



## Assignments Section

In your reply please quote

Our Ref:

Your Ref:

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

15 September 2011

Via email: [Jmacklin.MP@aph.gov.au](mailto:Jmacklin.MP@aph.gov.au)

Dear Minister

The Northern Territory Legal Aid Commission ('NTLAC') welcomes the opportunity to respond to the *Stronger Futures Discussion Paper* released in June 2011.

### Introduction

#### 1. About NTLAC

NTLAC is an independent statutory Commission which provides advice and assistance to persons in a range of matters, including:

- Family law
- Domestic violence
- Child in need of care
- Criminal law; and
- Civil law.

NTLAC aims to ensure that the protection or assertion of the legal rights and interests of people in the Northern Territory are not prejudiced by reason of the inability to:

- obtain access to independent legal advice;
- afford the financial cost of appropriate legal representation;
- obtain access to the Federal or Territory legal systems; or
- obtain adequate information about access to the law and legal system.

NTLAC also provides early intervention and prevention services pursuant to the *National Partnership Agreement on Legal Assistance Services* between the Australian

and NT Governments. These services include legal information, education, referral, advice, advocacy and minor assistance.

NLAC is a Territory-wide legal service provider with offices across the NT and fits within a matrix of legal and related service providers across the NT.

## **2. Background to NLAC involvement in the Intervention**

NLAC welcomed the focus on addressing the needs arising out of the Ampe Akelyernemane Meke Mekarle “Little Children are Sacred Report”, in particular, those relevant to our services. The report contained valuable recommendations in relation to the need for proactive and long term approaches to addressing offending such as:

- improved resources for child protection services and police;
- improved access to rehabilitation for offenders;
- a comprehensive alcohol supply reduction strategy; and
- strengthened community justice mechanisms which would enhance community participation in law and justice concerns.

NLAC has expressed concerns that the national emergency response to the Report has detracted from the content of the Little Children are Sacred Report and the urgent need for collaborative implementation of some of the recommendations which are vital to changing offending behaviour in the NT. In many important respects the national emergency response has diverted attention from the fundamental principle of community participation which the Little Children are Sacred Report found to be so important.

We have made submissions to successive Inquiries since the Intervention<sup>1</sup> that there is a need to refer back to the content and recommendations of the Little Children are Sacred Report.

## **3. Background to NLAC involvement with prescribed communities - Outreach Project**

Since 2007, NLAC has been funded to employ two full time lawyers and two indigenous liaison officers operating from the Alice Springs and Darwin offices under the Northern Territory Emergency Response (NTER) Outreach Project. In 2011, a part time lawyer joined the project team based in NLAC’s Katherine Office.

The project provides legal information, education, advice and assistance to residents of remote prescribed communities subject to the NTER.

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<sup>1</sup> Submission to the Legal and Constitutional Senate Inquiry on the Intervention; Submission to the Senate Community Affairs Committee on the further laws relating to the intervention; Submission to the Senate Select Committee of Regional and Remote Indigenous Communities; Submission to the review of the Intervention; Submission to the Senate Community Affairs Committee regarding the...(Welfare Reform and Reinstatement of the RDA)

NTLAC undertakes a collaborative approach to service delivery. Networking and liaison with other agencies is an important part of the Outreach Project activities, as it is vital to be up to date on the operations, scope and guidelines of related program areas.

The project team have arranged and participated in many inter-agency visits to communities where particular areas of needs have been identified. For example, joint activities, events and remote visits have been held with:

- NT and Commonwealth Ombudsman
- Consumer Affairs;
- Australian Securities and Investment Commission
- Australian Competition and Consumer Commission
- Anti-Discrimination Commission
- NAAJA and CAALAS
- CAWLS

NTLAC have also participated in interagency meetings with the above and related agencies to share information in relation to our activities and avoid duplication. In 2011 NTLAC established a 'Remote Housing Legal Services Forum' which includes representatives from legal services, FaHCSIA and Territory Housing. More information about this forum is provided in the body of this submission. Briefly, the aims of the Forum include to:

- Discuss policy and practical issues arising out of remote housing service delivery in the NT
- Facilitate responsiveness and cultural appropriateness of Remote Housing NT in remote communities through a collaborative approach to problem solving
- Facilitate flow of information regarding changes in policy, procedure and other developments from Remote Housing NT to legal service providers
- Provide Remote Housing NT with the opportunity to receive feedback and information from legal service providers directly, including reports from the field and policy input

Through the Outreach Project, NTLAC have identified that clients in remote prescribed communities have significant and varied unmet legal needs. Annexed to this submission is a summary of the main areas of need identified by NTLAC. NTLAC are a partner in James Cook University's research into Indigenous Legal Needs<sup>2</sup> in regions of Australia, including the NT. We look forward to the findings of this research as a valuable tool to inform decision making in relation to legal service delivery programs.

#### **4. Letter to Minister from NTLAC, CAALAS, NAAJA, DCLS**

We attach a copy of letter dated 5 August 2011, which details the concerns shared by NTLAC, CAALAS, NAAJA and DCLS regarding the Stronger Futures consultation

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<sup>2</sup> <http://www.jcu.edu.au/ilnp/>

process. We request that this letter be read in concert with the letter of 5 August 2011.

#### **5. Endorsement of APO NT Response to Stronger Futures**

NLAC has had the opportunity to review the Aboriginal Peak Organisations Northern Territory (APO NT) Response to Stronger Futures, dated August 2011. We endorse the bulk of the submission and its recommendations.

In addition to this endorsement, we take this opportunity to discuss in more details our concerns regarding a number of specific issues.

#### **A Stronger Future Requires Empowered Communities**

Feelings of profound disempowerment as a result of intervention laws and policies have been regularly expressed to members of the NTLAC outreach team. The trauma of the substantial changes which the intervention brought without consultation remains alive today.<sup>3</sup> We submit that empowered communities are vital to a strong future for Indigenous Territorians and recommend that the following principles be applied in relation to future change:

- a) Change must occur at a pace and in a manner which is realistic and achievable and enables people affected to be included in the process;
- b) Local family and clan decision making structures must be identified and acknowledged;
- c) The role of government representatives must be clear and the positions must be accountable; and
- d) Clear and accessible information must be provided about changes to laws, policies and programs in a format and language which is able to be understood.

#### **6. Rapid change**

It is our observation that widespread and rapid change has impacted negatively on the morale of many community members, leaving them feeling disempowered and disregarded.

The significant legislative and policy changes that have occurred since 2006 have had a substantial impact on people living in prescribed communities. This snowball of changes commenced with the abolition of the Aboriginal and Torres Strait Islander Commission and the devolution of the programs which were governed by that Commission and then by Aboriginal and Torres Strait Islander Services to 'mainstream' Australian Government agencies. In itself this was a monumental change to service delivery and under these 'new arrangements' Indigenous Coordination Centres were established with a range of functions including the negotiation of 'Shared Responsibility Agreements' between the Australian Government and community members. This raft of changes was only beginning to

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<sup>3</sup> Rosalie Kunoth-Monks *The Land Holds Us*, Amnesty International, p 3 <http://www.amnesty.org.au/indigenous-rights/comments/26142>

be absorbed by those affected when the NTER commenced in 2007, bringing sudden and radical changes to laws and policies.

These changes occurred in parallel to a number of other policy changes impacting on the lives and environment of people living in prescribed communities. Three examples of these changes are:

- The amalgamation of Aboriginal Community Government Councils into Shires;
- The reform of CDEP; and
- Remote housing reforms.

Despite these well intentioned changes, many people in prescribed communities have and continue to express to NTLAC feelings of exclusion from this and other decision making processes that impact on them.

A stronger future for Indigenous Territorians requires change at a pace which can allow for actual inclusion of the people affected.

Some unrealistic time frames have been placed on the roll out of many programs, for example income management. This has led to tangible detriment, such as people missing out on money and food.

In other program areas, such as the 'safe houses' the time frames led to decisions being made without adequate time to discuss and decide on the best way forward with community members. In some communities this has resulted in a wasted opportunity to create a positive and community managed space and resource.

Community engagement processes have also often been rushed and resulted in a lost opportunity to develop appropriate regional responses by government. We submit that this occurred in the consultation processes in relation to the *Future Directions* consultations and the *Stronger Futures* consultations.

A stronger future for Indigenous Territorians requires realistic and achievable timeframes to be set.

#### **7. Acknowledgement of local decision making structures**

There has been little attempt by government to understand the existing community and family culture, structures and decision making processes. While these structures are the appropriate way to respectfully and meaningfully engage with community members, they have often been ignored or overlooked. We have observed that the blanket roll out and implementation of NTER and related programs have been unnecessary, unwanted or inappropriate for some communities.

#### **8. Clarity of government representatives role and functions**

Unfortunately there has been a widespread confusion among service providers and community members about the role of representatives including: Government Business Managers; and Indigenous Engagement Officers.

A stronger future for Indigenous Territorians requires accountability and clarity of role and function of government representatives who will be working with communities.

### **9. Communication**

Rapid change and unrealistic time frames have a negative impact on communication by government with people in remote communities. The importance of interpreters continues to be disregarded by some government and other agencies.

A stronger future for Indigenous Territorians requires clear and accessible information about changes to laws, policies and programs in a format and language which is able to be understood.

## **Community Safety and the Need to Protect Children**

We make the following recommendations under this heading:

- a) Responses to child protection issues must be evidence based;
- b) Community safety should draw on local authority mechanisms and structures where they conform with the Australian legal system;
- c) Sentencing principles should accord with the principle of equality before the law;
- d) Models of crime prevention that divert Indigenous people from the formal criminal justice system into alternative community-owned crime prevention networks should continue to be resourced and evaluated;
- e) 'Justice Service Hubs' should be established in regions and be accessible to each community;
- f) A budget priority should be placed on the urgent need of funding for transport, both between communities and major centres, and within regional centres;
- g) A holistic approach should be taken to addressing poverty as the underlying cause of child neglect; and
- h) Implementation of the Recommendations of the Board of Inquiry into the Child Protection System in the Northern Territory must occur as a priority.

### **10. Responses are effective and evidence-based**

The intervention imposed radical laws and policies across all prescribed communities including: the restrictions on alcohol and pornography; the (now amended) police powers to enter private homes; and the enhanced powers of the Australian Crime Commission. Such measures were imposed without evidence of their efficacy. In consequence, there is a real risk that the problems the intervention was intended to resolve remain unaddressed. Stronger Futures affords a long-overdue opportunity to improve the safety and well-being of community members, particularly children with evidence based measures.

In a recent publication entitled *Indigenous Australians and the Commonwealth Intervention*, Dr Peter Billings states:

“The purported ‘success’ of current strategies appears overstated and the on-going departure from basic human rights standards serves to undermine the opportunity that increased funding and services brings.”<sup>4</sup>

Similarly, research has found that additional policing under the Intervention has led to increased convictions of Indigenous people for minor traffic offences, instead of the more serious offences that were the rationale for the policy at the outset.<sup>5</sup>

### **11. Involvement of local authority structures in community safety**

In many Northern Territory communities, the erosion of traditional authority structures has left a normative vacuum because the mainstream Australian legal system is not well understood or respected. Valuable cultural practices such as dispute resolution systems, kinship support and child rearing can have a positive impact on community safety.

We support the establishment and evaluation of community justice programs that aim to reduce the number of people entering the mainstream criminal justice process.

Research has indicated that local, culturally appropriate justice systems are the most effective at promoting community harmony, safety and at reducing recidivism. These systems may include Aboriginal courts and circle sentencing courts; restorative justice initiatives; and family group conferencing processes. The Report to the National Alternative Dispute Resolution Advisory Council from 2009 documents the success of the work of a range of Indigenous Dispute Resolution processes including the success of the Tiwi Youth Diversion and Development Unit.<sup>6</sup> Ultimately, community justice programs will only be successful if they are developed and implemented with care and comprehensive community consultation.

To improve community safety, work needs to be done to empower local leaders and promote traditional authority systems where they conform with the Australian legal system.

### **12. Culturally appropriate alternatives to formal policing measures**

We support the promotion of models of crime prevention that divert Indigenous people from the formal criminal justice system into alternative community-owned crime prevention networks. These networks might include safe houses, refuges, cooling-off facilities, rehabilitation services and patrols. Local crime prevention networks must be appropriately resourced and be appropriate to, and created in partnership with, communities and regions taking into account local governance and authority structures.

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<sup>4</sup> Indigenous Australians and the Intervention (2010) Vol 27 Number 2 Law in Context

<sup>5</sup>Anthony, T *Indigenous Australians and the Intervention* (2010) Governing Crime in the Intervention at 90.

<sup>6</sup> *Solid Work You Mob are Doing: Case Studies in Indigenous Dispute Resolution and Conflict Management in Australia*, 2009, Report to the National Alternative Dispute Resolution Advisory Council by the Federal Court of Australia's Indigenous Dispute Resolution and Conflict Management Case Study Project.

The intervention has focused primarily on mainstream crime prevention and policing measures. Federal police, many of whom have little or no experience of community life and Aboriginal values have been deployed at great expense. Some research has concluded that the deployment was unsuccessful in preventing crime or promoting safety.<sup>7</sup> The concern is that gross amounts of money have been spent on traditional policing models when research indicated that alternative methods are more appropriate.

Blagg notes that mainstream, traditional policing priorities and strategies should not be imposed onto Indigenous communities without considerable care and consultation because:

“In the context of Indigenous Australians, the policing landscape has some unique characteristics, linked to the various roles played by policing in the dispossession, control, protection and assimilation of Indigenous people and the often quite direct role policing has played in demarcating the boundaries between Indigenous and non-Indigenous domains.”<sup>8</sup>

Blagg notes that the most effective models of crime prevention in Indigenous communities will therefore link directly to “strengthening the Aboriginal domain and encouraging Aboriginal ownership of justice and justice related issues.”<sup>9</sup>

For community crime prevention initiatives to be effective, research suggests that regard must be given to some key principles. Outlined below are some recommendations found to be relevant to Indigenous community patrols and substance abuse programs. NTLAC support such recommendations.

According to Blagg, patrols must:

- be endorsed by the Aboriginal community and have cultural authority;
- operate without police powers so that their role is one of mediation rather than enforcement;
- operate to divert Aboriginal people away from the criminal justice system;
- operate to identify potential victims of crime and should be viewed as having a victim support role;
- be supported with processes of capacity building;
- not be viewed in isolation as stand alone para-policing initiatives rather they need to be situated within an emerging sphere of Aboriginal owned community justice mechanisms; and
- receive funding, training and appropriate forms of information gathering.<sup>10</sup>

### **13. Sentencing principles and equality before the law**

It is concerning that the *Stronger Futures* Discussion paper only makes a passing reference to the sections of the NTNER Act which deal with bail and sentencing.

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<sup>7</sup> Ibid

<sup>8</sup> Blagg, H (2003) “*Models of Best Practice: Aboriginal Community Patrols in Western Australia*” Crime Research Centre University of Western Australia

<sup>9</sup> Ibid, p3

<sup>10</sup> Ibid, pp4-5



The effect of section 91 is that, for the purposes of sentencing, an Indigenous offender who may have been raised on a remote community in accordance with local cultural practices, with no formal education and little English literacy is to be treated in the same way as a person who is raised in an urban setting with a formal education and understanding of mainstream Australian law.

The Australian Law Reform Commission's 1986 report on Recognition of Aboriginal Customary Law concluded that discrimination did not extend to preclude reasonable measures distinguishing particular groups and responding in a proportionate way to their special characteristics.<sup>11</sup>

Sections 90 and 91 NTNER send the explicit, damaging message that the Commonwealth does not consider traditional law and cultural practice valid for the purposes of bail and sentencing. In *R v Wunungmurra*,<sup>12</sup> Southwood J stated:

The fact that legislation might be considered unreasonable or undesirable because it precludes a sentencing court from taking into account information highly relevant to determining the true gravity of an offence and the moral culpability of the offender, precludes an Aboriginal offender who has acted in accordance with traditional Aboriginal law or cultural practice from having his or case considered individually on the basis of all relevant facts which may be applicable to an important aspect of the sentencing process, distorts well established sentencing principle of proportionality, and may result in the imposition of what may be considered to be disproportionate sentences provides no sufficient basis for not interpreting s 91 of the *Emergency Response Act* in accordance with its clear and express terms. The Court's duty is to give effect to the provision.

At paragraph 27, Southwood J held that:

The effect of s 91 of the *Emergency Response Act* is that when sentencing courts are determining the objective seriousness of an offence in cases in which the section is applicable, proportionally greater weight will be given to the physical elements of the offence and the extent of the invasion of the rights of the victim of the offence. Less weight will be given to the reasons or motive for committing the offence.

We echo the Law Council of Australia's views that these provisions create a duality of rights<sup>13</sup>. We submit that sections 90 and 91 of the *NTNER Act* offend the principle of equality before the law.

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11 Australian Law Reform Commission, Recognition of Aboriginal Customary Law Report No.31 (1986) para 150 – 158.

12 *R v Wunungmurra* [2009] NTSC 24

13 [http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file\\_uid=E3F453F0-1E4F-17FA-D282-4B5ECB0A3DF8&siteName=lca](http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uid=E3F453F0-1E4F-17FA-D282-4B5ECB0A3DF8&siteName=lca)

We submit that there should be one law for all in a stronger future for Indigenous Territorians and we support the repeal of these provisions and the introduction of uniform evidence provisions inasmuch as they give effect to this principle<sup>14</sup>.

#### **14. Alcohol restrictions and community safety**

The Government must allow local people the flexibility to determine which alcohol guidelines will best promote safety in each context and community. For this reason, we support conducting comprehensive community consultation to develop Alcohol Management Plans.

Prior to the intervention, some communities permitted the consumption of alcohol in designated, local areas and often placed restrictions on the amount and/or type of alcohol. The blanket ban imposed by the intervention has meant that community members must travel significant distances in order to consume any alcohol at all. This has prompted many to leave their communities and to move to a centre where alcohol is more freely available.

Serious, inadvertent repercussions have flowed, including changes to family life, structure and safety. For example, in Katherine, homelessness has escalated; people are drinking in unsafe, public environments; overcrowding is occurring as community people take up residence with relatives; and alcohol related violence is escalating.

#### **15. Community safety and access to government services in communities.**

In its review of Aboriginal law in Western Australia, the Law Reform Commission of WA argues that much of the “entrenched Indigenous disadvantage” experienced by Aboriginal communities, ‘stems from a lack of infrastructure and essential government services to Aboriginal communities’.<sup>15</sup> The Commission found that the failure of initiatives is often a result of the misconception that Aboriginal community members are ‘passive recipients of services rather than active participants’.<sup>16</sup> The Law Reform Commission recommends that Aboriginal communities be empowered to partner with service providers to promote access to services relevant to the needs of each particular community. We support the implementation of innovative approaches to service provision.

In a legal context, it is concerning that remote community residents often suffer extreme hardship when attempting to access courts.

The increased policing introduced by the intervention must be matched with the provision of additional bush court circuits and legal representation. It is unfeasible for people to attend mainstream court sittings at regional centers as far as 600km away, particularly without ready access to legal representation. Courts must also access the technology necessary to prevent excessive and costly travel requirements being imposed on community members.

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<sup>14</sup> <http://www.nt.gov.au/justice/policycoord/lawmake/Evidence%20Act%20Discussion%20Paper.pdf>

<sup>15</sup> Law Reform Commission of Western Australia, 2006(a): 422

<sup>16</sup> Cited in Law Reform Commission of Western Australia, 2006:425

The ability of parties to court proceedings to appear in Court by telephone from hundreds of kilometers away remains an exception. This has been the subject of recent commentary from the bench<sup>17</sup>:

HIS HONOUR: Let me just say this at the conclusion of these proceedings with Mr Beasley at the Alpurulum Police Station. This is somewhat of a pet topic of mine, that people such as Mr Beasley should be able to appear from Alpurulum in the way that Mr Beasley has today. The idea that Mr Beasley would travel well over 500 - what, well over a thousand kilometres to come to court to have this matter heard, together with police officers seems to me to be a waste of everyone's time and effort.

This is a much preferable way to deal with matters where the police officer can identify Mr Beasley and Mr Beasley is in the police officer's company and the matter can be dealt with in either by telephone, but hopefully one day - hopefully one day - there will be video link to the police station at Alpurulum and a room in the police station can be dedicated as a courtroom and so if people in that community and surrounding communities could appear in this matter. It's efficient, it's cost effective and it's not disruptive to those people involved. And hopefully one day we'll make this the norm rather than the exception.

We support the use of Commonwealth resources to fund a "Justice Services Hub" on a regional basis which is accessible to each community. The Centre's role would be to facilitate communications between community members and justice and related agencies, including:

- Courts
- Police
- Victims Support
- Legal services
- Consumer protection agencies
- Licensing and registration agencies
- Fines Recovery Unit
- Public Trustee
- Anti-Discrimination Commission
- Correctional Services
- Financial counseling services

This would provide community members with direct access to essential services and provide a portal through which services would disseminate information and collaborate to enhance service delivery.

## **16. Improvements to roads and transport services**

- Public Transport

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<sup>17</sup> *Police v Beasley*, transcript of proceedings at Alice Springs, 25 August 2011

NTCOSS has placed a budget priority on the urgent need of funding for transport, both between communities and major centres, and within regional centres.<sup>18</sup> Lack of access to transport reduces opportunities to access work, legal services, health services, shops, and positive recreational activities. Currently community people are forced to pay for taxis or minibuses for essential travel; while in Alice Springs and Darwin public transport is free for pensioners, and heavily discounted for Health Care Card Holders. Improvements to public transport will improve the welfare and safety of community members by reducing drink driving; improving access to sensibly priced, quality grocery items and improving access to specialist (though frequently needed) health services such as dialysis equipment.

- Roads

Improving Territory roads will also assist to achieve the aims of the Emergency Response with respect to community safety. Currently, many communities are cut off from regional centres and the services they provide for significant periods each wet season. Substandard, unsealed roads are also frequently responsible for vehicle accidents and roll-overs. The poor state of the roads also means that community members must invest in expensive four-wheel-drive vehicles simply to travel to and from regional centres.

## 17. Child protection measures

- Addressing poverty and neglect

Neglect is the most common basis for substantiated child abuse cases in Indigenous communities; and the most effective measures to combat this problem are supportive, locally based strategies that address poverty; promote rehabilitation and parenting skills and encourage Indigenous control over community life.<sup>19</sup>

Evidence obtained since the commencement of the Intervention suggests that neglect, rather than sexual abuse, is the major problem confronting Indigenous children<sup>20</sup>. It is significant that while notifications to the child protection service increased by 69% between 2007-2008 and 2008-2009, the percentage of substantiated child protection intake reports rose by just 13.4%. This suggests that the majority of child welfare matters arise from lack of family support and preventative services (ie neglect) rather than specific acts of abuse.<sup>21</sup>

The literature also indicates that the emphasis on identifying and reacting to incidents of abuse (traditional, policing methods) is not effective at addressing the underlying issues contributing to neglect.<sup>22</sup> In fact, prevention methods have been shown to be far more effective in addressing the problem.

“The most frequently substantiated form of child maltreatment in the NT – neglect – could best be addressed by attending to some of the issues

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<sup>18</sup> <http://www.ntcoss.org.au/sites/www.ntcoss.org.au/files/Pre-Budget%20Submission%202011-2012.pdf>

<sup>19</sup> Arney, F, McGuinness, K and Robinson, G *Indigenous Australians and the Intervention* (2010) “In the Best Interests of the Child? Determining the effects of the Intervention on Child Safety and Wellbeing.” at 46

<sup>20</sup> Ibid

<sup>21</sup> Ibid

<sup>22</sup> Arney, F, McGuinness, K and Robinson, G *Indigenous Australians and the Intervention* (2010) “In the Best Interests of the Child? Determining the effects of the Intervention on Child Safety and Wellbeing.” at 44

embedded in poverty and social disadvantage (such as overcrowding, poor social norms and substance misuse) and promoting parental skill development in relation to children's safety and well being."<sup>23</sup>

We support a holistic approach to addressing the underlying causes of child neglect as outlined above.

- The Board of Inquiry into the child protection system

In 2010 the Board of Inquiry into the Child Protection System in the Northern Territory ('the Board of Inquiry') released a comprehensive report and series of recommendations for change to child welfare.<sup>24</sup>

We support the implementation of these recommendations as a priority. These reforms will be costly and will require Commonwealth support to be fully implemented.

### **18. The importance of Early Childhood Intervention**

The Board of Inquiry found that Aboriginal Children are significantly under-represented in early childhood education and care services. It noted that Aboriginal children in the Northern Territory comprise 43.3 percent of the population but represent only 9.8 percent of children who attend early child care services. The importance of early childhood intervention was emphasized by the Report as serving as an avenue for transition to the next level of education and providing parenting skills to adults.<sup>25</sup> The Board of Inquiry stated that "unless there is a robust concomitant commitment of developing culturally appropriate, early intervention and prevention services, the statutory service will never be able to keep up with demand."<sup>26</sup>

Recent studies also suggest the existence of a strong inverse correlation between childhood self control and (1) poor physical health, (2) substance dependence, (3) low personal finances and (4) increased criminal offending outcomes.<sup>27</sup> Such research indicates that early interventions addressing self-control might reduce such poor outcomes, including criminal offending, in later life in Indigenous communities.

The Central Australian Aboriginal Congress is implementing an early intervention program for Indigenous youth in Alice Springs.<sup>28</sup> The Program provides a comprehensive case management, home visitation service that may become a model for other early intervention programs. In this program, the health care provider, once notified of the birth of a child will meet with the child's mother and seek

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<sup>23</sup> Ibid

<sup>24</sup> Northern Territory Government 2010, *Growing the Strong, Together: Promoting the safety and wellbeing of the Northern Territory's children*, Summary Report of the Board of Inquiry into the Child Protection System in the Northern Territory 2010, M Bamblett, H. Bath and R. Roseby, Northern Territory Government Darwin

<sup>25</sup> Ibid at 17

<sup>26</sup> Ibid

<sup>27</sup> *A gradient of childhood self-control predicts health, wealth and public safety* (2010) at [www.pnas.org/cgi/doi/10.1073/pnas.1010076108](http://www.pnas.org/cgi/doi/10.1073/pnas.1010076108)

<sup>28</sup> For further information see: [http://snaicc.asn.au/\\_uploads/rsfil/02682.pdf](http://snaicc.asn.au/_uploads/rsfil/02682.pdf)

; and

<http://www.ntcoss.org.au/sites/www.ntcoss.org.au/files/summary%20forum%20Alice%20Springs%206%20july%2011.pdf>

consent to undertake a risk assessment. The health care provider will then regularly visit the mother at home, until the infant is two years of age and will offer:

- Growth monitoring
- Education on breast feeding, starting solids and infant nutritional needs;
- Immunisations and development checks;
- Assisted referrals to other health care providers, including hearing screening;
- Referrals for income, housing and other assistance.

Established links between propensity to criminal offending and early childhood programs present an exciting opportunity for programs which aim to instil resilience in children at an early age, thereby reducing the likelihood of complex behavioural issues impacting later in life.

## Tackling Alcohol abuse

NLAC supports the majority of submissions made by the Aboriginal Peak Organizations of the NT in their August 2011, Response to Stronger Futures (“APO NT response”).

We make the following recommendations specific to this issue:

- a) All forms of alcohol sold in Australia should be taxed at the equal rate commensurate with the quantity of alcohol contained in each product.
- b) Opening times for on-premises liquor trading, should be changed from 10am to 11.30am across the NT;
- c) Access to alcohol should be regulated by AMPs which are developed in consultation with residents;
- d) The development of AMPs should be appropriately resourced and coordinated by suitably qualified professional persons;
- e) The development of AMPs should be and be assisted by qualified interpreters;
- f) AMPs should have resources allocated to the ongoing monitoring and evaluation of the effectiveness or impact of the plans; and
- g) A significant increase in treatment and rehabilitation programs that address the needs of drug users, including but not limited to alcohol, particularly within remote communities.

Alcohol related harm is a major issue for all Territorians. By way of example we have extracted quotes from police obtained witnesses statements following a recent homicide in Alice Springs. Every witness to the incident was grossly affected by alcohol.

These quotes give a snapshot of the reliance on alcohol and the role alcohol plays in the lives of many Territorians. The potential for serious harm is an everyday reality arising from entrenched patterns of excessive consumption of alcohol.

*(a)*

*After the pub closed we walked to the Centrelink office. I went inside and they waited outside for me ...*

*We walked to xxx camp and my cousin in the green shirt went inside. She bought a big bottle of Jim Beam and some coke...*

*After we finished the bottle we walked around to look for smoke... We walked over to a place because we could see people drinking.*

*(b)*

*In the afternoon, I'm not sure what time but after 2pm as that's when it opens we went through Riverside drive through and bought a 24 carton of VB. We went north in the bush and drank the carton.*

(c)

*...I was not full drunk but I was happy drunk...We then went driving around town to look for more grog we did not get any around town so we went and drove through the creek to see if we could find some.*

(d)

*We played cards until about 9pm then my daughter...drove me, my husband, my sister xxx and my cousin xxx to the Riverside Bottle Shop and we bought one 24 carton of VB, one bottle of Bundaberg Rum, and one yellow box of wine. All of them went to the xxx Camp drinking spot which is north of where xxx camp is now and drunk the grog. We were there for about an hour drinking and all the grog was gone.*

(e)

*We walked home as it was too early to buy yellow box from Hoppys. After a while we all walked back to Hoppys shop and I went to buy yellow box but security told me I was too drunk...I was standing around for a while and a car came. I asked them to take me to Riverside to get a yellow box...They took me to Riverside and I got my yellow box and they took me back to Hoppys shop.*

(f)

*We went to Westpac card machine near Yeperenye to check the balance on my card. I had no money in there. We then walked to the taxi rank near Coles. We got a taxi to xxx camp...*

*...They were drinking on the veranda there.*

*Xxx told me and xxx to get plastic bottle and fill him up with Jim Beam and mix it with coke. We did that...*

*We finished the plastic bottle with Jim Beam. The young girl from Lajamanu she give me \$50.00 to go and get another Jim Beam at Hoppys Shop. I went in and bought the Jim Beam. This was about half past 2. We sat there under the tree across the road and the 3 of us drank that Jim Beam and coke.*

*...That girl from Lajamanu, her sister give me money to go and get her more grog, she gave \$50.00. She wanted 24 VB pack. I went over and got the 24 pack. We shared them cans and I had about 7 for myself. Then we walked to xxx camp, but still in the river...*

*xxx had \$20 and we walked back to Hoppys shop. It was night time now. We saw an aboriginal man from North Store there and we gave him the \$20 and asked him to get us grog with his ID, because I could not use mine anymore.*

*That man went in and he got us one yellow box of Coolabah with that \$20.00.*

(g)



*I have been in Alice Springs for a long time. I have been staying at xxx with my family the whole time. Yesterday I was in town. I was drinking with a friend who is a young girl. She is only about 12 years and I don't know her name. We was drinking VB cans...*

*(h)*

*I just drinking Hoppy's shop xxx camp up in that xxx Creek*

*...*

*I been drinking I been go to that xxx Creek and I been drinking that (inaudible) at xxx Creek.*

*(i)*

*...I spent the entire day down in the river with my Uncle xxx. Later in the afternoon someone went and got some grog and brought it down to the river, it was a 24 pack of VB.*

*(j)*

*I woke up by myself so I went looking for other people. I went up town for most of the day and was given grog by family, I don't remember who. I was full drunk when I got home. I remember a mini bus taking me home, I don't really remember anything.*

*(k)*

*We started drinking there at about 2pm. We were drinking JB bottle together. I think we only drank 1 bottle between us.*

*I stayed there drinking until about 6pm that night. The sun was still in the sky when I fell asleep in the river. I was full drunk by then I don't remember much more than that.*

*(l)*

*On that same day that trouble happened after we walk to xxx camp we went to Hoppys Shop. I went there with xxx and xxx. It was early part and xxx went inside and bought 2 small bottle of Bundaberg Rum. Me and xxx waited outside.*

*When it was getting little bit dark we went back to Hoppys Shop. Xxx went back inside and bought four corner Jim Beam.*

*(m)*

*At about 8 am on xxx I woke up at xxx. I had some breakfast and sat around until 10am when I walked up to the Gap Hotel. I met up with my cousin...*

*We both stayed and drank at the gap until 2pm when the bar closed. I was feelling full drunk when we left. Xxx left and went back to Hermansburg and I went to the bottle shop and bought two yellow box wine.*

*(n)*

*...later that day me and xxx had argument at the bottle shop near the river. We were on the Alice Springs side. We were trying to buy the grog and xxx was humbugging me so I was calling out for the police. It was about 9pm because the bottle shop was closing then.*

*(o)*

*That day of that trouble when my cousin passed away I was at Riverside, the pub drinking with the xxx mob. I saw my cousin who passed away there. Later I went back to xxx and kept drinking. I was drinking with family. I can remember cousin was there and my brother's son xxx and xxx who is the brother of my cousin who passed away. I can't remember much else.*

*(p)*

*On Thursday xxx I was drinking a 30 pk of VB cans with my mother xxx at xxx Alice Springs. We were drinking with xxx and her brother but I don't know her last name.*

*...I was full drunk and fell straight to sleep.*

*(q)*

*On Thursday morning my brother was walking around by himself asking for money. He was wearing black shirt and black trousers. I was with our mother and she gave him one \$50 note. It was 9am when we saw him. I know this because we was waiting for that Westpac to open. My brother was using that money for drink, smoke and pie. That was the last time I saw my brother...*

Effective alcohol supply restrictions measures are needed to address this alcohol related harm. Alcohol supply restrictions work.<sup>29</sup>

There are three effective supply restriction measures that the Commonwealth can adopt. Two are recommended in the APO NT response paper, namely;

- a) Implement a minimum floor price on alcohol across the NT.
- b) Adopt one day per week where take-away alcohol sales are not permitted.

The third is the introduction of a tiered volumetric tax on all alcohol sales at an equal rate commensurate with the quantity of alcohol.

Currently different types of takeaway alcohol, beer, wine and spirits are taxed at different levels.<sup>30</sup> We recommend that all forms of alcohol sold in Australia, be taxed at the equal rate commensurate with the quantity of alcohol contained in each product.

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<sup>29</sup> Margolis, Ypinazar, Muller and Clough. *Increasing alcohol restrictions and rates of serious injury in four remote Australian Indigenous communities*: Medical Journal of Australia, Volume 194 Number 10, 16 May 2011 at pg 503 - 506

<sup>30</sup> See chart outlining tax payable per standard drink in: National Preventative Health Task Force, *Australia: The Healthiest Country by 2020: A discussion paper* (Commonwealth of Australia 2008) Figure 4.3, p 34, accessed on 30 August 2011 at [http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/A06C2FCF439ECDA1CA2574DD0081E40C/\\$File/discussion-28oct.pdf](http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/A06C2FCF439ECDA1CA2574DD0081E40C/$File/discussion-28oct.pdf)

There is a need for complementary measures to supplement any supply restrictions, such as law enforcement, rehabilitation, supported accommodation, awareness and education. Revenue from such a tax could then be utilised for the implementation of the complementary measures as outlined in the APO NT response paper.

We are not in agreement with the APO NT response paper insofar as it advocates for the *'Repeal of liquor licences held by the 'animal bars' in towns such as Alice Spring'*.

### **19. Hours of trading**

We support a change to opening time for on-premises liquor trading, from 10am to 11.30am across the NT. Other than to provide additional profit for liquor outlets there is no purpose to open liquor outlets at 10 am. Further, there is no necessity for individuals to commence drinking at 10 am. Commencing trading at 11.30 am would send a clear message that drinking early in the day is not to be encouraged. Later opening would allow service providers greater opportunity to work usefully with clients without the client being tempted to commence drinking at 10am. Such a change in opening hours may see some shift in household spending from alcohol to necessities such as food.

### **20. Alcohol Management Plans**

We agree with the APO NT response, which advocates that access to alcohol should be regulated by AMPs which are developed in consultation with residents. We agree that the AMPs should be coordinated by suitably qualified professional persons and be assisted by qualified interpreters.

We hold particular concerns at the prospect of wet canteens being introduced onto prescribed communities which were dry prior to the intervention, without sound evidence of informed consent, given the strong evidence that they have caused harm. According to D'Abbs:

[W]hile the rights of Aboriginal communities to establish community-controlled clubs should be respected, the notion that they are under some sort of obligation to do so should be exposed as a measure likely to add to the health burdens of people already inadequately served by health, education and other services.<sup>31</sup>

In 1995 eight Northern Territory remote Aboriginal communities had established licensed clubs. Research which evaluated seven of the clubs found that estimated consumption of absolute alcohol was at 42.5 liters a head, 76% higher than the figure for the NT as a whole, which in turn was 42% above the national average<sup>32</sup>. It goes without saying that such high levels of alcohol consumption bring about adverse health and social outcomes.

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<sup>31</sup> *Out of sight, out of mind? Licensed clubs in remote Aboriginal communities.* Peter H.N.D'Abbs. Australian and New Zealand Journal of Public Health 1998 vol 22 no. 6 pg 679

<sup>32</sup> *Ibid*, pp 679- 684.

The introduction of wet canteens onto now dry communities is a highly divisive issue amongst the residents of these communities. There will be some individuals who will want a licensed club in their community and others who are strongly opposed to the concept. NTLAC is concerned that unless there is very careful consultation with residents, the quieter and less vocal individuals will not have their views adequately considered.

We are also concerned that the effectiveness of community governance systems vary from region to region. In some regions there is no longer a reliable body that can advocate for the greater community. The development of Alcohol Management Plans must be undertaken carefully and by people with expertise in this field, to ensure that the Plan has been formed with the legitimate input of all interested parties.

AMPS should have resources allocated to the ongoing monitoring and evaluation of the effectiveness or impact of the plans.

Great caution is needed in ascertaining town camp residents views, but once such views are established, they should be respected. We note that over a decade ago, applications that were made by Mpwetyerre "(Abbott's camp)" residents themselves to the NT Liquor Commission to have their camp declared a dry area. An application was made in 1990 and refused. The 1999 application was refused following concerns raised by NT Police who submitted that "the application is inappropriate".<sup>33</sup>

A rehearing was sought and a hearing de-novo was heard before a panel of three members on 16 - 18 May 2000. Following this rehearing, the Commission was not persuaded to declare Abbott's camp a liquor restricted area.<sup>34</sup> The camp was finally declared a restricted area, unopposed in 2005.<sup>35</sup> These previous community driven restrictions should be respected and given significant weight.

## **21. Other substance misuse**

Whilst acknowledging the devastating affects of alcohol misuse across the Northern Territory, we are deeply concerned that the Government is focussing its attention on tackling alcohol abuse, and not giving sufficient attention to the use and misuse of other substances including cannabis, volatile substances and other substances including illicit drugs.

We consider that that there is a significant need for treatment and rehabilitation programs that address the needs of drug users, including but not limited to alcohol, particularly within remote communities.

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<sup>33</sup> NT Licensing Commission, decision. P. R. Allen, 13 December 1999.

[http://www.nt.gov.au/justice/commission/decisions/Abbotts\\_Camp\\_\(Mpwetyere\)\\_0699.pdf](http://www.nt.gov.au/justice/commission/decisions/Abbotts_Camp_(Mpwetyere)_0699.pdf)

<sup>34</sup> NT Licensing Commission, decision. J. Withnall, A. Milikins, S. McKerrow. 8 August 2000  
[http://www.nt.gov.au/justice/commission/decisions/Abbotts\\_Camp\\_\(Mpwetyere\)\\_0800.pdf](http://www.nt.gov.au/justice/commission/decisions/Abbotts_Camp_(Mpwetyere)_0800.pdf)

<sup>35</sup> NT Licensing Commission, decision. J. Flynn, 19 October 2005.  
[http://www.nt.gov.au/justice/commission/decisions/051018\\_Mpwetyere.pdf](http://www.nt.gov.au/justice/commission/decisions/051018_Mpwetyere.pdf)

In a review of best practice in the area of Indigenous substance misuse services, researchers found that effective Aboriginal rehabilitation services have the following elements:

- Indigenous community control;
- clearly defined management structures and procedures;
- trained staff and effective staff development programs;
- multi-strategy and collaborative approaches;
- adequate funding; and
- clearly defined realistic objectives aimed at the provision of appropriate services that address community needs.<sup>36</sup>

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<sup>36</sup> Stempel P, Saggars S, Gray D and Stearne A (2003) *Indigenous Drug and Alcohol Projects: Elements of Best Practice.* NDRI: Curtin University, p 74.

## Housing

In addition to the APO NT recommendations regarding housing and tenure, we make the following recommendations as to the way forward:

- a) The Australian Government must increase capital funding to address chronic housing shortages in remote communities; address outstanding health hardware deficiencies in remote communities and ensure that housing design and construction complies by the *National Indigenous Housing Guide 2007* (NIHG) recommendations to reducing the impacts of overcrowding;
- b) The Australian Government must ensure that the *Building Code of Australia, Australian Standards and the National Indigenous Housing Guide 2007* (NIHG) are applied to the design, specification and construction of all houses to be built, rebuilt or refurbished under the Strategic Indigenous Housing Infrastructure Project (SIHIP);
- c) The Australian and Northern Territory Government must ensure that its remote tenancy service delivery in remote communities complies with the *Residential Tenancies Act (NT)* ('the RTA');
- d) The Australian and Northern Territory Governments must ensure that houses under its control are maintained with reference to the NIHG;
- e) The Australian Government should change its policy regarding legacy dwellings and immediately recognise that these dwellings are covered by the RTA;
- f) The Australian and Northern Territory Government should commit to continuing to work with legal service to develop tenancy agreements and policies consistent with the RTA;
- g) The Australian and Northern Territory Governments must immediately recognise that all remote residents paying rent in exchange for a right to occupy premises are subject to the RTA; and
- h) The Australian and Northern Territory Governments need to immediately fund a remote tenancy advice service.

### **22. Overcrowding**

We note that the *Stronger Futures Discussion Paper* does not include overcrowding in housing in remote communities as an issue for discussion.

This is a critical omission, given that housing overcrowding has detrimental impacts on the majority of priority areas for action identified by the Australian Government in the *Stronger Futures Discussion Paper*.

Overcrowding is a significant issue in the vast majority of remote communities in the Northern Territory. This is reflected in the recent Australian Productivity Commission report which indicates that the proportion of Indigenous houses with more than

twice as many people as bedrooms has remained unchanged at 27 per cent for five years, with the proportion in the Northern Territory exceeding 60 per cent.<sup>37</sup>

Stronger Futures priority area for action	Association with overcrowding
School attendance and educational achievement	Overcrowding can lead to poor educational outcomes. <sup>38</sup> Poor environmental health can lead to inadequate school attendance due to illnesses associated with unhealthy houses or lack of housing security. <sup>39</sup>
Economic development and employment	In 2008, higher proportions of both Indigenous and non-Indigenous people aged 18–64 years whose principal source of personal income was a government lived in an overcrowded household. <sup>40</sup>
Tackling alcohol abuse	Overuse of alcohol is associated with housing overcrowding. <sup>41</sup>
Community safety and the protection of children	Overcrowding can also lead social stress which may facilitate family violence <sup>42</sup> .
Health	Overcrowding places pressure on the household infrastructure that supports health, for example septic tanks, sewerage pipes and washing machines. <sup>43</sup>

Currently the Implementation Plan for the National Partnership Agreement on Remote Indigenous Housing confines the construction of new houses to the fifteen Remote Service Delivery Priority Sites (RSD).<sup>44</sup> We note that there is provision within the 2010 RSD NPA Implementation Plan (Northern Territory) for the consideration to expanding the Agreement to additional locations.

We commend the efforts to improve the wet areas of some houses in remote communities under SIHIP. We note that refurbishments are not being undertaken in all houses, which will mean that a number of existing houses will remain without

<sup>37</sup> Steering Committee for Review of Government Service Provision 2011, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission 2011 at 9.4. (accessed at <http://www.pc.gov.au/gsp/reports/indigenous/key-indicators-2011>) 5 September 2011) at chapter 9.1

<sup>38</sup> Ibid at 9.4.

<sup>39</sup> Ibid, at 9.2

<sup>40</sup> Ibid, at 13.14

<sup>41</sup> Ibid, at 3.12

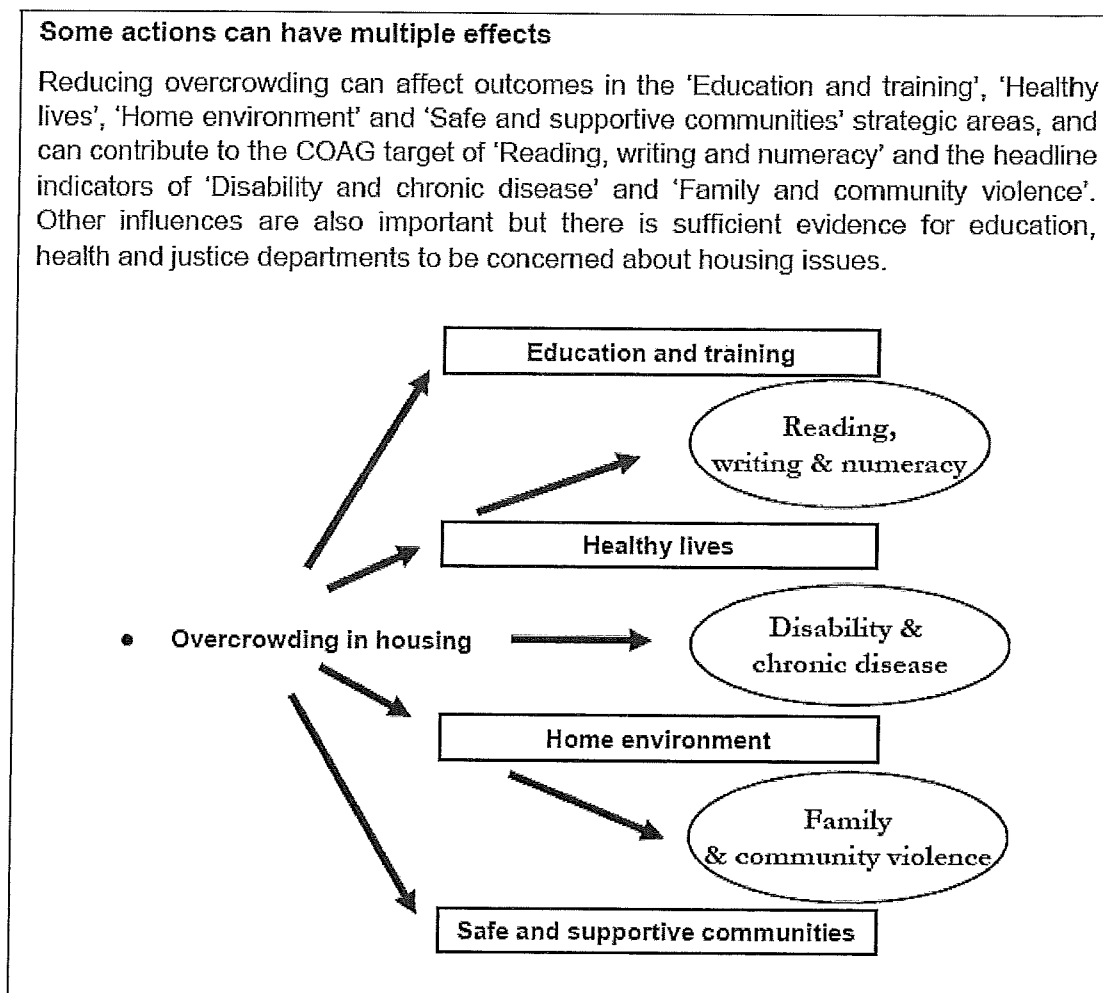
<sup>42</sup> Ibid at 9.4

<sup>43</sup> Ibid

<sup>44</sup> Implementation Plan For National Partnership Agreement on Remote Service Delivery Between the Commonwealth of Australia and the Northern Territory (2010 RSD NPA Implementation Plan (Northern Territory) (accessed at : [http://www.workingfuture.nt.gov.au/Remote\\_Service\\_Delivery/docs/NT\\_RSD\\_Bilat\\_Imp\\_Plan.pdf](http://www.workingfuture.nt.gov.au/Remote_Service_Delivery/docs/NT_RSD_Bilat_Imp_Plan.pdf) 17 August 2011).

functional health hardware. For the impacts of overcrowding to reduce, this must be addressed to increase the amounts of houses with functioning health hardware.

The Productivity Commission has highlighted the multifactoral importance of addressing housing overcrowding, in the table which we reproduce below.<sup>45</sup>



### 23. Adherence with the Building Code of Australia, Australian Standards and the National Indigenous Housing Guide 2007 (NIHG) 2007

NTLAC and other legal services have received complaints from tenants from remote communities in the Northern Territory whose homes have been built, rebuilt or refurbished under SIHIP. These complaints, also reported in the media, fall into the following broad categories.

- whether houses meet minimum standards of health and safety;<sup>46</sup>
- the suitability of the new house/refurbishments designs for the environment and needs of the occupants;
- poor workmanship;<sup>47</sup>

<sup>45</sup> Ibid at 10.

<sup>46</sup> <http://www.abc.net.au/7.30/content/2011/s3202987.htm>;

[http://www.territoryhousing.nt.gov.au/\\_\\_data/assets/pdf\\_file/0004/96997/180310\\_abc\\_falaros\\_on\\_sihip\\_failings.pdf](http://www.territoryhousing.nt.gov.au/__data/assets/pdf_file/0004/96997/180310_abc_falaros_on_sihip_failings.pdf)

<sup>47</sup> <http://www.theaustralian.com.au/news/nation/nt-indigenous-housing-builder-earth-connect-alliance-axed-from-sihip-program/story-e6frg6nf-1225842267778>;



- the efficacy of the refurbishments/rebuilds in reducing the impact of overcrowding;
- the efficacy of the program in reducing overcrowding;<sup>48</sup>
- value for money;<sup>49</sup>
- cosmetic repairs;<sup>50</sup>
- poor communication regarding the rollout of SIHIP program;<sup>51</sup> and
- the selection of houses for refurbishment and repair.<sup>52</sup>

The *National Indigenous Housing Guide 2007* is a publication of the Department of Families, Housing, Community Services and Indigenous Affairs.<sup>53</sup> It is

“a resource to assist in the design, construction and maintenance of housing for Aboriginal and Torres Strait Islander peoples, with a particular focus on providing and maintaining the health hardware<sup>1</sup> that supports a safe and healthy living environment”<sup>54</sup>

The above issues would largely be addressed if the program was delivered in accordance with *the Building Code of Australia, Australian Standards* and the *FAHCSIA National Indigenous Housing Guide*.

A consistent complaint received by legal services relates to the adequacy of facilities for the safe storage of food. NTLAC and other legal services in the NT have received a number of complaints from tenants from communities across the NT, that the storage facilities provided for the storage of food are manifestly inadequate. Kitchens which previously had cupboard space to store food have been removed. A stainless steel kitchen bench has been installed, which lacks under cupboards. The sole area to store food is a single, small lockable cupboard. Kitchens have a single drawer for cutlery.

Remote tenants complain that they are unable to safely store knives and cooking implements away from children. There are also difficulties storing any large volume of food in an enclosed space, which would protect it from pests and being exposed to the weather.

The *FACHSIA National Indigenous Housing Guide* states:

“The ability to store food safely and hygienically will reduce household costs because less food is wasted; more money is available for groceries, which improves the household’s diet and nutrition. To store food, residents need storage that is cool, dry, well ventilated and protected from dogs, rodents, insects and other pests.

<sup>48</sup> <http://www.abc.net.au/news/video/2010/11/19/3071805.htm?site=northandwest>

<sup>49</sup> <http://www.smh.com.au/opinion/society-and-culture/a-shamed-nation-turns-a-blind-eye-20091116-iggn.html>

<sup>50</sup> Complaints received by the North Australian Aboriginal Justice Agency.

<sup>51</sup> Complaints received by the Northern Territory Legal Aid Commission.

<sup>52</sup> Complaints received by the Central Australian Aboriginal Legal Aid Service.

<sup>53</sup> FAHCSIA, *National Indigenous Housing Guide*, 2007, 3<sup>rd</sup> edition, (accessed at [http://www.fahcsia.gov.au/sa/indigenous/pubs/housing/Pages/national\\_indigenous\\_housing\\_guide.aspx](http://www.fahcsia.gov.au/sa/indigenous/pubs/housing/Pages/national_indigenous_housing_guide.aspx) on 5 September 2011)

<sup>54</sup> *National Indigenous Housing Guide* at 9.

Cupboards need to be built out of waterproof materials that are resistant to rot and insect infestation. Some residents also need a lockable food pantry.”<sup>55</sup>

The National Indigenous Housing Guide states that the design of kitchens must ensure that:

- under-bench cupboards have doors to prevent access by children and animals;
- there are at least two linear metres of cupboards or shelves built above bench height for storage of food or utensils out of the reach of children and animals, and that under-bench storage with doors is accessible for people with disabilities;<sup>56</sup> and
- the food storage areas in the kitchen are sufficient for household size.<sup>57</sup>

We note that the NIHG uses the word ‘ensure’ to describe design features that are vital for safety and health.<sup>58</sup>

Tenants of houses in remote communities have also raised the issue of inadequate or absent storage in bathrooms and bedrooms with the legal services.<sup>59</sup>

Legal services have received complaints that SIHIP work has not addressed existing repair issues in their house. It is unclear from correspondence with Remote Housing NT when and if such repairs will be addressed under its routine maintenance program.

Examples of complaints raised regarding existing repair issues that are unaddressed after SIHIP, contrary to the NIHG:

- painting over rotted woodwork;<sup>60</sup>
- lack of drainage leading to water ponding around houses;<sup>61</sup>
- gap between metal cladding on base of walls allowing a cockroach infestation;<sup>62</sup>
- hot water systems left broken;<sup>63</sup> and
- missing louvers or broken windows.<sup>64</sup>

#### **24. Compliance with the *Residential Tenancies Act* (NT)**

NLAC, CAALAS and NAAJA have conducted a review of the Remote Public Housing Tenancy Rules (RPHTR), which form part of the tenancy agreements currently being entered into with tenants in remote communities across the Northern Territory.

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<sup>55</sup> *National Indigenous Housing Guide*, B4.2.

<sup>56</sup> *Ibid*

<sup>57</sup> *Ibid*, B5.1

<sup>58</sup> *Ibid*, at 14.

<sup>59</sup> Complaints received by Northern Territory Legal Aid Commission, Central Australian Aboriginal Legal Aid Service and North Australian Aboriginal Justice Agency.

<sup>60</sup> *National Indigenous Housing Guide*, B6.6 “ensure... wet areas are waterproofed to prevent leaks because termites are attracted to wet timber and soil.”

<sup>61</sup> *Ibid* B6 Reducing the negative effects of animals, insects and vermin “ensure... sumps or pits are provided under all yard taps, downpipes, evaporative cooler and hot water system overflow, to prevent water ponding”.

<sup>62</sup> *Ibid* B6 3 “ensure... joinery is detailed to eliminate gaps and spaces against walls and floors”.

<sup>63</sup> *Ibid* B1.2 “Hot water is essential for daily living, particularly for washing people and cleaning”.

<sup>64</sup> *National Indigenous Housing Guide*, B7 “ensure... windows can be sealed against dust coming into the house”

Significant inconsistencies between the provisions of RTA and the RPHTR have been identified. These inconsistencies are largely to the detriment of the tenant and unfairly tip the balance of the rights and duties of tenants and landlords in favour of the landlord. We are further concerned that a number of the RPHTR appear to be unfair contract terms, and therefore void pursuant to the *Australian Consumer Law*.

In light of section 20 of the RTA, which provides that terms inconsistent with the RTA are void, we have recommended that the RPHTR be re-drafted to achieve consistency with the RTA. By providing consistency with the RTA, Remote Housing NT will ensure remote tenants have the same rights as urban tenants and thus avoid future legal challenges from remote tenants, and the attendant drain on the Department's limited resources.

In March 2011, NT Legal Services provided FAHCSIA and Remote Housing NT with a document which details the above inconsistencies in significant depth and provides recommendations as to compliance with the RTA. A redrafted RPHTR is yet to be provided by Remote Housing, but we understand that the review process is. NTLAC remains concerned that this issue is not garnering sufficient priority within Remote Housing NT.

## **25. Protection for all remote tenants under the RTA**

We note the Australian Government's statement that it is a top order priority "that Indigenous tenants in remote communities have the same rights and responsibilities as all other public housing tenants".<sup>65</sup> The new remote housing framework, does not afford tenants of 'legacy dwellings' and un-refurbished dwellings the opportunity to enter into formal tenancy agreements under the RTA.

We ask that the Australian and Northern Territory Governments immediately recognise that all remote residents paying rent in exchange for a right to occupy premises are subject to the RTA. To continue to do otherwise is discriminatory and contrary to the Australian Government's stated aims of Closing the Gap and those contained in *Stronger Futures*.

The Northern Territory Government has inherited responsibility for some 6000 remote dwellings. As the largest landlord in the Northern Territory, it is especially important that the Northern Territory operates as a model landlord and in compliance with the RTA at all times.

## **26. Working with legal services**

From March 2011, Northern Territory legal services including NTLAC, CAALAS, NAAJA, KWILS, DCLS, and CAWLS have been meeting with representatives from FAHCISA and Remote Housing NT with the intention of collaboratively addressing the practical and procedural issues arising from remote service delivery.

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<sup>65</sup> Australian Government, *Stronger Futures In the Northern Territory Discussion Paper*, June 2011 at 22.

Legal services have provided input into the operation of remote public housing policy and procedure at the regular meetings and through submissions. For example, NTLAC provided feedback on proposed changes to the remote complaints and appeals policy.

We consider that working collaboratively at the policy level will assist to ensure that Remote Housing procedures are transparent, incorporate principles of natural justice and procedural fairness and ensure Remote Housing conform with the law, so as to ensure access and rights that other tenants enjoy.

Legal services have sought information on the following issues:

- a) SIHIP progress updates and schedules;
- b) Process for allocation and application for remote housing;
- c) Calculation of rent – maximum rent, household income and family rent agreements;
- d) Payment of rent by Centrelink customers no longer on income management;
- e) Refunds of rent for tenants living in ‘improvised dwellings’;
- f) Scope of SIHIP works;
- g) Procedures relating to emergency repairs;
- h) Update on Jilkminggan trial of Tenant Management System; and
- i) Rent reviews and overpayment of rent.

Information provided to legal services is then able to be communicated to remote tenants, which goes to enhancing the transparency of the remote housing policies.

## **27. Fund a remote tenancy legal service**

All legal services operating in the remote space have experienced an increase in matters regarding remote housing issues. The Commonwealth Ombudsman is experiencing a similar upswing of complaints. We note that the Commonwealth Ombudsman’s 2009 to 2010 Annual Report which stated that in relation to the NTER or Indigenous programs in the NT:

“The issue which attracts the highest number of complaints is housing”.<sup>66</sup>

The issues raised by remote tenants to the Commonwealth Ombudsman include:

- housing repairs and maintenance;
- rent;
- tenancy agreements;
- housing allocation decisions;
- housing reference groups; and
- municipal and central services—such as mowing, fencing, repairs to and usage of public buildings.<sup>67</sup>

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<sup>66</sup> Commonwealth Ombudsman, Annual Report 2009-2010, at 71 (accessed at [http://www.ombudsman.gov.au/pages/publications-and-media/reports/annual/ar2009-10/download/PDF/ombudsman\\_anrep\\_2009\\_2010\\_full.pdf](http://www.ombudsman.gov.au/pages/publications-and-media/reports/annual/ar2009-10/download/PDF/ombudsman_anrep_2009_2010_full.pdf)).

<sup>67</sup> at 71.

This list broadly reflects those complaints received by legal services with the inclusion of complaints regarding SIHIP.

Legal Services in the NT are not adequately resourced to meet the substantial demand for legal advice and assistance from remote tenants arising from the remote housing reforms. The Darwin Community Legal Services has very limited resources to assist with Tenancy matters in the NT but has not received an increase in resourcing since the introduction of the remote housing reforms.

The Law Society of the NT first submitted a proposal for a Tenancy Legal Service to the NT Government on behalf of CAALAS, NAAJA and NTLAC in October 2009. A revised budget to fund this proposal was provided to the NT Government in September 2010. We further note that this issue has been raised with NT and Australian Government representatives in a variety of forums without response from the Australian or NT government.

We have been advised that “Both the Australian and NT governments agree that the provision of a tenant advocacy service is an important part of the remote public housing reforms”.<sup>68</sup>

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<sup>68</sup> Letter from Remote Housing NT to Suzan Cox QC, Director Northern Territory Legal Aid Commission dated 5 April 2011.

## Conclusion

NLAC commends the Australian Government's objective of creating a stronger future for Aboriginal and Torres Strait Islander people in the NT. NLAC is committed to work with Government to support this endeavour, where appropriate.

NLAC agrees with the statements by Minister Macklin that government must work in partnership with Aboriginal people, leaders and communities as we develop directions and policies for our future work in the Northern Territory. Unfortunately many of the laws and policies which governments have implemented since the intervention commenced have been imposed without discussions with those affected. In many respects this has resulted in a relationship of distrust between government and community.

The NTER Review Board found that a sustainable future required the Australian Government to 'reset the relationship'<sup>69</sup> between Aboriginal people and the governments of Australia and the Northern Territory and work in partnership. Both the Australian and Northern Territory Governments committed to placing a high priority on 'resetting' the relationship and involving Indigenous people in deciding local solutions and driving change.<sup>70</sup>

We reiterate the fundamental need for a collaborative approach that utilises the rich knowledge and skills base of Aboriginal people.

NLAC submits that this approach is critical to each and every step taken in the furtherance of a stronger future for Aboriginal and Torres Strait Islander Territorians.

Thank you for the opportunity to make a submission on this important issue.

Yours sincerely

**FIONA HUSSIN**  
Coordinator, Policy and Projects

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<sup>69</sup> [http://www.nterreview.gov.au/docs/report\\_nter\\_review/execsumm.htm](http://www.nterreview.gov.au/docs/report_nter_review/execsumm.htm)

<sup>70</sup> [http://www.fahcsia.gov.au/sa/indigenous/pubs/nter\\_reports/response\\_to\\_reportNTER/Documents/Aust\\_response\\_1882953\\_1.pdf](http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/response_to_reportNTER/Documents/Aust_response_1882953_1.pdf)

## ANNEXURE A

### Future Legal Needs Identified by the NTLAC Outreach Project

NTLAC has primarily targeted remote prescribed communities that are not on the court circuit and, as a result, are not regularly visited by legal services. Clients at these communities with many and varied unmet legal needs. We anticipate the following needs to continue in the future:

#### *Tenancy issues*

Inadequate and poor standard of housing has been raised as an issue of great concern almost universally in communities and town camps visited. Overcrowding and poor housing impacts on individual and community safety as well as basic participation in society through school attendance and job retention. See attached letter dated 15 December 2010 from NTLAC and other related services to Ministers Macklin and Burns in relation to overcrowding in the Katherine Region. The rights and responsibilities of remote tenants under the *Residential Tenancies Act* are unclear.<sup>71</sup> Territory Housing is 'rolling out' a remote housing system which will significantly change the way that remote housing is managed. Tenants seek information and assistance in relation to this change.

#### *Consumer/credit/debt issues*

Clients at many of the communities visited reported financial stress as a result of debts that they were struggling to repay.

The types and quantity of debts varied from client to client; however there were common themes amongst some different communities, including:

- Predatory sales practices (Door to door and phone)
- Misleading and deceptive conduct in relation to debt recovery
- Unfitness for purpose (for example phone plan agreements in regions where there is no phone coverage)
- Warranty issues in relation to motor vehicles
- Unserviceable loans which had been approved outside of the remote lending criteria
- Assistance arranging repayment of fines

In general we encountered poor levels of financial literacy and a lack of access to services that could assist with renegotiating payment rates when clients were suffering financial hardship. Clients are referred to the appropriate consumer protection body where possible.

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<sup>71</sup> See Rosenman and Clunies-Ross, *The New Tenancy Framework for Remote Aboriginal Communities in the Northern Territory* Volume 7, Issue 24, *Indigenous Law Bulletin*

De identified case study consumer assistance

Jill from (remote community) had a \$3500 Centrelink debt for a landline service that only existed for 7 months. Telstra did not take steps to limit the expenditure on her account, even though Sandra was racking up high bills.

Jill received a refund of \$2823.68 and because it had taken Telstra so long to get the refund arranged, they have also waived the \$350 connection fee for her new In Contact service.

*Family Violence*

Family violence is widely experienced in remote communities across the NT. The outreach team is regularly requested to provide advice and referral assistance to people seeking legal remedies in relation to family violence.

*Fines Recovery*

While a substantial proportion of people seeking assistance have unpaid fines, there is a genuine willingness to make arrangements to pay those fines. Making payment arrangements with the relevant entity, the *Fines Recovery Unit* can be difficult for people in remote communities for a number of reasons including:

- There is no local agent for the Unit so all transactions must be done over the phone or in writing
- Lack of confidence in using the telephone
- English not spoken as a first language
- English literacy not sufficient to fill in forms
- Financial literacy not sufficient to decide what is a serviceable amount
- Process for arranging payment is available to remote residents

This is an area of unmet need which is likely to continue. This need could be met by a non-legal service such as a financial counselling service.

*Warrant issues*

The appalling road conditions and distance some clients are required to travel and to attend court is often an issue in communities. Remote residents have difficulty attending court outside of their communities which would often require hundreds of kilometres of driving or costly travel by light plane (for island communities or if roads are cut). Communities that have a new police station but are not visited by the Magistrates Court as part of the bush court circuit have particular issues with warrants. See attached letter dated 9 June 2011 from NTLAC to NT Department of Justice requesting a Court circuit be established in the Barkly Region of the NT.

De identified case study warrants

Jim from (remote community) called our info line and was referred to an outreach lawyer – he had a warrant on historical charges. The charges involved an incident where he had shot himself with a shotgun. He has been worried about the police charges for three years.



We assisted in vacating the warrant and entered into negotiations on his behalf with the prosecution. Most charges were withdrawn but police would not remove charges that related to the possession and illegal possession of the firearm.

Jim has dealt with those charges now (CAALAS appeared in the CSJ) and the matter is finalised with Jim receiving small fines.

The client told the Indigenous Community Liaison Officer that he now has a job offer with a road crew in the region. He now has the opportunity of earning a good income for himself and his family. He does not have to worry about being arrested.

### *Alcohol*

The NTER restrictions on alcohol in prescribed communities have been confusing for many people affected by the changes. In some cases there appears to be little understanding from police or community members of where the boundary and alcohol restrictions begin. Further Alcohol reforms commenced on 1 July 2011 and the current intervention provides for the development of alcohol management plans on a regional basis.

### *Unclaimed superannuation*

The unclaimed superannuation media campaign in recent years has been very successful in attracting the attention of people across the NT<sup>72</sup>. Remote residents regularly request assistance in finding unclaimed superannuation. It can be very difficult and extremely time consuming to ascertain if a person has unclaimed superannuation, especially if, as is common, clients do not have birth certificates (ie they have never had one) or a tax file number. Due to competing priorities and capacity, the outreach team has only been able to provide limited referral assistance in this area. This is an area of unmet need which is likely to continue. This need could be met by a non-legal service such as a financial counselling service.

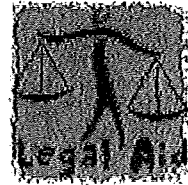
### *Deceased Estates*

A large number of remote community members request assistance in determining if there are funds or assets remaining from the deceased estate of their next of kin. Due to competing priorities and capacity, the outreach team has only been able to provide limited referral assistance in this area. This is an area of unmet need which is likely to continue. This need could be met by a non-legal service such as a financial counselling service.

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<sup>72</sup>[http://unclaimedsuper.com.au/include/pdf/AUSfund%20finds%20more%20than%20\\$800,000%20in%20Cairns%2025%20August%2025%202006.pdf](http://unclaimedsuper.com.au/include/pdf/AUSfund%20finds%20more%20than%20$800,000%20in%20Cairns%2025%20August%2025%202006.pdf)





5 August 2011

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

Dear Minister

**RE: Stronger Futures Consultations**

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

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

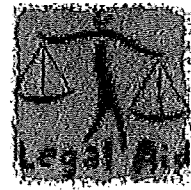
We preface the following comments by saying that these are a collection of comments raised by a range of legal services who have attended some consultations across the NT. Legal services have not attended all consultations and we acknowledge that not all consultations have the issues to which we refer.

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

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

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



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

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

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

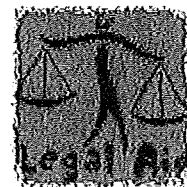
Such brief, perfunctory consultation is not an appropriate basis for the development of law and policy which will determine the future of Aboriginal people in the Northern Territory.

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

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

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

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



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

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

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

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

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

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

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



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

Yours faithfully,

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**Suzan Cox QC**  
**Director**  
**NT Legal Aid Commission**

*and on behalf of:*

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



# Northern Territory Legal Aid Commission

6th Floor, 9-11 Cavenagh Street, Darwin NT  
Locked Bag 11, Darwin NT 0801

Telephone: (08) 8999 3000

Fax: (08) 8999 3099

ABN 74 014 891 677

## Criminal Law Section

In your reply please quote

Our Ref: G:\\_Administration\Director

Your Ref:

15 December 2010

The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs  
PO Box 6022  
House of Representatives  
Parliament House  
CANBERRA ACT 2600

Dr Christopher Bruce Burns MLA, Minister for Public and Affordable Housing  
GPO Box 3146  
DARWIN NT 0801

Via email: [Jmacklin.MP@aph.gov.au](mailto:Jmacklin.MP@aph.gov.au); [minister.burns@nt.gov.au](mailto:minister.burns@nt.gov.au)

Dear Minister Macklin and Minister Burns

### Overcrowding in housing in the Katherine region

On 17 and 18 November 2010, the Katherine Women's Information and Legal Service (KWILS) hosted a forum for women from remote communities in the Katherine region. The forum was attended by approximately six women from each community in the region including Ngukurr, Beswick, Barunga, Lajamanu, Timber Creek, Yarralin, Bulla, Kalkarinji, Manyallaluk, Dagaragu.

The forum provided the attendees with the opportunity to ask questions of the representatives of a number of agencies in the NT, including NTCOSS, the Department of Health and Families DV Policy unit, Wurlu Wurlinjang Health Service, KWILS, Katherine Women's Crisis Centre (KWCC), North Australian Aboriginal Justice Agency (NAAJA) and the Northern Territory Legal Aid Commission.

Women from Yarralin, Timber Creek, Lajamanu and Kalkarindji spoke about overcrowding in their communities. They spoke about the necessity for the Government to build additional houses in their communities so as to cope with the increasing populations living in remote communities. The women indicated that the SIHIP program was not increasing the number of houses in their communities and so not reducing the problem of overcrowding.

Overcrowding was discussed as having clear implications for health and child safety as many people were forced to use the same facilities, including toilets and kitchen, not designed to be used by large numbers of people.

In order for the Commonwealth and Territory Governments to meaningfully address Indigenous disadvantage, as outlined in the National Indigenous Reform Agreement

(Closing the Gap), there needs to be an urgent, significant investment in the construction of new homes in remote communities in the Katherine region specifically and across the NT generally. The maintenance and refurbishment of existing homes is not sufficient to reduce overcrowding or ensure that Indigenous men, women and children are able to live in healthy homes.

We look forward to your urgent response.

Yours faithfully

**SUZAN COX QC**  
Director  
Northern Territory Legal Aid Commission

*On behalf of:*

Priscilla Collins  
CEO  
North Australian Aboriginal Justice Agency

Wendy Morton  
Executive Director  
Northern Territory Council of Social Services

Toni Vine Bromley  
Executive Officer  
NT Shelter

Jō Theodoropoulos  
Co-ordinator  
Katherine Women's Crisis Centre

Kylie Walsh  
Principal Solicitor  
Katherine Women's Information & Legal Service

Wayne Connop  
Principal Solicitor  
North Australian Aboriginal Family Violence Legal Service

John Fletcher  
CEO  
Wurli Wurlinjang Health Service





**Criminal Law Section**

In your reply please quote

Our Ref:

Your Ref:

9 June 2011

Mr Greg Shanahan  
Chief Executive Officer  
Department of Justice  
GPO Box 1722  
DARWIN NT 0801

Dear Sir

**PETITION FOR CIRCUIT MAGISTRATES COURT IN THE BARKLY REGION**

Since late 2007 the Northern Territory Legal Aid Commission ('the Commission') has conducted an outreach project from offices in Darwin, Katherine and Alice Springs. This program involves lawyers and community liaison workers travelling to prescribed communities and providing information sessions, education workshops, legal advice and/or provision of minor assistance to people in the communities.

The Central Australian outreach team have conducted numerous community visits to communities in the Barkly region. The communities visited include Arlparra, Ampilatwatja and Alpurrurulam.

A number of common issues are often raised during the course of these visits. One issue consistently raised by community residents is the lack of access residents have to the Northern Territory Magistrate's Court and the distances which alleged offenders need to travel in order to attend any Magistrates court.

We understand that Barkly Shire made a submission to the Department of Justice requesting that a Circuit Court be held in the region. In late 2010 during a Community Legal Services network meeting held in Alice Springs, a representative of the Department of Justice confirmed that such a request had been made to the Department, but that a decision had been made not to hold Court in the region. The decision was apparently based on the low

number of individuals charged by police in the area. That is the number of criminal matters was said to be insufficient so as to make court sittings viable.

A decision to hold a Court in a region which is based purely on the number of criminal matters in the region does not factor in the costs of not holding Court sittings in the region. For example it ignores the practical and financial challenges encountered by an alleged offender in the community of Alpururulam who is summonsed for an offence to travel over 600 kilometers to the nearest court. The roads are extremely rough and sometimes impassable, few people have roadworthy vehicles to make the journey or the financial capacity to pay for associated costs such as fuel. There are no public transport options to assist people to get to court. The likely outcome is that people will not attend court and a warrant will issue. The execution of a warrant has an associated cost, and the transporting of the alleged offender impacts on Police resources. Alternately Police may not enforce the warrant given the resource drain it would have to execute it.

Over the last four years additional police been placed in the Barkly region and this is seen as a positive step by the majority of community residents. There are concerns that when an alleged offender is charged by Police and nothing happens justice is not seen to be done.

These issues can be addressed by holding the Court close to where the alleged offence took place and close to where the alleged offender and any affected party lives.

Our service has received a document from Alpururulam elders and Community members petitioning for a court to be held in their Community. It is signed by over 100 residents and this represents a significant proportion of the community.

We urge the Department to take immediate steps toward establishing a Magistrates Court circuit in the Barkly region.

Yours faithfully

**SUZAN COX QC**  
Director

**Alpurrurulam Community**  
**Court petition**

To whom it may concern

We the community members of Alpurrurulam Community sign and agree with this letter because of the following reasons:

- We have police but we want more access to law & order.
- We are very remote + it is over 600 kilometres to get to court.
- We want the N.T Magistrate Court to come to Alpurrurulam and hold court here.

This will help our community better respect and understand the law. It will also help people in the community who have a legal issue get to court.

Yours sincerely  
Alpurrurulam elders/leader's and community members.

Date 7/04/2011

→ Kew

Alpurrurulam community court petition signatures

Debra BARBER

with me

ETHEL CAMPBELL

Brendan Bookie

Raf Bismark

Nillie Bookie

Jennifer Mahoney

Margaret Rusty

Stuart Rusty

Yasmin Toby

Mahalia Kelly

Veronica Bookie

Lauren Barnes

Justin

SIMON Teague

Nataasha Long

LORRAINE TREECE

Wanda Turner  
Eddie RUSTY

Pam Lambert

Ray Rusty Signature

Rusty Age

DELVINA BOOKIE

NEIL COOK

Joel Mahoney

Valerie Campbell

Bruce Martin

Aaron Kelly

K. Kelly

SCOTT. MAHONEY

Lorraine Meak

Frene Toby

Gabrielle Martin

Kandice

ERIK NORMAN

JAMES Billy

Joyanne Fowler

Isabel Barber

Samantha King

Rebecca Martin

LAXIE TURNER

Marcie B

Alpurrurulam community court petition signatures

GARY FOWLER

ROGER TOMMY

TREVOR TEECE  
BILLY COOK

LESLIE PETERSON

LEVI BARNES

TANYA TEECE

Russell Neal

Clayton Hunter

Terry Butcher

TREVOR AGE

NOREEN TEAGUE

Danny Neal

HELEN SMITH

TRUDY LONG

GORDON JONES

Norris Campbell

X Signature  
OF  
Ethel Smith

Aaron Williams

Delwyn Rusty

BRENDAN CAMPBELL

Rodney Payne

Rhonda Butcher

ENIS NELSON

Anna Flouing

STEPHEN RAY

RYAN SMITH

JAMESON Billy

Cheryles Mahoney

Kristel Ray

NATHAN TURNER

Deanne Teague

SHAYLEEN  
RUSTY

Sean Spencer

Kirsten Mahoney

Jessica Teague

CRAIG PHILOMAC

MICHAEL  
TEAGUE

Preston Cook

Alpurrurulam community court petition signatures

DALERE LONG  
HENDRICK COOK

ANTHONY TEAGUE

ADRIAN TEAGUE

JONAH COOK

BRADLEY BARBER

Judah Philomas

Shadrach Campbell

Reggie Nelson

Harvey Tracker

David Rely

SHARON TERCE

MMc

ALEX WAISTCOAT

KATHLEEN MARTIN

Jonathan Morton

Jacqueline Raye

ADRIAN NEALE

NADIA PERCY

Ray Ray

Robert Jay

Tristan Ray

Katelyn Mahoney

Veneta Mahoney