shapes/supports strategic thinking;
- achieves results;
- cultivates/supports productive working relationships;
- exemplifies/displays personal drive and integrity; and
- communicates with influence.

However, the evaluations of the COAG trials identified the necessary skills to work in Indigenous Affairs as being: 'good listening; acting in good faith; high levels of good will; willingness to share power; recognising and acknowledging intra-community and familial relationships and how these impact on leaders; understanding the pressures on communities; being honest and open; and being human'.¹⁹

Well managed

Reconciliation Australia has seen through RAPs that well managed programs and services are ones that have measureable targets, realistic timeframes and clear accountabilities. That is there is clear responsibility for actions. They are also programs and services that incorporate a continuous improvement process or incremental gains through lesson learnt. This requires a focus on ongoing evaluation to ensure the effectiveness of the action, the program and service delivery in achieving the desired outcomes and to identify where modifications need to be made. Meredith Edwards' research suggests that the 'essential ingredients' for good accountability systems include that expectations of all parties are agreed and explicit; expectations balance respective capacities; reporting arrangements are credible; and there are carefully designed and appropriate monitoring and evaluation mechanisms.²⁰

Regular and transparent evaluation of outcomes over the long-term is crucial for forming an evidence base for measuring the success of programs and services. In addition, Reconciliation Australia believes that baseline data collection is an essential aspect of accountability. The importance of baseline data to measure successes and guide future direction was highlighted by the board established to review the Australian Government's Northern Territory Emergency Response. In its evaluation the board stated:

¹⁹ Morgan Disney and Associates Pty Ltd 2007. *Synopsis Review of the COAG Trial Evaluations*. Report to the Office of Indigenous Policy Co-ordination. See http://www.fahcsia.gov.au/sa/indigenous/pubs/evaluation/coag_trial_site_reports/overview/Pages/default.aspx

²⁰ M. Edwards, 2008. *Participatory Governance and the Indigenous Agenda: From Rhetoric to Reality*. Centre for Policy Development.

‘Apart from some initial scoping data, there was little evidence of baseline data being gathered in any formal or organised format which would permit an assessment of the impact and progress...’²¹

The importance of ongoing independent evaluation that focuses on clear outcomes has also been highlighted by John Altman from the Centre for Aboriginal Economic Policy Research who states:

‘In the absence of independent assessment of policy performance, together with a growing trend to report policy success in the popular media in an orchestrated manner, it is becoming harder and harder to gauge whether results are positive, negative or neutral. Such heightened contestation partly reflects the absence of consensus about the approach taken. It also reflects that the approach is owned and championed by the state, not by the people or Indigenous communities. It is not unusual to read a number of contradictory and highly contested views about a policy outcome, if not on the same day then strung out over just a few, with trial by media, rather than concrete evidence of success, appearing to influence the government’s approach.’²²

²¹ NTER Review Board, 2008. *Northern Territory Emergency Response: Report of the NTER Review Board*. Report to the Minister for Families, Housing, Community Services and Indigenous Affairs. See http://www.nterreview.gov.au/docs/report_nter_review/docs/Report_NTER_Review_October08.pdf

²² Altman, J. 2009, *Developing a national Indigenous policy framework that recognises needs, rights and legacies and delivers results*. Centre for Aboriginal Economic Policy Research. See <http://online.anu.edu.au/caepr/Publications/topical/2009T12.php>

**Presentation to the Desert Knowledge Symposium
Alice Springs, 3 – 6 November 2008**

Maggie Kavanagh

THE BALGO COMMUNITY CAPACITY BUILDING MODEL

ABSTRACT – *The Balgo Community Capacity Building approach to building and sustaining a local governance structure*

The future of remote Aboriginal community governance was recently described as a “future fire storm”. In Balgo this year a unique community capacity building approach has been slowly developing an appropriate community governance structure from the ground up. The model balances the requirements of the mainstream corporate system of ORIC and an Aboriginal perspective to governance. We will detail the steps undertaken and discuss what has worked and why. Our model illustrates how intensive support based in a community can greatly enhance Aboriginal peoples’ ability to engage in setting up and sustaining a meaningful and solid local governance structure.

INTRODUCTION

This year I have been living in Balgo community and working as the community capacity builder. Balgo is located 850km north of Alice off the Tanami Highway, approx. half way between Alice and Broome – so quite remote probably very very remote I would say....

Balgo has a population of about 400 – 450 people was founded as a Catholic mission and is home to Kukatja, Jaru, Nardi, Walmajarri and Walpiri people. English is not their first language.

For the past 5 years Balgo has been under Office of the Registrar of Indigenous Corporations (ORIC) appointed administration which means it has had no community council, no chairperson, no control over community resources and has basically been run by an accounting firm in Perth.

People use the analogy that Balgo has been like an old broken down motor car abandoned and forgotten in the bush. This experience has shattered people's confidence in themselves and as they say has made their spirits feel very low.

Little new resources have come into the community in this period. No one went batting for Balgo, it has been in a holding pattern. So Balgo is a community with very few Aboriginal people employed in real jobs, without a community hall, no aged care or disability program, no programs for young children or mothers, no childcare or preschool programs, no after school or holiday programs for kids, a poorly funded school with only 1 secondary teacher, 2 police to cover 3 communities with a population of 850 people, no drug and alcohol services and the limited youth service is mainly funded by Catholic organisations. It also has some of the worst and most inadequate housing of any community I have been to in 25 years.

This year the WA Department of Indigenous Affairs funded my CCB position as a pilot program. It is the only one of its kind funded in WA. Basically my role has been to support the community to move out of administration, to establish a governance structure and to assist people sustain this process.

My interest in attending this symposium is to share with you the story of how our community capacity building approach has worked in Balgo and why we think it is a good model. Hopefully you will think there are useful lessons to be learnt from our approach.

THE MODEL

Wirrimanu Aboriginal Corporation - WAC who I work for is incorporated under the Corporations (Aboriginal Torres Strait Islander) Act 2006.

With the recent changes to the CATSI Act, there is more scope than the previous Act to include Aboriginal perspectives of governance within their constitutions – now referred to as “rule books”.

Last year as result of a series of ORIC funded workshops, the community decided to have 14 directors to represent the 14 major family groupings in the community. People decided themselves that this was how they wanted their corporation to be structured.

I think for remote communities this representative model is far more meaningful than electing a first past the post system or having a council made up of people who are the best talkers. It is inclusive and ensures that all the families have a seat at the table.

But at the start of the year when I commenced work at Balgo, the community had not yet committed to this new structure. There was still some reluctance and I think a lack of confidence about how to go about appointing the directors.

So I suggested that we just start having meetings anyway and that anyone who was interested could come along. There hadn't been any representative community meetings for 5 years so people were clearly out of practice in how to conduct meetings.

So for 5 months until the directors were appointed we met every second Tuesday as people decided this was the best day to have the meetings. We called them the community advisory committee (CAC) meetings as we were still under administration. We had 20 -25 people attending and they lasted for an average of 2 ½ - 3 hours. People were interested, had got hooked in and kept coming back. This was really the start of the engagement.

These meetings then became the focus for the governance learning and training, for the rebuilding process.

My firm belief is that people gain confidence in these domains through practice, practice, practice. And this of course is an Aboriginal way of viewing the world – you learn by doing, over and over again.

The point of making these meetings the hub of the process was to cement learning about governance in real meeting settings. We applied the learning as we were going along to real issues in the community. People could see they were making proper decisions about their community and applying them. I remember one of their first actions was to ask a known drug dealer who had managed to avoid police detection to leave the community. He did and this gave people confidence that they had successfully dealt with a serious matter affecting their young people.

Another example has been the CAC dealing with requests for parolees to return to Balgo. Historically these requests were handled by the CEO and now people said they should make those decisions. But these are hard things for people to decide upon because you are talking about family and of course family comes first.

So in the meetings people negotiate rules for parolees coming back, tell them they must work if they want to come to Balgo, they consider the views of the victims and their families and they openly say we must make these decisions without fear or favour. This in fact has become a key phrase in our meetings because people get it. To peoples' credit they have not accepted all parolee requests and they have become much tougher on enforcing their rules as the year has progressed.

The emphasis of the governance learning and training in these meetings has been to view good governance principles as tools to help you have good meetings and make good decisions. It also reinforces that people

have to get along around the table. And of course many actions come out of these meetings thus further raising the level of engagement.

I will now outline some of the other steps we have taken in building up good governance practices and talk about what I think has been working well.

Some of these things might sound really obvious to you but sometimes I think it is too easy for whitefellas in particular to overlook key things that do make a difference in conducting business in an Aboriginal community.

1. Firstly we have enshrined some significant concepts and practices into the rule book and meetings. They have included:

i. Developing their own guiding principles. By identifying your core values you have to think about what is important to you. Balgo's first key first principle is respect – kinti kinti for each other.

ii. Establishing a permanent circle of elders – 4 senior men and 4 senior women to sit alongside the directors and give advice on land, law and cultural matters. This is written into the rule book. They attend the meetings and their central role is always acknowledged by the directors.

iii. Establishing their own code of conduct for the meetings and called it their “working well together agreement”. People actively use this in meetings to reinforce good behaviour – a practice I think is exemplary.

iv. Balgo now has a guide for visitors to meetings. This in particular has been an empowering tool for the community. It turns around the “good governance” debate and says to bureaucrats and other visitors if you are going to come into our meetings this is the way we want you to conduct yourself. So the guide says – speak in clear English people can understand, don't use jargon or acronymns, be concise, know what you're going to say

and stick to it and when you are finished and got what you came for – leave and don't hang around for business that is not yours! Give us our space.

2. Secondly we have made the meetings important. They have been given a real status in the community and are widely respected. The meetings are the focus for building up the understanding of governance issues.

3. Thirdly the style of meetings are important too. Ours are welcoming environments with a cup of tea and lunch always provided. This not only helps people to feel relaxed and comfortable, it is showing an understanding of reciprocity. This is an absolute fundamental concept of relationships in Aboriginal culture. People see me doing something for them, that I am respecting their work and commitment by ensuring there is a comfortable and friendly atmosphere. This supportive environment also extends to an office that people have basically been locked out of for five years.

4. Fourthly meeting business is not rushed. People take their time, grab a cup of tea and go through the minutes and ease their way into a meeting. This of course contrasts with the way whitefellas' often –no- nonsense - straight –into- it- approach to meetings. Our minutes by the way are written in large font and for the benefit of older people they are always read out aloud. We also have dictionaries in the meetings and we constantly stop the meetings to look up the meanings of words. It's good to de mystify language and people love learning these new words.

5. Fifthly we make sure people start and finish the meetings well. People say they know to leave their differences outside the room so that when they are inside we must get on and work well together. This doesn't mean people don't deal with conflict, they do but it means they try to resolve it so that people can leave the meetings without feeling that there is unresolved business. We also make sure there is reflection time in the

meetings to talk about people's roles and responsibilities, their feelings and how they think things are going – so it's not all just about meeting business. People are also learning the art of how to balance outside business with community business and how to develop and set an agenda.

6. Number six – we accommodate peoples' mobility by replacing individual directors who can't attend meetings with other family members. This approach has the benefit of ensuring that all family groups are represented in all meetings plus the knowledge base of more individuals is built up.

7. Lastly People have developed their team 'slogan' if you like in the Kukatja language - *Kutju warala marrka nyinaku wanpa* – together we will be strong. This is powerful to people knowing they have many differences in the community and so it keeps reminding them of their bigger goal.

It's very pleasing to see people getting the learning about key governance concepts and more importantly understanding their rationale. So for example people in Balgo – know what quorum means – they know it as the right number for a meeting. They know their number is 8, they know why you need to have a quorum. They tell each other not to leave the room in a meeting because they don't want the numbers to fall. They give each other a hard time if there's too much going in and out of meetings.

CONCLUSION

So now I wanted to conclude by summarising what I see as the key elements of success to our Balgo model.

1. Having a dedicated position based in the community working alongside people to develop their governance model and practices is a key factor. Applying a community development approach to this process is I believe best practice.

There really is a sense that we are in this together. You focus on building up relationships, mutual respect is the basis of your work. You're part of the community so you get to appreciate the ebb and flow and realities of community life – including things like sorry business, the hot hot winds, the electricity blackouts, the terrible roads, the 4 flat tyres on the Tanami, the \$6.60 for 2 litres of milk, limited contact with the outside world. Flying in and out to do this work is not the same.

2. There is community acceptance of a model that people have developed themselves. So for instance the 14 directors reflecting the community profile, the circle of elders, the working well together agreement for meetings, the guide for visitors, the respectful and thoughtful meetings – all of this is owned by people.

3. The governance learning and training is applied in real settings and is therefore more meaningful.

4. That with the right support and resources a governance model can be a conduit for positive change.

5. Lastly – having belief in people. This process has been about empowerment. Not enough people have faith in Aboriginal people's capabilities and talents. You cannot underestimate the importance of a bolstering, encouraging support to people who are trying to turn their community around.

RECOMMENDATIONS

I would like to make some recommendations – I don't know if they'll be taken up but there's just 3 I'd like to make for your consideration.

1. No community should be kept in administration for 5 years. Government should not allow this to happen and I think it is an indication of the powerlessness of remote communities that this situation was allowed to linger on in Balgo.
2. The government should fund community capacity builder positions that focus on governance in probably all large remote communities.
3. I think more people with experience and passion should consider working in remote communities for a year or more. There needs to be a greater sharing of the talent around the country and a willingness to go outside your comfort zone and practically assist communities deal with enormously complex issues and problems.

POST SCRIPT

I'd like to end my presentation by telling you that Balgo has now been out of administration for just over 2 months. We have 14 very keen and dedicated directors. The chairperson for the first time has an office in the administration building and the fortnightly meetings continue. They still go for up to 3 hours and we always get a quorum.

Improving school attendance has been their first main focus with great results to date. Their first decision was to delay the opening of the community store each morning until there is a reasonable number of children at school. Almost immediately the school attendance has increased from about 30 % to 70 – 75%. They had aimed for 50%. The directors also present weekly prizes to the best attenders as a further incentive.

Balgo still has a lot of catching up to do and better resourcing for a wide range of community services, programs and infrastructure is paramount.

The directors know they have a big job ahead of them but they are feeling a lot more confident about facing their challenges. Last week a group of the directors travelled to Pitjantjatjara and Ngaanyatjarra communities in central Australia on a study tour and have returned feeling buoyed by what other Aboriginal people are doing in their communities. They have come back saying we know now what is possible.

This is what people now say about their governance in Balgo.

The broken down motor car is back on the road, out of the bush. This year it's been getting a service, tuning, making sure that everything works. It's been repaired, it's got new tyres, it's got a driver (that's the directors) and passengers (that's the community) and it's been fuelled up. We've turned the key and it's just started moving again, slowly, and now it's ready to start going places.

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7 August 2007

RECONCILIATION AUSTRALIA CALLS FOR NON-URGENT ASPECTS OF LEGISLATION TO BE DEFERRED

Reconciliation Australia Co-Chairs Jackie Huggins and Mark Leibler have called on the Government this morning to extract and defer non-urgent elements of the Northern Territory National Emergency Response Bill. Speaking in support of the Aboriginal delegation from the Northern Territory, Ms Huggins and Mr Leibler emphasised that respectful consultation with people affected by legislation of this magnitude is an essential ingredient for success.

Six weeks into the intervention, Reconciliation Australia has asked that detailed evaluation of its early impact be released to reassure communities the plan is based on evidence of what's working. This would also help clarify which aspects of proposed legislation are needed to implement the emergency phase.

"We have no issue with the urgent passage of legislation genuinely required for the Government to take immediate action to protect children from abuse," said Mr Leibler. "But to the extent that aspects of the Bill deal with extraneous, non-emergency matters such as the permit system, customary law and land licensing, we strongly believe more time is needed to consult and communicate with affected communities."

Ms Huggins and Mr Leibler said Reconciliation Australia's response to aspects of the draft legislation was consistent with views stated previously, for example:

- On child abuse - we share the community's outrage at acts of criminal violence perpetrated against children and welcome the sense of urgency. Together with emergency responses, we remind Australians of successive calls for steady, consistent, properly resourced action. " (21 June 2007)
- On proposed changes to land rights legislation - "It is recognised throughout Australia that Indigenous people's relationship with land is of critical importance, culturally, socially and economically. Engagement with local communities is central to the policy positions of all parties, and must be reflected, and seen to be reflected, in policy implementation." (9 August 2006)

- On customary law in sentencing – “Customary law is a factor to consider like a range of other factors which are taken into account in the sentencing of any Australian. The issue is not whether these factors should be applied but that they must be applied appropriately.” (29 May 2006)

Reconciliation Australia's position always reinforces the fact that examples of Indigenous communities overcoming disadvantage and achieving success, in Australia and internationally, uniformly have Indigenous people leading and owning the ideas, and other parts of the community encouraging, enabling and supporting them over the long term.

ends

Reconciliation Australia Board

Ms Jackie Huggins AM (Co-Chair)

Mr Mark Leibler AC (Co-Chair)

The Hon Fred Chaney AO

Professor Mick Dodson AM

Mr Graham Evans AO

Ms Raymattja Marika

Ms Sam Mostyn

Ms Shelley Reys

Mr Terry Waia

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NB: Directors are declining interviews on this release.