

Assignments Section

In your reply please quote

Our Ref:

The Committee Secretary

Your Ref:

Senate Standing Committee of Community Affairs

PO Box 6100

Parliament House

CANBERRA ACT 2600

1 February 2012

Via email: community.affairs.sen@aph.gov.au

Dear Secretary

RE: Stronger Futures in the Northern Territory Bill 2011 and two related bills

The Northern Territory Legal Aid Commission ('NTLAC') welcomes the opportunity to comment on the Stronger Futures in the Northern Territory Bill and two related bills.

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.

NTLAC 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 NTLAC involvement in the Intervention and subsequent legal and policy reforms

The background to the NTLAC involvement in the issues surrounding the NT Emergency Response, the Intervention, *Future Directions* and *Stronger Futures*; and the NTLAC commentary on these policy and legislative reforms; is outlined in the NTLAC submission to Minister Macklin in response to the Stronger Futures Discussion paper. A copy of this response is attached.

Also included in this attachment is information about the NTLAC outreach program conducted following allocation of funds from the Australian Government to provide assistance to people in prescribed communities following the commencement of the Northern Territory Emergency Response.

3. 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 detailing concerns legal services in the NT have with the Stronger Futures consultation process. We also attach a copy of the response from Minister Macklin to this letter dated 8 December 2011.

4. Overarching concerns

NTLAC submits that law reform and policy responses must be:

- Evidence based; and
- Accountable and transparent.

These are elements of all sound policy decisions, however are especially important where new and untested laws are being introduced which impact on socially, culturally and economically disadvantaged people. Unfortunately this has been the demographic most effected under the Intervention and NTLAC submits will continue to be the most impacted demographic under the proposed changes.

For example, in the case of child support income management, the NT Department of Children and Families was making referrals for compulsory income management before they had formulated and then formalised their review system.

We refer the Senate to the following report: Department of Families, Housing, Community Services and Indigenous Affairs, and Centrelink: Review Rights for Income Managed People in the Northern Territory, August 2010—10|2010 This report by the Commonwealth Ombudsman severely criticised FaHCSIA for their failure to ensure that people subjected to a decision to apply income management to them were properly afforded their rights to a review.

Access to legal representation is required to ensure that administrative decisions are made according to the principles of procedural fairness, natural justice and in adherence to the law. It is of paramount importance that legal services continue to be funded at existing levels to assist persons impacted by existing laws and that additional funding is allocated to assist persons impacted by new measures, including remote housing reforms, SEAM and the Alcohol and other Drugs Tribunal.

We believe that the majority of the issues relevant to this inquiry are covered in the attachments, however we wish to reiterate the following points, which are expanded on in the attachments.

Child Protection

- 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;

Alcohol Management

- h) All forms of alcohol sold in Australia should be taxed at the equal rate commensurate with the quantity of alcohol contained in each product.
- i) Opening times for on-premises liquor trading, should be changed from 10am to 11.30am across the NT;
- j) Access to alcohol should be regulated by AMPs which are developed in consultation with residents;
- k) The development of AMPs should be appropriately resourced and coordinated by suitably qualified professional persons;
- l) The development of AMPs should be and be assisted by qualified interpreters;
- m) AMPs should have resources allocated to the ongoing monitoring and evaluation of the effectiveness or impact of the plans;
- n) 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; and
- o) The NT Government should not be given the power to refer individuals for compulsory income management unless there is a uniform, fair and transparent review system available to review said decisions that mirrors what is available in the Commonwealth. Currently, the NT is the only jurisdiction in Australia that does not have a NT based Administrative Review system. All administrative

review systems are based on the policy of each department. These are often difficult, even for lawyers, to work out how they operate. They are subject to frequent changes and are not funded for appropriately to allow ease of operation and access.

Housing

- p) 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;
- q) 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);
- r) 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');
- s) The Australian and Northern Territory Governments must ensure that houses under its control are maintained with reference to the NIHG;
- t) The Australian Government should change its policy regarding legacy dwellings and immediately recognise that these dwellings are covered by the RTA;
- u) 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;
- v) 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
- w) The Australian and Northern Territory Governments need to immediately fund a remote tenancy advice service.

5. Conclusion

NLAC commends the Australian Government's objective of creating a stronger future for Aboriginal and Torres Strait Islander people in the NT. Subject to internal resources, NLAC is committed to work with Government to support this endeavour, where appropriate. We submit that all law reform and policy reforms should be evidence based, incorporate accountability and review provisions, and ensure appropriate resources are allocated to legal services to afford access to justice to those affected.

Yours sincerely

FIONA HUSSIN
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