

Attachment A



Cape York Institute
For Policy & Leadership

From **Hand Out**
to **Hand Up**

Cape York Welfare Reform Project

Aurukun

Coen

Hope Vale

Mossman Gorge

Design Recommendations

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EXECUTIVE SUMMARY

The Cape York Institute for Policy and Leadership (the Institute) is working in partnership with the Australian Government, the Queensland Government, and the Cape York Indigenous communities of Aurukun, Coen, Hope Vale and Mossman Gorge with the objective of achieving comprehensive welfare reform.

The Cape York Welfare Reform Project aims to develop reformed incentives and appropriate enabling supports at the community level which catalyse the restoration of social norms in the Welfare Reform communities and ultimately in the whole Cape York region. The future that the Institute envisages is one in which the people of Cape York Peninsula internalise a set of revitalised social norms, which mandate personal responsibility for work, education and the welfare of children, so that they become free from dependence on passive welfare and so that child neglect and abuse cease.

If the policies recommended by the Institute in this report are supported, then a trial should proceed in the four communities. The objective of the trial should be to test the policy principles described in this report. If the trial is successful, the policy principles may be used to inform policy across Cape York Peninsula and potentially in other regions.

The collapse of social norms

The starting point of the Cape York reform agenda is that the problems of Cape York Peninsula are interpreted not only as symptoms of dispossession and racism, but to a large extent are caused by a social norms deficit. It is significant that the deterioration of norms in Cape York Peninsula corresponds with the passive welfare era.

The core of the Cape York social and historical analysis is the contention that a distinction must be made between historical explanation and policy prescription in the light of such explanation. Historical explanation does not by itself confer or suggest a solution.

Epidemics of dysfunction and abuse that have historical roots may have become auto-catalytic phenomena. Therefore, they probably cannot be effectively addressed through attempts to ameliorate the circumstances that originally triggered their outbreak. In fact, deeply engrained social problems may frustrate conventional programs for social and economic development.

The core principles of Cape York welfare reform therefore seek to deal with dysfunction and poverty as behaviours. The three basic policies are:

- All welfare should be conditional.
- Further government investment in capability building is needed.

- Incentives need to be fundamentally changed to encourage people to engage in the real economy.

Key reform concepts

A number of reform concepts have been developed by Indigenous organisations and Cape York Peninsula leaders who have been focusing on welfare reform since 1999. The recommendations outlined in this report have been built on these concepts. The reform concepts include:

- Welfare reform is a transition from dependency to economic development.
- Economic viability in remote communities is predicated on mobility, and viability is fundamentally a question of choice for remote communities.
- The metaphor of the staircase: The foundations of progress are strong social norms. The supports underpinning the staircase are capabilities, which include for example health, education and political and economic freedoms. The third component of the metaphor is rationally aligned stairs, representing individual choice.
- Capabilities are the sum of opportunity plus responsibility.
- The metaphor of the welfare pedestal was developed by Cape York people to express the idea that incentives are skewed. The current set of incentives put many people on a pedestal below the staircase of opportunity; they first need to take a step down before the process of climbing the staircase can begin.

Rebuilding norms and restoring indigenous authority

To rebuild social norms in the Cape York Peninsula, incentives and laws must support the values of a community. A potentially powerful mechanism for doing this is through linking welfare payments to community members acting in the best interests of children in the community. The Institute is recommending that a number of obligations be attached to all welfare payments available in the Welfare Reform communities, and that a State statutory authority consisting of a senior legal officer and local elders be empowered to enforce the obligations.

It is recommended that four obligations to be attached to welfare payments through legislative amendments to relevant Commonwealth legislation:

- *Each adult who receives welfare payments with respect to a child should be required to ensure that the child maintains a 100 percent school attendance record. The obligation is breached when the child records three unexplained absences per school*

year (including temporary absences). There are exemptions for illness or mobility-related absence.

- *All adults must not cause or allow children to be neglected or abused.* The obligation is breached by the parents or legal guardians of a child who are the subject of an investigation by the Department of Child Safety. Additionally, any other adult(s) named in an investigation or report can also be found to have breached their obligation.
- *All adults must not commit drug, alcohol, gambling or family violence offences.* The obligation is breached where an individual is convicted by a court of breaching a relevant community by-law or State law. The obligation can also be invoked where an individual is charged and a referral is made by a Magistrate as part of a bail condition.
- *All adults must abide by conditions related to their tenancy in public housing.* The obligation is breached when any signatory to an agreement: uses the premises for illegal purposes; causes or permits a nuisance; interferes with the peace, comfort or privacy of neighbours; damages the premises; or fails to pay rent.

These payment obligations were selected on the basis of three factors: (a) they are consistent with the values expressed by community members; (b) they relate to behaviour which, if allowed to continue, would have a negative impact on child wellbeing; and (c) the existing legislative and service delivery mechanisms aimed at addressing these dysfunctional behaviours in Cape York are unable to realise the desired outcomes.

In order to reach all community members who have the potential to impact the lives of children, and in order to have the greatest ability to change behaviour and accepted social norms, it is suggested that the obligations apply to all welfare payments available to community members. That is, Parenting Payment, Family Tax Benefit, Newstart, Youth Allowance and Community Development Employment Projects (CDEP). Eligibility requirements for welfare payments would remain unchanged.

A new statutory authority – the Family Responsibilities Commission (FRC) – should be established and empowered to make the determinations as to whether a breach of the obligations has occurred and determine the appropriate sanctions for a breach.

The FRC should have four main options if it determines that an individual has breached his or her obligations:

- Issue a warning to the individual.
- Direct individuals to attend support services on either a voluntary or compulsory basis.

- Determine that all or part of the welfare payments to which an individual is entitled should be redirected to conditional income management (which would result in the individual losing discretion over the expenditure of their welfare payments for a defined period).
- Determine that all or part of the welfare payments to which an individual is entitled should be redirected to another adult who is caring for the individual's children.

Significant infrastructure and cooperation is required to support the operation of the FRC and its directives. Memoranda of Understanding need to be established to ensure that there is expeditious information flow from state providers or agencies (such as schools and child protection agencies) to enable the FRC to make decisions. Additionally, a service delivery model must be developed for the Welfare Reform communities to effect the referral to support services by the FRC of individuals who have been found to have not fulfilled their payment obligations. A panel comprised of representatives from Australian, Queensland and local governments, and regional organisations, should develop a list of approved providers of the support services required to meet needs in the four communities (eg case management, intensive counselling, alcohol and drug treatment and rehabilitation services, parenting support, money management, and alternative social and recreational programs).

It is recommended that the FRC be chaired by a retired Magistrate or someone of equivalent stature and consist of respected members of each of the four Welfare Reform communities. A statutory body of this composition would not only provide the gravitas and stature of a Crown body, but critically, would give power to local Indigenous people to take responsibility for the enforcement of the obligations and the rebuilding of social norms. The FRC should be vested with powers to make decisions (and not merely recommendations to Centrelink), so that actions occur in a timely manner and local authority is built. Appeals against decisions would initially be dealt with by the FRC by an internal review process. If an individual is not satisfied with the decision of the internal review they will have recourse to appeal to the Administrative Appeals Tribunal.

Addressing the welfare pedestal through changing the incentives

A 'welfare pedestal' exists in Cape York communities that encourages people to obtain welfare and remain on it, despite employment or education opportunities being available in or near communities. The goal of policy solutions to address the pedestal is to see individuals come off welfare (or not enter welfare) and join the real economy or undertake education or training opportunities. These solutions focus on changing the incentives to encourage people to climb off the welfare pedestal.

There are three primary factors that contribute to the welfare pedestal:

- The first is the size of the payments that a person receives on welfare versus alternative options. In some instances, a person can benefit more financially through being on CDEP rather than investing in their future through study or entry-level employment. Moreover, CDEP offers a relatively high level of hourly pay, often for activities that require very little skill or effort. The CDEP hourly rate is more than twice the minimum wage level for 16 to 17 year olds and by the age of 21 the minimum wage hourly rate is still less than CDEP.
- The second factor contributing to the welfare pedestal is the structure of CDEP. In remote areas, CDEP has the look and feel of a real job but with few of the associated disciplines and benefits such as workplace-based training and overall alignment of skill development to labour market demands. Consequently, participation in CDEP erodes participants' capacity to undertake real jobs. Moreover, CDEP funding arrangements encourage CDEP providers to keep their best employees on CDEP. The private sector, councils and State and Australian Governments also have a strong incentive to use CDEP participants, rather than to create real employment.
- The final factor contributing to the welfare pedestal are family payments including the Parenting Payment, the Family Tax Benefit, and lump sum payments (such as maternity payments). The net effect of these payments, when combined with CDEP, is that people may be able to reach a target level of income which they are prepared to exist on and thereby have no need to engage with the real economy.

The combination of how these three factors interact with work and study opportunities varies at key points in an individual's life. Reforms to CDEP and the Job Network are proposed that will create a more effective framework and incentives for getting people work ready and into work. The Institute believes that adjusting Family Tax Benefit and Parenting Payment should be done in the context of broader mainstream welfare reform.

CDEP requires fundamental reform and the Australian Government has begun this process by replacing urban and some regional CDEPs with Structured Training and Employment Projects and Employment Related Services. For CDEP reform to be successful in remote Indigenous communities, it will be necessary to refocus the program on work readiness and 'into work' and for linkages and complementarity with the Job Network to be developed. The objectives of CDEP should be to:

- help people to become work-ready;
- help people to find employment both within and outside their communities (for example, by connecting potential employees and employers);
- improve work-related skills through education, training and work experience; and

- provide a form of mutual obligation (work activity) but one that does not act as a disincentive to taking up a real job.

Significant investments need to be made in Job Network and other employment related services (including personal support programs, training programs and job matching services). These investments need to be made before significant CDEP reforms are implemented. CDEP participants should have access to the support services available in urban areas (particularly drug and alcohol rehabilitation and counselling services).

Key policy changes required are:

- There should be no ‘hourly rate’ for CDEP. CDEP should be a flat amount for three days per week of work preparation or work related activities. Consideration should be given to the paying of CDEP participant wages through Centrelink as with Newstart and Youth Allowance. CDEP participants should be required to take up employment where it is available in the community, and all recipients of unemployment benefits (Newstart, Youth Allowance and CDEP) should be required to meet the same work obligations through an ‘all in’ work readiness program.
- CDEP Placement Incentive payments should be increased so as to be at least equal to the Job Network or Aboriginal Employment Strategy performance-based funding, to instil the desire for CDEPs to see participants moved off the program into employment.
- Top-up should only be available through ‘Host Agreements’ (a time-limited formal agreement with employers to provide work experience and training), and the principle of ‘no work, no pay’ should be retained. In addition, repeated work obligation breaches should lead to conditional income management for a minimum period of eight weeks.
- CDEP in its current form should not be available to any person under the age of 21. In addition, people under 21 on Youth Allowance should be subject to conditional income management if they are unable to commence a traineeship or find employment within a three month period.

Supporting engagement in the real economy

The CDEP reforms outlined above will provide incentives and support for individuals to get off welfare and into work or study. Complementing these reforms should be the introduction of measures that will create opportunities in the real economy that people can seize.

The focus should be on initiatives to support *individual* engagement in the real economy, not merely *community* engagement. It is unlikely that there will ever be sufficient jobs

for all able adults in some of the remote communities. However, there is no reason why, through mobility, able individuals from the communities cannot be engaged in the labour market at the same rate as non-Indigenous Australians.

Four initiatives are recommended. The first initiative that should occur is the conversion of many CDEP positions into real jobs, creating opportunities for local community members to be employed in a normalised employment environment. There are currently dozens of jobs in communities that are funded through CDEP, but should be normal employment positions. The Australian Government announced in the 2007 Budget \$97.2 million to begin transitioning CDEP positions into real jobs. The Queensland Government needs to show a similar commitment.

Second, initiatives should be introduced to make communities more business friendly. It is currently exceptionally difficult for businesses to operate in the communities. Three measures are necessary:

- The creation of business premises in Deed of Grant in Trust (DOGIT) communities from which businesses can rent space and operate.
- The provision of greater land tenure security in order to facilitate businesses making long-term investments.
- Investment in supporting infrastructure such as critical roads and accommodation in communities.

Third, business support mechanisms need to receive continued support and be expanded where appropriate. Balkanu Business Hubs and Indigenous Enterprise Partnerships have been critical in supporting Indigenous entrepreneurs in communities and demands for their services are likely to increase.

Finally, a series of measures to support mobility for employment and education should be introduced. This includes:

- Community-based jobs brokers to match job-ready young people in communities with employment opportunities anywhere in Australia.
- A significant expansion of the successful Work Placement Scheme.
- Trialling the use of the \$5000 relocation allowance for Indigenous community members.
- Making policy changes to allow all children from the Welfare Reform communities to access Abstudy to attend a boarding school.

- Improving the education standards of Cape York schools to make the transition to mainstream schools easier. In particular, a proven remedial literacy program – MULTILIT – should be rolled out across Cape York.

Moving from welfare housing to home ownership

Housing reform is an important focus of the Cape York welfare reform agenda. Just as welfare payments dominate individual and family incomes in remote communities, the provision of very low cost (or even no cost) housing by governments is also the norm for residents of remote communities. This situation contrasts strongly with the rest of Australia where privately owned housing (owner occupied or leased) is the norm and public housing comprises only a small percentage of total housing stock. As such, public (or community) housing must be considered as a core component of the welfare state provisioning in remote Indigenous communities. Like other forms of passive welfare over the past three decades, public housing in Indigenous communities has removed responsibility from families, and promoted dependency and passivity.

The Institute's central recommendation is to shift from the current system of exclusively public provision of housing to a system based on home ownership, with public housing catering for exceptional circumstances only.

The transition to home ownership needs to be carefully managed to ensure that a good outcome is achieved. In particular, care needs to be taken in designing any home ownership scheme to ensure that the opportunities offered to families for home ownership are both affordable and economically rational. The essential issue in Cape York in this regard is that while the cost of construction of a three to four bedroom house is between \$200,000 and \$400,000, the market value of the house will possibly be only \$100,000 (based on a market rental rate of \$150 per week) and may not rise significantly (or at all) over time. Taking out a commercial loan to construct a house in such a situation would clearly not be a sound financial decision. In fact, families would be taking out a debt trap.

Two solutions are recommended to address this problem. First, constructed properties (particularly the existing public houses) should be sold at their *market* price, not their construction price (or depreciated cost value). This means that a person or family can take out a normal loan (or an existing IBA loan) knowing that their liabilities will approximate the value of their asset.

Second, a subsidy must be offered to families who wish to construct *new houses* on a home ownership basis in remote communities. The size of the subsidy should be the difference between the construction costs and the likely market value of the property when complete. The subsidy could take the form of an upfront voucher, a subsidised

loan arrangement, a subsidised loan plus co-payments, or the Australian Government could pay for the construction costs, but sell houses at market prices.

Four steps should be taken to progress home ownership:

- Support individuals and families to build new private houses where individual title can be obtained. The availability of freehold land in three of the four Welfare Reform communities provides an opportunity for immediate progress on home ownership. The Australian Government should consider providing financial support for developing this land in order to enable houses to be immediately built.
- Resolve the land tenure issues through the creation of 99-year leases on community land (restricted to community members) so that individual ownership of public houses can occur and new houses can be built on a home ownership basis in the townships.
- Sell existing public houses on a market value basis (as opposed to a depreciated cost value).
- Support the development of very low-cost houses in rural areas through the expansion of the Balkanu Low Cost Housing Project. Opportunities should only be available on the basis of certain criteria, including that school attendance not be compromised by the location of the proposed house.

It will potentially take many years before the majority of houses in a community are privately owned. Some houses will never be privately owned. For this reason, normalising tenancy arrangements should be rapidly adopted by communities. This consists of several parts:

- Rents for community houses should be raised to market rates, or at least be consistent with mainstream public housing levels (25 percent of household income).
- Every house should have a tenancy agreement in place which outlines the normal rights and obligations.
- Management of tenancy agreements should be outsourced to third parties on a landlord/agent basis in order to bring greater professionalism and rigour into tenancy management and to depersonalise tenancy enforcement.

A ‘pride of place’ initiative should also be introduced in concert with home ownership initiatives and normalising tenancy arrangements. This would involve house and garden improvements as well as cleaning up public spaces. A clean, neat environment of which people are proud is not only important for public health reasons, but it can have a significant positive impact on social norms. Improving house and gardens would also have the carry-over effect of making the properties more attractive for private sale.

