Questions arising from public hearings in the Kimberley – WA Government

Qn 1	Summary of Request	State Government Response
	Please provide a response from the WA Government regarding the Shire of Halls Creek business plan entitled 'Regularising Local Government Services in Halls Creek Shire' which outlines a proposal to provide services to the Tjurabalan communities. The committee are specifically interested in the WA Government's response to the Shire's proposal to directly employ CEOs of the outlying communities	**The *"Regularising Local Government Services in Halls Creek Shire"* business plan - background.** This project was initiated in 2007 as part of the Bilateral Agreement on Indigenous Affairs, under the Sustainable Environmental Health and Infrastructure outcome area. Both Governments agreed to trial new models and approaches to delivering municipal services to Indigenous communities, commencing with a project involving the Shire of Halls Creek and the Indigenous communities of Balgo, Ringer Soak, Billiluna and Mulan. It was anticipated that the lessons learned from this project could in turn inform work on other municipal services and regularisation projects. The Shire of Hallls Creek had already begun investigating a service delivery model for local government services to remote Indigenous communities in the Shire, and the project aimed to support local efforts and build on their progress. An alternative service model was also considered in a study undertaken by the Shire of Derby/West Kimberley. This study investigated the merits of a Regional Local Government approach to service delivery to Indigenous communities. Both the Halls Creek and Derby/West Kimberley reports are being used to inform the continuing work of progressing the normalisation of local government services to Indigenous communities under the National Indigenous Reform Agreement. **Response to the Shire's Proposal to Directly Employ CEO's of Outlying Communities** Further investigation of the ways in which local governments can support community CEOs has considerable merit and the initiative of the Shire of Halls Creek in this area is commendable. The proposal that community CEOs become employees of the Shire does require closer scrutiny particularly in relation to governance issues and potential conflicts of interest. In providing municipal services to indigenous communities, local governments are likely to require a town manager, and the community CEOs would be well placed to be retained by the local government to perform that function. On the other hand, the community organisations will still need to be resourced, and will still potentially need a CEO to manage community affairs generally and to liaise with local government about ongoing services. In both cases, the local government and the indigenous community would need to be provided with the funds to employ these persons. These issues need to be further explored by Government in consultation with local governments and communities. For further information, please contact the West Australian Department of Local Government.

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Qns 2 & 8	Summary of Request	State Government Response
The committee heard evidence from the Kimberley Aboriginal Law and Culture Centre that they were concerned a regional alcohol management plan may take the WA Government months or even a year to enact. The committee is seeking a response from the WA Government regarding KALACC's calls for diversionary programs, and the proposed timeline for regional alcohol management plan. At the Halls Creek hearing on 25/8, Jamie Elliot of the Halls Creek People's Church also spoke of the need for alcohol and rehabilitation diversionary programs following the alcohol bans. The committee agreed to request a response from the WA Government about what diversionary programs are in place, and any that are planned.		**KIMBERLEY ALCOHOL MANAGEMENT PLAN** In 2008, a draft *Kimberley Alcohol Management Plan* (the Plan) was approved by the Kimberley Interagency Working Group (KIWG). During 2009, the draft Plan has been revised given a significant proportion of what was included had already been commenced and some components completed. For example, a core set of minimum liquor restrictions have been put in place across the Kimberley which ban the sale of takeaway liquor (with an alcohol content of more than six percent) in individual containers of more than one litre and the sale of all takeaway beer in individual glass containers of more than 400 millilitres. Local liquor restrictions have also been implemented in places such as Halls Creek, Oombulgurri and others. In addition, some work has already been done on expanding treatment and support services. The objective of the *Kimberley Alcohol Management Plan* is to prevent risky drinking and reduce alcohol related harm in the Kimberley Region of Western Australia. It should be seen as one part of a broader comprehensive and coordinated approach to improving outcomes in the Kimberley Region. The five key areas that the Plan seeks action on include: • Prevention and education. • Community capacity building and action. • Policing and legislation. • Monitoring, evaluation and communication. • Treatment and support services. Stage 1 of the Plan identifies and purposely sets in place some evidence-based initiatives to prevent risky alcohol use and reduce alcohol related-harm in the Region. Some of these initiatives can be introduced immediately and experience shows that these initiatives can reduce alcohol-related harm and discourage risky drinking immediately, creating an opportunity for broader social change and individual betterment programs to be implemented with greater effect. Opportunities are created for people to re-engage with education, recreational and cultural past-times, employment and training. People are more likely to seek treatment for alcohol use problems and other health problems in an environment free from constant high levels of risky drinking.

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At the hearing in Broome on 26 August, the Aboriginal Legal Service suggested to the committee that there is a lack of diversionary programs aimed at drug and alcohol rehabilitation in remote WA. The committee would appreciate a response to the ALS claims, including details of diversionary programs run by the WA government, including the geographic spread of individual programs, details of the funding for each program and whether and how these programs link to the judicial system. In addition, the committee visited the community of Balgo in 2008 and seeks specific information on what diversionary programs are currently operating there and the details of any such program.	Comprehensive and coordinated strategies must then be provided to support Stage 1 initiatives. These further strategies form part of a longer term comprehensive plan to control alcohol availability, reduce alcohol demand, reduce harms associated with alcohol and other drug use and improve access to treatment and support. Responses in these key areas require longer lead times to introduce, are more systemic in nature and are more oriented to the development of sustainable communities. The Minister for Mental Health will be presented with a final Kimberley Alcohol Management plan within months, as previously advised by the Minister. However, the Government is already considering the delivery of these longer-term strategies. **DIVERSION IN THE KIMBERLEY** The Western Australian Diversion Program (WADP) Illicit Drug Diversion Initiative (IDDI) is funded through the Council of Australian Governments' (COAG) to divert eligible offenders away from the criminal justice system into treatment. Specialised services for Aboriginal people are offered through the Indigenous Diversion Program (IDP). IDDI funding requires illicit drug use as necessary criteria for inclusion. Although many of the participants have concurrent alcohol problems, the funding does not allow for diversion solely on the basis of alcohol use. There are no diversion programs for people whose offending is linked solely to alcohol use. In the Kimberley, the Drug and Alcohol Office (DAO) funds the Kimberley Community Drug Service Team (KCDST) to provide the Indigenous Diversion Program (IDP) in the East and West Kimberley. Current IDDI funding of $215,378 allows for two positions: one based in Broome and the other in Kununurra. The KCDST also receives an annual retainer funding of $93,791 as well as sessional payments based on occasions of service. IDP Diversion Officers travel on the Magistrate's Circuit and service all related courts. From the base in Broome the West Kimberley IDP position services Derby, Fitzroy Crossing, Broome, Bidyadanga and Dampier Peninsular. The East Kimberly IDP position, based in Kununurra, services Kununurra, Wyndham, Kalumburu, Oombulgurri, Balgo, Halls Creek and Warmun. The Indigenous Diversion Officers are court based and provide immediate assessment and referrals to treatment programs. Offenders are referred to IDP via magistrates, police and various other court stakeholders including legal representatives. Self referral is also acceptable. Once referred to IDP, the individual is assessed by the Indigenous Diversion Officer and referred to suitable alcohol and drug services. IDP Officers are responsible for providing treatment reports from agencies back to magistrates for sentencing.

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	ADDITIONAL INFORMATION – FITZROY CROSSING HEARING DAO would like to provide additional information to clarify that provided by Mr Morris in his submission to the Senate Select Committee hearing in Fitzroy Crossing. In 2008/09, Nindilingarri Cultural Health Services received $397,815 from DAO. They are funded by DAO for a treatment worker (employed via WACHS), a prevention worker and a male and female alcohol and other drug (AOD) treatment worker. In addition there is a visiting AOD treatment service by KCDST from Derby on a monthly basis and the KCDST recently liaised with WACHS about any additional support needed. DAO has been advocating for more resources for Fitzroy Crossing as part of the Kimberley regional alcohol management approach. For further information, please contact Ms Dace Tomsons at the West Australian Drug and Alcohol Office.

Qn 3	Summary of Request	State Government Response
The committee is seeking a response to Dr Shepherd's statement about land availability and water shortages and to what extent these are a factor in the government's delivery of housing.		The Water Corporation has advised that the availability of water for the future growth of Halls Creek is limited to approximately 100 new properties. At this stage the Department of Housing has plans for 55 new properties. The Water Corporation is actively seeking additional water sources to resolve this problem. Suitable, available land for additional housing has been an issue in Halls Creek and has the potential to limit future expansion of the town. The Department of Housing is currently working with the Shire of Halls Creek and relevant State agencies to expedite the release of additional land, as well as relevant approval processes, in order to cater for the future developments.

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Qn 4	Summary of Request	State Government Response
The committee is seeking a response to Dr Shepherd's statement that Commonwealth and state pharmacies are maintained separately in hospitals The committee would appreciate information on the actual turnover of the WA government run pharmacy at Halls Creek hospital and clarification of the policy rationale.		Please refer to attached memorandum from the Department of Health.

Qn 5	Summary of Request	State Government Response
During a conversation about Foetal Alcohol Spectrum Disorder (FASD) with Dr David Shepherd, he made the comment that teachers may not have the time or permission to attend talks on FASD by visiting experts. The committee wishes to seek clarification from the WA government whether any policy exists that would allow teachers to benefit from such opportunities, or otherwise learn about FASD related issues.		The key difficulties that may create barriers to staff accessing professional development are the lack of staff to cover absences and the cost prohibitive aspects of travel across rural and remote WA. The timing and coordination of professional development is therefore critical in this context. Funding for teachers' professional development is provided directly to schools through the Department of Education and Training's (DET's) school grant program. In addition, teachers receive duties other than teaching time to support teachers to undertake a variety of activities. As such, most of the professional development activities and priorities are determined at the school level to meet local priorities. Ultimately, responsibility for the coordination of local professional development rests with the DET's District Offices, who can also provide support for teachers to access various professional development opportunities. It is thus recommended that the District Offices are advised when imperative professional development opportunities, such as this one, are available. DET's Professional Learning Institute is also able to provide professional development during holiday periods. For further information, please contact the West Australian Department of Education and Training.

Questions arising from public hearings in the Kimberley – WA Government

Qn 6	Summary of Request	State Government Response
Dr David Shepherd, appearing in Halls Creek, alleged that it was a policy of the WA government to allow teachers to stay in Halls Creek for only two years. The committee would like clarification as to what the policy on postings to remote areas is, and whether teachers are required to leave after a certain time, regardless of their wishes.		There is no policy restricting the number of years a teacher may work in a remote location. Halls Creek is part of the DET Remote Teaching Service (RTS). The RTS offers an array of incentives to attract high performing teachers to remote locations. These incentives are designed around a teacher providing four years continuous service at a school to receive the maximum benefits. DET undertakes competitive selection processes to fill RTS positions; and, subject to this process and the usual performance management processes, there is scope for a teacher to remain in that school. For further information, please contact the West Australian Department of Education and Training.

Qn 7	Summary of Request	State Government Response
Please provide clarification of WA government policies that offer staff housing to non-residents who move to remote communities for work, while not providing staff housing for locally engaged workers and the rationale for any such policies.		**Policy as per Government Regional Officers Housing (GROH) Eligibility Policy January 2009.** Employees who have been recruited locally are not eligible for GROH accommodation, unless special circumstances exist which are supported by the employing agency and do not impede GROH's ability to fulfil its primary objective; to target government resources to house government employees relocating to country WA. **Allocation of accommodation is at agency discretion, to be exercised in accordance with the below:** Accommodation **MAY** be provided: • when the employing agency is experiencing difficulty in attracting and retaining appropriate staff, which is affecting core business; • as a short term tenancy to meet an emergency situation; • when a client agency is bound under an Industrial Agreement to provide an employee with accommodation. Accommodation will **NOT** be provided when the locally appointed employee or the employee's partner/spouse own accommodation in which they might 'reasonably reside' (as prescribed under s.28 of the GEH Act 1964) within commuter proximity (50km radius) to the employees place of work.

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	<u>Rationale of the policy is in the spirit and intent of GEH Act 1964:</u> Discretionary power in relation to housing locally recruited employees must be exercised in the context of the **spirit and intent** of the GEH Act 1964, which came into operation as a response to the demand for "adequate and suitable" housing for government employees being posted to regional and remote towns. **<u>Right of appeal:</u>** An employee of a client agency has the right of appeal to the Director, GROH in the event that GROH accommodation has been refused under s.28 of the *Government Employees' Housing Act 1964* because: • The employee or employees' spouse/partner owns a residential property within 50km of the place of employment; or • The employee has been transferred to a town in which they or their spouse/partner own a residential property. • • The employee who has been refused accommodation must be advised, in writing, of the adverse decision.

Qn 9	Summary of Request	State Government Response
	Father Matthew Digges of the Broome Catholic Diocese presented evidence that the Catholic Church was to lose 16 Aboriginal teaching assistants due to the removal of CDEP by the Commonwealth and subsequent responsibility by the WA government for employing teacher assistants. Please clarify whether this is the case.	Under the COAG Indigenous Economic Participation National Partnership Agreement, some positions in schools that were previously occupied by CDEP participants are to be replaced by permanent employment opportunities for Aboriginal people. Under this arrangement the State Government has responsibility for replacing CDEP positions within the *public school* system with permanent jobs. To this end, DET has reached an agreement with the Commonwealth as to which CDEP positions will be replaced, and has sourced the funding required to facilitate the conversion. Responsibility for the conversion of CDEP positions within *private schools* is not a State Government responsibility; however it is DET's understanding that similar arrangements have been negotiated by the Commonwealth directly with the private schools. For further information, please contact the West Australian Department of Education and Training.

Questions arising from public hearings in the Kimberley – WA Government

Qn 10 Summary of Request	State Government Response
Following evidence presented at the Fitzroy Crossing hearing by Mr Joe Ross, a member of the Fitzroy Futures Governing Committee, the committee agreed to ask for an explanation of the process used by the Departments of Planning and Infrastructure and Housing and Works to determine in which communities refurbishments and construction of new housing will occur. Please provide a response to the statements made by Mr Ross in relation to this issue as well as details of what guidelines or process will determine how sites for refurbishment and construction will be selected.	The Department of Housing understands that Mr Ross is referring to current work to develop the *Planning for Aboriginal Communities Guideline* for the Provision of Housing and Infrastructure to Remote Indigenous Communities in Western Australia. A draft document has been developed by the Department of Planning and Infrastructure, which seeks to promote the sustainable development of remote Aboriginal communities based on assessment of key public health risk factors and community amenity. It is the intent that future capital works will be prioritised to communities that can provide a high standard of living for residents and which maximise the returns to government and community residents from future investment. In addition, please note that in the future, decisions about investment in remote communities will also be guided by the Remote Aboriginal Communities Policy Framework, which is currently being finalised by the Department of Indigenous Affairs. This Framework will provide for the determination of investment priorities based on the consolidation of existing government policies and investments, combined with a comprehensive assessment process conducted in consultation with Aboriginal people. There are also a number of other key factors influencing the housing construction program managed by the Department of Housing. These include: • Land Tenure – To be eligible for capital funding provided by the Commonwealth Government under the *National Partnership Agreement on Remote Indigenous Housing*, communities must have suitable land tenure arrangements that enable access to and control of the housing assets by the State. • Housing Management – the community must have agreed to a suitable housing management arrangement with the Department of Housing. • Native Title issues need to have been resolved (or be capable of resolution in a timely manner). • The community must have a demonstrated housing need. • The Commonwealth and State Government have agreed to target the priority locations agreed by COAG under the *National Partnership Agreement on Remote Service Delivery.*

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Qn 11 Summary of Request	State Government Response
The evidence given by various organisations across the Kimberley, including Kurungal Council and the Shire of Derby/West Kimberley, suggested widespread confusion as to the chain of responsibility for rubbish tip management. This confusion over responsibility was of concern to the committee, which resolved to establish the exact responsibilities of each level of government for rubbish tip management in remote communities in the Kimberley. The committee is seeking information from the WA government as to what the state responsibility is for environmental health issues and compliance generally, and rubbish tip management specifically. Please outline the state's understanding of the chain of responsibility for ensuring environmental health standards are upheld in remote communities, and any further information the WA government considers relevant to this matter.	The Department of Housing in WA is responsible for the maintenance of essential services to remote communities (water, waste water and power) under the Remote Area Essential Service Program (RAESP). There are 93 RAESP communities where this service is provided, generally based on population size. There is provision for replacement of failed essential infrastructure in non-RAESP communities. The Department of Housing is not responsible for the provision of municipal services. In the absence of municipal services provided by local government and the Department of Housing, FaHCSIA is the principal agency that funds positions to employ community members to collect and dispose of rubbish. Household bins are typically present in each community as are people employed to collect rubbish and dispose of it. There appear to be vehicles to perform rubbish collection, funded from a variety of sources in the past, but there is no sustained program or single agency responsible for replacing vehicles that cannot operate effectively, nor any agency that can confirm the current operating stock of vehicles for rubbish collection. The management of landfill sites is the responsibility of each of the communities but typically they lack the technical understanding or equipment to do so. **Legislative framework** The Department of Environment and Conservation (DEC) is responsible for regulating waste management in Western Australia. The DEC administers the *Environmental Protection (Rural Landfill) Regulations 2002*. The regulations apply to landfill sites that receive more than 20 tonnes of putrescible waste per year. Landfill sites in this category and not exceeding 5000 tonnes per year of putrescible waste are required to be registered with DEC, be managed appropriately, be fenced effectively and subject to other requirements of the regulations. It is estimated by the DEC that each person in a remote setting generates around 900kg of solid waste per year. The proportion of putrescible waste varies (25-45%), although it should be noted that in many remote settings most household waste would be disposed rather than recycled. The DEC entry point of 20 tonnes of putrescible waste would seem to imply that communities with a population of or in excess of 50 people would generate enough putrescible waste per annum to require a prescribed landfill site registered with DEC.

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The committee would also appreciate advice on how any tender process for rubbish tip services is managed. See also attached correspondence from the Centre for Appropriate Technology	**Management of landfill sites in remote communities in WA** The management and maintenance of landfill sites other than those operated by local governments in WA or private contractors registered or licensed through DEC is an ad-hoc approach. The involvement of key personalities in local government, private sector contractors and Aboriginal organizations is the driving force for much of the management of landfill sites in remote communities. Dedicated local people recognize the need to do something about landfill sites and get things done by whatever means and resources they can muster. This is assisted by the occasional funding from the Department of Housing or FaHCSIA to pay contractors to attend to crises when identified by environmental health practitioners working with Aboriginal communities, personnel from some participating local governments or community members. Mention should be made of the Shire of Derby West Kimberley who engaged a consultant in 2001 to provide a guideline for the management of landfill sites in remote communities *(Guidelines for the development of facilities for Aboriginal communities Malarabah (Derby) region).* The resulting document has been used by other Kimberley local governments and Aboriginal organizations since then to advise communities and contractors in landfill management. The Centre for Applied Technology (CAT) have also produced information regarding the establishment of a landfill site in a remote community. **Chain of responsibility for environmental health issues** Many Aboriginal communities in WA are located on land designated as "Crown Land". The current *Health Act 1911* is the principal document for protecting public health, however this legislation is not binding on "The Crown" meaning there are no public health standards for rubbish tips in place in these communities. To assist in a remote setting with a noticeable absence of the structure of local government participation, a model was created by the Health Department to provide environmental health services. The Health Department funds some of the Aboriginal environmental health workforce which consists of Environmental Health Officers (EHO's) and Aboriginal Environmental Health Workers (AEHW's). EHO's and AEHW's are employed within four local governments, WA Health Population units and Aboriginal organizations. The number of positions funded is around sixty personnel. The Aboriginal Environmental Health workforce provides advice and assistance to remote Aboriginal communities for all environmental health affecting services (water, waste water, power, solid waste disposal, pest control, dog health, dust suppression and emergency management). The advice includes the technical understanding of management of these factors but it should be noted that there is no access to machinery to effect many of the changes. This is the responsibility of the infrastructure providing government departments. EHO's and AEHW's that identify significant problems with management of infrastructure including landfill sites can and do report them to the regional contractors and, in the lack of a response, to the government departments funding programs.

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	With respect to solid waste disposal, the difficulty is that DEC do not build, manage or fund landfill sites. The AEH workforce must appeal to Department of Health, FaHCSIA, local governments and any regional contractors to effect remedies. In the Dampier Peninsula, FaHCSIA fund Kimberley Regional Essential Service Provider (KRSP) to manage landfill sites in the larger communities and also Nirrumbuk to do the same in the smaller communities. Nirrumbuk have indicated that they commonly include landfill site management in communities for which they receive no funding because it has to be done. For further information, please contact the West Australian Department of Environment and Conservation.

Qn 12	Summary of Request	State Government Response
At a private meeting following the hearings, the committee agreed to follow up on correspondence sent by Senator Johnston to the WA government in regard to mortuary facilities in remote communities and specifically in Balgo. The committee requests information on any further developments		Please refer to attached memorandum from the Department of Health.