



EDUCATION AND HEALTH STANDING COMMITTEE

WAYS FORWARD- BEYOND THE BLAME GAME:

SOME SUCCESSFUL INITIATIVES IN REMOTE INDIGENOUS COMMUNITIES IN WA

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Ways Forward- Beyond the Blame Game:
Some Successful Initiatives in Remote Indigenous Communities in WA

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10 William Street
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**WAYS FORWARD-
BEYOND THE BLAME GAME:**

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IN REMOTE INDIGENOUS
COMMUNITIES IN WA**

Report No. 13

Presented by:

Hon T.G. Stephens, MLA

Laid on the Table of the Legislative Assembly
on 15 May 2008

COMMITTEE MEMBERS

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	Mr M.P. Whitely, MLA Member for Bassendean

COMMITTEE STAFF

Principal Research Officer	Dr David Worth, MBA, PhD (from 6 March 2008)
	Dr Jeannine Purdy, BA, B Juris (Hons), LLB, PhD (until 25 January 2008)
Research Officer	Mr Roy Tester, BSW (from 5 February 2008)
	Ms Nicole Burgess, BA (from 4 December 2006 to 14 December 2007)
	Mr Peter Frantom, BA (until 9 February 2007)

COMMITTEE ADDRESS

Education and Health Standing Committee
Legislative Assembly
Parliament House
Harvest Terrace
PERTH WA 6000

Tel: (08) 9222 7494
Fax: (08) 9222 7804
Email: laehsc@parliament.wa.gov.au
Website: www.parliament.wa.gov.au

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COMMITTEE'S FUNCTIONS AND POWERS

The functions of the Committee are to review and report to the Assembly on:

- (a) the outcomes and administration of the departments within the Committee's portfolio responsibilities;
- (b) annual reports of government departments laid on the Table of the House;
- (c) the adequacy of legislation and regulations within its jurisdiction; and
- (d) any matters referred to it by the assembly including a bill, motion, petition, vote or expenditure, other financial matter, report or paper.

At the commencement of each Parliament and as often thereafter as the Speaker considers necessary, the Speaker will determine and table a schedule showing the portfolio responsibilities for each committee. Annual report of government departments and authorities tabled in the Assembly will stand referred to the relevant committee for any inquiry the committee may make.

Whenever a committee receives or determines for itself fresh or amended terms of reference, the committee will forward them to each standing and select committee of the Assembly and Joint Committee of the Assembly and Council. The Speaker will announce them to the Assembly at the next opportunity and arrange for them to be placed on the notice boards of the Assembly.

INQUIRY TERMS OF REFERENCE

That the Committee examine, report and make recommendations on successful initiatives in remote Aboriginal communities. The Committee will pay particular attention to:

1. The costs and benefits of successful initiatives;
2. The model utilised for the development and delivery of successful initiatives; and
3. Where possible, comparing and contrasting the models utilised for the development and delivery of successful initiatives.

The Committee will report its findings and recommendations to the Legislative Assembly by 20 November 2008.

CHAIRMAN'S FOREWORD

Securing ways forward, with an appropriate architecture of government, meeting the needs and responding to the opportunities of the remote Indigenous communities of WA must take us beyond the game of blame.

This Report, the sixth and last in the series of the Education and Health Standing Committee's *Inquiry into Successful Initiatives in Remote Aboriginal Communities*, comes at a time when Western Australians generally are appalled at the failures still facing Indigenous communities in the remote parts of their state, and positively hungry for better outcomes.

Yet failures continue, building upon each other, caused by deeply embedded structural issues.

It is clearly essential for us to build a sustainable positive future with the Indigenous peoples and communities of remote WA.

Across WA history there has been the recurring observation that the situation facing the Indigenous population of the State's remote regions was of growing concern. The fact that this Report is making similar observations may seem somewhat unremarkable, and yet some key players still seem unwilling to accept that a growing crisis even exists.

There are some quite distinct features of this Report. For as well as observing the growing crisis, the Committee has seen no value in articulating unhelpful binary propositions, juxtaposed as if to suggest that one precludes the other; as if "rights" are at odds with "responsibilities"; or "powerful symbols" are out of keeping with "practical measures". The policy issues for remote Indigenous communities are mostly not dichotomous questions with "true" or "false", "on" or "off"; "yes" or "no" answers. What is required instead is to identify with confidence successful initiatives that will, when adopted, assist the State in averting the calamity that otherwise awaits the remote Indigenous communities of WA.

With over thirty years of extensive experience of the challenges across the State's remote Indigenous communities, what I know to be different about the present moment is the near unanimous view amongst those engaged long-term in the lives of the remote Indigenous community of WA: that the situation has grown worse than ever before; and that the major factor contributing to this is the apparent inability of governments to put in place arrangements that engage and deliver basic and effective services and infrastructure and secure increased Indigenous participation in the labour market; and in particular the failure to secure the link between economic participation and public investment in education, health care and housing.

Just as the Committee has been completing this Report, I have been setting out on a new endeavour in a focussed collaboration, assisted by Desert Knowledge Australia, with a team of people, some of whom have had years of experience trying to reshape the policies that attempt to respond to the needs of the remote communities across Australia. As a result, my own thoughts and contributions in preparing this report— and particularly this foreword— have inevitably been

further shaped not just by the work of our Committee, but also by this wider collaboration that is soon to publish a prospectus dealing with remote Australia.

Many remote communities are facing social implosion and large scale movement of their population into the regional towns and service centres. Demographic explosion, and an increasing economic disengagement and increased welfare dependence, has combined with an inability of existing Indigenous governance structures to keep pace with the rapid resource-driven regional economic growth and the considerable opportunities from various native title agreements.

Nothing short of a united, focussed and sustained commitment from each sphere of government, as well as the collaboration of industry and all sections of the non-government community is essential to deliver the urgent turn-around in this situation of escalating severity.

Embedded within this Report, and the earlier reports in this series, is the growing conviction that effective effort from governments and industry requires a framework of new regional governance structures, inside of which the Indigenous community can find real voice.

Structures that devolve responsibility and authority and are accountable can and will work. Programs that work in remote areas and take into account the specific target population can be developed. However, it will take sustained engagement and the integrated support of many to achieve the re-emergence of strong Indigenous communities in the regional and remote areas of WA, where individuals and families can thrive once more.

The remote Indigenous communities of WA are located across a vast area of a vast state, where they are often the most significant or only presence. The wider community are too easily distracted from the needs of these remote communities. So it is crucial to establish governance structures that can survive the moving feast that comes with this variable attention span.

Despite recent government, public and media debate, the challenges facing the remote Indigenous communities result from factors well beyond the localised epicentres of manifest community dysfunction, and even beyond the failure of Indigenous public policy, to what is essentially the failure of the governments, whose own dysfunction has contributed most significantly to remote community disadvantage.

While many rural towns across WA are declining in population, most of WA's remote towns are growing rapidly, largely because of Indigenous population growth and mobility. Numerous towns established to service the mining and pastoral industry are seeing a significant new in-flow of Indigenous people who are largely welfare-dependent. Without systemic changes, these trends will continue with predictably disastrous economic and social consequences.

Quite quickly this will impact well beyond remote WA and be felt in the lives of the majority of the State's towns, and indeed on the urban and metropolitan population of WA, where the situation in schools, hospitals, health services and emergency departments, are already under high pressure from the people of remote WA.

The genesis for this report was the Committee's resolution of 23 August 2006 to undertake an *Inquiry into Successful Initiatives in Remote Aboriginal Communities*. This report consolidates the

work of the Committee and the response and submissions received in reference to our Discussion Paper *Where From? Where To?*

However, significant work on writing up this report was delayed when the Committee undertook the very time-consuming *Inquiry into the Cause and Extent of Lead Pollution in the Esperance Area*. During that passage of time the membership of the Committee changed when an additional workload with other committee work necessitated the move of our colleague Mrs D.J Guise, Member for Wanneroo, who was replaced with Mr Paul Papalia CSC, Member for Peel.

This report is indebted to the prodigious effort and extraordinary quality of the work produced by our former Principal Research Officer, Dr Jeannine Purdy, who has taken up work with the Chief Justice at the Western Australian Supreme Court. It is also necessary to pay appreciative tribute to the assistance provided to the Committee by our former Research Officers, Ms Nicole Burgess (who is on maternity leave) and Mr Peter Frantom.

As a result of these staff movements, the Committee Office secured the very valuable assistance of Mr Neil Westbury to assist in consolidating the final draft for this Report. Particular appreciation needs to be recorded for the opportunity given in securing this experienced input. The Report has been completed with the highly professional, generous and most patient assistance of new Committee staff members: Research Officer Mr Roy Tester and Principal Research Officer Dr David Worth.

On behalf of the Committee, I would like to thank all of the people and organisations who have contributed so generously and wisely to this Inquiry.

There is so much emphasis on what is negative and dysfunctional in remote Indigenous communities, and the very significant problems highlighted can appear simply overwhelming and intractable.

Regional representative governance structures provide us with the most useful response to the critical needs of the remote Indigenous communities of WA.

I commend this report to the House.

HON T.G. STEPHENS, MLA
CHAIRMAN

ABBREVIATIONS AND ACRONYMS

AAPA	Aboriginal Affairs Planning Authority
ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
AHI	Aboriginal Housing and Infrastructure
AICS	Aboriginal Independent Community Schools Support Unit
AIHW	Australian Institute of Health and Welfare
AISWA	Association of Independent Schools of Western Australia
AITSIS	Australian institute of Aboriginal and Torres Strait Islander Studies
ALGA	Australian Local Government Association
ALS	Aboriginal Literacy Strategy
ALT	Aboriginal Lands Trust
ANAO	Australian National Audit Office
ARCPSP	Aboriginal Remote Community Power Supply Project
ARIA	Accessibility/Remoteness Index of Australia
ATA	Aboriginal Teaching Assistants
ATSIC	Aboriginal and Torres Strait Islander Commission
ATSISS	Aboriginal and Torres Strait Islander Services
CAEPR	Centre for Aboriginal Economic Policy Research
CDEP	Community Development Employment Projects
CGC	Commonwealth Grants Commission
CHINS	Community Housing and Infrastructure National Survey
CHIP	Commonwealth Housing and Infrastructure Program
Cth	Commonwealth
COAG	Council of Australian Governments
DAA	Department of Aboriginal Affairs

DEST	Department of Education, Science and Training
DEWR	Department of Employment and Workplace Relations
DHW	Department of Housing and Works
DIA	Department of Indigenous Affairs
DoW	Department of Water
DTF	Department of Treasury and Finance
EHNCC	Environmental Health Needs Coordinating Committee
EHNS	Environmental Health Needs Survey
EHO	Environmental Health Officer
ELLC	English Language and Literacy Consultant
ESL	English as a second language
FaCSIA	Department of Families, Community Services and Indigenous Affairs (up until December 2007)
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs (after December 2007)
FAG	Financial Assistance Grant
FIM	Family Income Management
FTE	Full Time Equivalent
GiRLNS	Getting it Right Literacy and Numeracy Strategy
GST	Goods and Services Tax
ICC	Indigenous Coordination Centre
ICGP	Indigenous Community Governance Project
ILSS	Indigenous Language Speaking Students
IPA	Indigenous Protected Area
KALACC	Kimberley Aboriginal Law and Culture Centre
LRCWA	Law Reform Commission of Western Australia
MSP	Management Support Program
MUNS	Municipal Services Funding

EDUCATION AND HEALTH STANDING COMMITTEE

NAHS	National Aboriginal Health Strategy
NALP	National Accelerated Literacy Program
NATSISS	National Aboriginal and Torres Strait Islander Social Survey
N/A	Not Available
NRM	National Action Plan for Reconciliation in Natural Resource Management
NSW	New South Wales
NT	Northern Territory
OID	Overcoming Indigenous Disadvantage
ORA	Outstation Resource Agency
PI	National Action Plan for Reconciliation in Primary Industries
RAE	Remote Area Exemptions
RAESP	Remote Area Essential Services Program
RCIADIC	Royal Commission into Aboriginal Deaths in Custody
RPA	Regional Partnership Agreement
SAE	Standard Australian English
SBCLO	School-based community liaison officer
SEHISOG	Sustainable Environmental Health Infrastructure Senior Officer Group
SRA	Shared Responsibility Agreement
TSRA	Torres Strait Regional Authority
TRRP	Town Reserve Regularisation Program
VT	Visiting Teacher
WA	Western Australia
WALGA	Western Australian Local Government Association
WALGGC	Western Australian Local Government Grants Commission

GLOSSARY

Aboriginal Remote Community Power	The Aboriginal and Remote Communities Power Supply Project (ARCPSP) is being implemented by the State and Commonwealth governments to improve the supply and delivery of electricity in large, permanent, remote Indigenous communities. In May 2005, agreement was reached to jointly fund power infrastructure upgrades and subsidise the power supply to five remote Kimberley communities in the first phase of this Project: Warmun, Bidyadanga, Ardyaloon, Beagle Bay and Djarindjin/Lombadina. These communities were responsible for the day-to day operation and maintenance of their own essential services, including the generation and supply of electricity. Through the project, the responsibility for the supply of electricity will be transferred to Horizon Power. Negotiations have commenced to extend the Project to other large, permanent, remote Aboriginal communities in Western Australia. It is hoped that some Phase 2 communities can begin purchasing power from Horizon in 2008. ¹
Aboriginal town-based communities	Aboriginal town-based communities are located near existing mainstream towns. There are two main categories of town-based community, those that are basically a suburb of a rural town and those that are discrete communities located up to five kilometres away. Classification as an Aboriginal town-based community occurs when the communities are connected to either town power or town water supplies. ²
Accessibility/Remoteness Index of Australia (ARIA)	Developed by the Commonwealth Department of Health and Aged Care and the National Key Centre for Social Applications of Geographic Information Systems in 1997, ARIA measures the remoteness of a point based on the physical road distance to the nearest Urban Centre. The Remoteness Structure contains the following categories: <ul style="list-style-type: none"> ▪ Major Cities of Australia; ▪ Inner Regional Australia; ▪ Outer Regional Australia; ▪ Remote Australia; ▪ Very remote Australia; and ▪ Migratory.³
Community Development Employment Projects (CDEP)	A Commonwealth initiative, known colloquially as a ' <i>work for the dole</i> ' program, for Indigenous people. Previously, the program was described by the Commonwealth as follows:

¹ Office of Energy, 'Aboriginal and Remote Communities Power Supply Project', www.energy.wa.gov.au/3/3220/64/aboriginal_and_.pm, accessed 17 January 2008.

² Department of Water. 2006. *Report for the Minister for Water Resources on Water Services in Discrete Indigenous Communities - Final Report*, Department of Water, Perth, pp 25, 26.

³ ABS. 2000, *ABS Views on Remoteness, Cat. No. 1244.0*, Australian Bureau of Statistics, Canberra, p 1.

Community Development Employment Projects are the Commonwealth's largest Indigenous program. They began in 1977 at the request of several remote Communities as an alternative to receiving unemployment benefits ('the dole'). Participation in the CDEP scheme is voluntary.

CDEP accounts for around one quarter of Indigenous employment and has grown to encompass over 32,000 participants across Australia in Urban, Rural and Remote areas.⁴

From 1 July 2007 the former Commonwealth government ceased funding CDEP in urban and regional centres, closed Indigenous Employment Centres across Australia, and instead funded enhanced mainstream employment brokerage services.⁵ Originally it was proposed that remote Indigenous communities would continue to receive CDEP funding, but with the Commonwealth's 'Northern Territory Emergency Response', it was announced in July 2007 that CDEP in the Northern Territory 'will be progressively replaced by real jobs, training and mainstream employment programs'.⁶ The recent change of government at Commonwealth level, however, has seen the winding back of CDEP in the remote communities of the Northern Territory being reversed.

Council of Australian Governments (COAG)	The peak intergovernmental forum in Australia, comprising the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association.
Discrete Indigenous Communities	Refers to larger Indigenous townships, smaller outstations and town-based Aboriginal reserves.
Fitzroy Futures Forum	A forum for cross-community approval of large-scale infrastructure projects in the Fitzroy Valley, Western Australia. It is made up of small business owners, representatives of the Shire of Derby/West Kimberley, staff from various Indigenous service organisations and mainstream government service departments such as health and education, and interested people from communities in the area. ⁷
Homelands	Small decentralised communities of close kin, established by the movement of Aboriginal people to land of social, cultural and

⁴ www.cdep.com.au/, accessed 24 November 2006.

⁵ Department of Employment and Workplace Relations. 2006, *Indigenous Potential Meets Economic Opportunity: Discussion Paper*, November 2006, Department of Employment and Workplace Relations, Canberra, p 2.

⁶ Commonwealth Minister for Indigenous Affairs. 2007, 'Jobs and training for Indigenous people in the NT', *Media Release*, 23 July 2007, Canberra.

⁷ Indigenous Community Governance Project. 2007, *Community Governance - An Occasional Newsletter from the Indigenous Community Governance Project*, Vol. 3 No. 2, July 2007, p 1.

economic significance to them.⁸ These are now more commonly known as outstations.

Horizon Power

An independent regional power corporation, created in April 2006 with the separation of Western Power into four stand-alone businesses. Horizon Power is owned by the State government and services the Pilbara, Kimberley, Gascoyne, Mid West and southern Goldfields (Esperance and Hopetoun). It is responsible for generating or procuring, distributing and selling electricity.⁹

Horizontal equalisation

Defined under section 6(3) of the *Local Government (Financial Assistance) Act 1995* (Cth) as being the allocation of funds that:

- (a) ensures each local governing body in the State is able to function, by reasonable effort, at a standard not lower than the average standard of other local governing bodies in the State; and
- (b) takes account of differences in the expenditure required to be incurred by local governing bodies in the performance of their functions and in their capacity to raise revenue.

This principle must be applied by State agencies in distributing Commonwealth Financial Assistance Grants to local governments. However it is not used by the Commonwealth when allocating these funds to the States for distribution to local governments.

National Action Plan for Reconciliation in Natural Resource Management (NRM) and Primary Industries (PI)

The COAG Working Group for Reconciliation is associated with the implementation of these plans.

Outstations

See 'homelands' above. Although referring to the same communities, outstations more accurately represents both the reliance of these small communities on the larger established Aboriginal townships as service centres and of the movement between the two as 'a culturally distinctive feature of the way Aboriginal people live'.¹⁰

Regional Partnership Agreements (RPAs)

Part of the former Commonwealth government's 'new ways of working' with Indigenous people, these are broader framework agreements, entered into between governments and a range of Indigenous organisations and including businesses and others, specifying the obligations of all parties.

⁸ House of Representatives, Standing Committee on Aboriginal Affairs. 1987, *Return to Country: the Aboriginal Homelands Movement in Australia*, Canberra, p xiii.

⁹ www.horizonpower.com.au/about_us/index.html, accessed 13 February 2007.

¹⁰ Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, Working Paper No. 34/2006, Centre for Aboriginal Economic Policy Research, ANU, Canberra, p 1.

'Remote'	The ARIA class of remoteness where geographic distance imposes a high restriction upon accessibility to the widest range of goods, services and opportunities for social interaction. ¹¹
Remote Area Essential Services Program	Ninety-one remote Aboriginal communities are under the Remote Areas Essential Services Program (RAESP), a joint Commonwealth/State program for the provision and maintenance of water, power and wastewater services. Communities eligible for State RAESP support are generally those communities of 50 people or more with an agreed standard of infrastructure. A Program Manager (Parsons Brinckerhoff) is appointed jointly by the Department of Housing and Works and the Commonwealth to oversee the program and reports to a steering committee convened by the Department of Indigenous Affairs. For RAESP, Western Australia is divided into three regions (Kimberley, Pilbara/Gascoyne and Goldfields/Central Reserves), which are serviced by contracted service providers.
Shared Responsibility Agreements (SRAs)	Part of the former Commonwealth government's <i>'new ways of working'</i> with Indigenous people, these are agreements with families, or <i>'communities'</i> which are not formally structured, and which specify the obligations of both parties in relation to specific projects.
'Very Remote'	The ARIA class of remoteness where geographic distance imposes the highest restriction upon accessibility to the widest range of goods, services and opportunities for social interaction. ¹²

¹¹ ABS. 2000, *ABS Views on Remoteness, Cat. No. 1244.0*, Australian Bureau of Statistics, Canberra, p 19.

¹² *ibid.*

EXECUTIVE SUMMARY

The Education and Health Standing Committee's Inquiry into successful initiatives in remote Aboriginal communities in Western Australia comes at an important junction for both the State and Federal Government's approach to Indigenous affairs. This final report brings together some of the key findings of the earlier five reports in this series. These earlier reports highlighted some successful initiatives from around Australia, initiatives which bring opportunities for "voice" as well as access to recreation, financial literacy, electricity, water, education or employment to small communities of Indigenous people that are very remote from the main urban centres.

The Discussion Paper on which this Report is based was originally published in April 2007 and was intended to explain '*why things are the way they are*'¹³ in many Aboriginal communities, noting that any genuine attempt to tackle challenging areas of public policy needs to be guided by the lessons of history. Without a working knowledge of our history we can be too easily destined to relive it. The Discussion Paper generated a large number of submissions from government agencies and other concerned organisations and individuals.

Chapter 2 provides a brief historical summary of Indigenous policy in Western Australia since colonial settlement to allow for a more complete understanding of the existing situation of remote Indigenous communities in WA. It concludes by reporting some of the early initiatives of the new Federal government, although there is still some uncertainty as to how different its policies will be to the previous government.

A more comprehensive range of data on remote communities is provided in Chapter 4, provided in the main from the Australian Bureau of Statistics (including recent reports containing data from the 2006 Census) and from academics who research in this area (eg. the Centre for Aboriginal Economic Policy Research at the Australian national University).

Chapter 4 builds on this historical review, and some data on the present social and economic condition of remote communities, and reports on successful initiatives. In the main, these initiatives have been provided by respondents to the Inquiry.

The final Chapter concludes this Report, and the series of earlier reports, and provides some recommended ways forward for both the State and local governments. In particular, this Chapter suggests ways in which government can comprehensively re-engage with these communities, given their unique historical precedents and their unique social and economic setting. The Committee hopes that the recommendations in this final chapter give a real sense of direction on how to 'close the gap' between Indigenous Western Australians living in these remote communities and non-Indigenous Western Australians living in urban centres.

¹³ Education and Health Standing Committee. 2006, *Where from? Where to? A Discussion Paper on Remote Aboriginal Communities* ('the Discussion Paper'), Report No. 6, State Law Publisher, Perth, p ix.

FINDINGS

Page 55

Finding 1

In light of the seriousness of the health and social conditions identified by the Hope Inquest into 22 Indigenous deaths in the Kimberley, the Committee believes that an urgent Government response to the Inquiry's recommendations is required with sufficient resources to adequately address the identified needs.

Page 61

Finding 2

Each of the remote Indigenous communities in Western Australia differs in its social and economic needs based on its unique history of interaction with the state since European colonisation, and in particular, on any dislocation from its traditional lands.

Page 64

Finding 3

There is a lack of co-ordination and collaboration in the consistency, scope and collection timing of data surveys conducted in remote Indigenous communities by State and Federal agencies. This creates data sets that are inconsistent, unreliable and incomparable, resulting in flow-on effects for the development of new policies in Indigenous affairs (eg. per capita funding calculations, resource distribution and variable service provision calculations).

Page 68

Finding 4

The Committee had difficulty in obtaining a list of the name and exact geographical location of the 274 remote Indigenous communities in WA identified in the EHNS report of 2004.

Page 68

Finding 5

That State and Local Government approval processes, in conjunction with insufficient and ad hoc funding arrangements and a history of sub-standard services, discriminatory practices and poor infrastructure, have severely impacted upon remote communities and meant that they have not received basic service delivery from agencies required to meet the challenges posed by the location of these communities.

Page 71

Finding 6

The Committee finds that the ARCPSP has successfully provided essential power supplies to some remote communities in the Kimberley and additional funds should be urgently provided by the State and Federal Governments to allow it to expand to all of the major Indigenous remote communities in WA.

Page 79

Finding 7

Under present State arrangements, the housing requirements of Indigenous communities are subject to contractual obligations with private contractors, and the administrative requirements and coordination of power and water service providers. Additionally, training schemes for Indigenous community members are limited by the willingness of contractors to incorporate them within the budget constraints of their contract.

Page 94

Finding 8

The measure of the 'viability' of a small remote community must incorporate more than just what is deemed an 'economic population size'. Social factors such as cultural benefits, health benefits, connection to traditional lands, caring for country, as well as future economic opportunities contribute to the viability of communities as well as a positive outcome to these communities, and to Western Australia overall.

Page 109

Finding 9

The alcohol restrictions put in place on a trial basis in Fitzroy Crossing have been an obvious success, as measured by various social and economic factors. A key to this success was that the alcohol restrictions came in response to a call from the Indigenous leadership of the Fitzroy Valley, without whose voice these restrictions were unlikely to have had any real prospect of successful enforcement.

Page 115

Finding 10

The Yiriman Project is a successful project in the west Kimberley region and has brought together various state and local government as well as academic and Indigenous organisations. It has provided a unique mix of positive social and economic outcomes.

Page 126

Finding 11

A number of successful education initiatives within remote Indigenous communities have been undertaken by the Department of Education, the Catholic Education Office and the Association of Independent Schools but the Committee has been provided with no evidence of a coordinated approach by these three systems, nor of an adequate effort to share educational resources (particularly to primary schools).

Page 128

Finding 12

Native Title and non-native title agreements (such as the recent MOU for the south west of WA) provide an important opportunity for the State and Indigenous organisations to improve the social and economic outcomes for remote communities.

Page 154

Finding 13

The Committee believes the widening gap between Indigenous people in WA remote communities and the wider community is directly related to an absence of comprehensive economic and social institutions across remote Western Australia; this has arisen from a lack of structured government engagement.

Page 156

Finding 14

In the light of this Committee's previous findings, and noting the current firmly-stated commitment of the WA Government to the central role of the Department of Indigenous Affairs, it is essential that the DIA gain the necessary functional authority and capacity to operate effectively.

Page 158

Finding 15

Current Government program arrangements, at both a Federal and State level, effectively operate in a manner that marginalise Indigenous people's access to mainstream services (and confine them to a virtual labyrinth of individual or one-off programs and related funding sources) that are poorly delivered on the ground and take little account of the individual circumstances of Indigenous communities.

Page 159

Finding 16

The ongoing arguments over the distribution of GST revenues has distracted attention from the fact that one of the most significant issues in remote communities is the huge (and growing) capital backlog in essential services infrastructure, especially housing.

Page 165

Finding 17

The supply constraints that mitigate against successful Indigenous participation in employment are more wide ranging than just the skill-set brought to the labour market by Indigenous employees. They underpin the acquisition of such skills and importantly include key points of intersection between Indigenous peoples and government policy, such as housing, health, education, training and interaction with the criminal justice system.

Page 165

Finding 18

Strategies aimed at improving Indigenous participation in the labour market all need to address the structural issues confronting Indigenous people at different formative stages of their life cycle. They also need to assume a broad scope for economic inclusion and participation to cope with the growing needs of an expanding Indigenous working age population in very diverse settings. In particular, it is important for governments to consider how the broad strategy of raising employment levels might be targeted to suit particular regional and local circumstances of Indigenous communities.

Page 167

Finding 19

In Western Australia the negative employment impacts of over representation in the criminal justice system by Indigenous peoples' are yet to be addressed. This includes measures to keep people out of the criminal justice system, or when they are incarcerated, providing opportunities that equip them for labour force participation when they return to their communities.

RECOMMENDATIONS

Page 55

Recommendation 1

This Committee recommends that, in light of the further recent deaths of youths in the Kimberley and the findings contained in this Report, the WA Government response to the recommendations made by the Coroner in the Inquest into 22 Indigenous deaths in the Kimberley must include a detailed program of social and economic initiatives.

Page 64

Recommendation 2

That the Government identify, and give authority to, a specific agency for the oversight, co-ordination, timing and collation of any survey collection and data analysis involving remote Indigenous communities. That this collection be called the WA Remote Indigenous Communities Dataset (WARICD) and be available on the nominated agency's web site.

Page 68

Recommendation 3

That the proposed WA Remote Indigenous Communities Dataset (WARICD) include a list of the name and geographical location of all the remote Indigenous communities in WA, and that this list is updated annually.

Page 69

Recommendation 4

That targeted funding and resources be sustained over the long term in order that remote Indigenous communities can benefit from prolonged infrastructure arrangements, including training schemes to assist community members develop the skills for employment in the maintenance of their community's basic service infrastructure.

Page 79

Recommendation 5

That consideration be given by the Government to including economic incentives as a condition of the contract commitments of private service providers as a means to encourage them to undertake training schemes for Indigenous community members.

Page 95

Recommendation 6

The recent major increased costs of fuel and transport is having a disproportionate impact on remote Indigenous communities and should be both recognised, and factored into, the calculations of government funding for the provision of normal essential services to these communities, ideally through the mainstream essential service providers (Horizon Power and the Water Corporation).

Page 96

Recommendation 7

The Committee recommends that, consistent with the newly elected Federal Government's commitment to extend Internet connections Australia wide, the WA Government ask that the Commonwealth pays particular attention to the needs of Indigenous remote communities.

Page 98

Recommendation 8

The Committee recommends that the existing power and water supply policy arrangements for remote Indigenous communities of under 100 people, that are not otherwise scheduled for being provided by the mainstream essential service providers, be reviewed urgently with a view to ensuring access to a program of essential service provision that includes utilising new available technologies aimed at ensuring these communities become less reliant on diesel fuel.

Page 101

Recommendation 9

The Committee recommends that an assessment be undertaken of the future road maintenance budget needs of remote communities and that the Department of Planning and Infrastructure, in conjunction with Main Roads and with local government, develop a land access strategy for these communities in light of likely future higher fuel prices.

Page 101

Recommendation 10

The Committee recommends that when regional Term Network Contracts for road maintenance are being re-let by Main Roads WA, and new road works are undertaken, that tenders include an evaluation item on the amount of new Aboriginal training and employment opportunities generated in the contract.

Page 109

Recommendation 11

The Committee believes that the moratorium on the sale of full-strength and mid-strength take away alcohol in Fitzroy Crossing be continued. The Committee believes that opportunities to expand strategies for alcohol management plans to other towns and communities will be greatly enhanced by securing real opportunities for Indigenous representatives to give voice and input to the policy formulation that guides further implementation.

Page 110

Recommendation 12

A review of the impact of the implementation of the Gordon Inquiry recommendations in remote Indigenous communities be undertaken as part of the Government's Monitoring and Evaluation Framework of measurable outcomes and indicators to the Gordon Inquiry Report.

Page 115

Recommendation 13

The Yiriman Project should be supported by government and used as a model for similar projects in Indigenous communities in other remote regions of Western Australia.

Page 126

Recommendation 14

The Department of Education should bring together the three educational systems offering educational programs in remote Indigenous communities to coordinate a 5-yearly program of the successful initiatives that can be offered to all children living in remote communities.

Page 132

Recommendation 15

The Committee recommends that an evaluation be conducted into the value to remote Indigenous communities of a state-based protected area program, similar to the IPA, including the potential to enter arrangements with the Commonwealth to attract further funding support for such a program.

Recommendation 16

The current Inquiry by the Local Government Advisory Board into Local Government Service Delivery is encouraged to draw from WALGA's report *The Journey: Sustainability into the Future* and examine options for a collaboration with local, state and federal governments (including Regional Development Commissions and the Regional Development Australia committees) aimed at strengthening, local government's engagement with Indigenous communities across regions.

There is a need for the Board's Inquiry to identify legislative and administrative changes needed to support strengthening Indigenous representation and engagement in local government; and the funding frameworks needed for local government service delivery in remote communities and regions, commencing with an initial focus on the regions of the Western Desert, the Kimberley and the Pilbara.

The LGSB Inquiry should also specifically examine how these arrangements could be underpinned by purchaser-provider arrangements and streamlined service delivery by all three spheres of government.

Inquiry recommendations should principally aim to both build on, and rationalise existing arrangements, but will also need to take full account of the views of local Indigenous communities and their varied history. Specifically, there is the opportunity for a new Western Desert Regional Development Commission to be immediately established. This new WDRDC would draw on the strengths and resources of existing regional structures of government and should develop increased levels of collaboration with the Indigenous communities across the region.

Recommendation 17

There are a number of further measures that need to be adopted by government to ensure DIA gains the necessary authority and credibility both within government and outside, to enhance Indigenous interests in WA.

This requires a clear mandate from Cabinet to DIA to provide high level coordination of all State agencies in delivering an energetic whole of state government policy agenda in Indigenous Affairs; with the authority to recruit and train highly-skilled and capable staff.

Consideration should be given to establishing a bi-partisan Implementation Commission, chaired by the Minister for Indigenous Affairs that includes appointments of key senior representatives of the Indigenous community, together with the most senior representatives of industry and the wider West Australian community, focused on securing progress in the advancement of indigenous interests across WA.

Page 158

Recommendation 18

That WA Treasury is requested to report annually to the WA Parliament on the levels of Indigenous access and equity to Government programs delivered by all relevant WA agencies.

Page 159

Recommendation 19

The WA Government should encourage the CGC to create a new category of funding for remote Australia which addresses capital investment needs and ties funds to the needs identified in the region, but only on the basis that these funds are expended in response to the needs identified by communities in those remote regions.

WA Government should also pressure the Commonwealth to reform its current local government funding arrangements by moving from a per capita to a needs based formula that better responds to the needs of regional and remote communities.

Page 165

Recommendation 20

A comprehensive whole of state government policy approach is required to maximise Indigenous employment, training, business, and investment and wealth management opportunities from the current resources boom. This includes addressing the pre-requisites for linking Indigenous communities to employment in the resource sector (eg accommodation for training and initial employment) and encouraging greater engagement by the financial services sector in delivering products and services that facilitate long term investments, wealth creation and business and joint venture opportunities.

Page 165

Recommendation 21

The State Government should negotiate a partnership agreement with the Commonwealth, relevant regional bodies and industry that commits all the parties to a long term investment strategy that provides the necessary resources to enable Indigenous labour supply to be matched to regional demand.

Page 167

Recommendation 22

This Committee recommends that changes be made to both sentencing laws and prison education programs to create and encourage opportunities and incentives for prisoners to earn earlier release in response to effective engagement in education and training and preparation for employment through job readiness programs.

Page 168

Recommendation 23

The WA Government identify innovative ways to extend public housing provision to remote communities and regions in ways that ensure:

- secure tenure (and thereby opens up opportunities for encouraging private investment in partnership with the State Housing Authority);
- robust tenancy and maintenance arrangements;
- simplification and streamlining of current funding program channels;
- provision of public housing (with associated access to public borrowings which leverage financial allocations in State Housing authorities);
- a focus on geographically targeted investment (rather than spreading resources thinly);
- policy pathways for Indigenous people to purchase or part purchase rented homes; and
- local Indigenous organisations take on outsourced tenancy management roles for the WA State Housing authority (i.e. create local employment opportunities).

Page 169

Recommendation 24

If WA is to fully avail itself of the emerging opportunities at a Commonwealth level in relation to Indigenous housing, it should seek an expedited review of tenure issues in relation to major Indigenous townships (i.e. town-based leases and subdivisions), taking into account developments in other jurisdictions. It should also take every opportunity to identify other related tenure options for facilitating economic opportunities for the 15,000 Indigenous Western Australians currently resident on ALT-owned lands, and pastoral leases and other lands owned by Indigenous interests.

Page 170

Recommendation 25

Apart from the FIM model already examined and recommended by this Committee, consideration might be given by the WA Government to working with the Commonwealth to assist the Traditional Credit Union to extend its services to selected communities and townships in WA.

Page 171

Recommendation 26

WA should give consideration to both encouraging and joining with the Commonwealth, and other jurisdictions, in the development of a more systematic approach to 'train the trainer' programs and initiatives aimed at improving the governance capacity of Indigenous organisations.

Recommendation 27

That the WA Government move to establish a healthy living centre (HLC) program, with a more detailed Implementation Plan prepared by relevant State and Federal agencies. The key features of the HLC program will include family training programs, home maker support services, healing centres that tackle alcohol and drug addictions, as well as responding to the needs to reunite families and communities following the trauma of violence and abuse. Extending beyond the arena of social support services, the healthy living centres will help establish practical and tangible linkages to training programs and employment opportunities, as well as sport and recreation, and links to opportunities for economic development and private sector activities within each region.

MINISTERIAL RESPONSE

In accordance with Standing Order 277(1) of the Standing Orders of the Legislative Assembly, the Committee directs that Ministers report to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the Committee.

CHAPTER 1 INTRODUCTION

1.1 Background

In resolving to inquire into successful initiatives in remote Aboriginal communities, the Education and Health Standing Committee was aware that while the measure of ‘success’ is not an absolute, nonetheless what is successful does stand out in comparison to its antithesis.

When measured against failure in many contemporary remote Aboriginal communities, initiatives which bring access to electricity, water, education or employment may be judged successful.

The Discussion Paper on which this Report is based was originally published in April 2007 and was intended to explain ‘why things are the way they are’¹⁴ in many Aboriginal communities, noting that any genuine attempt to tackle challenging areas of public policy needs to be guided by the lessons of history. Without a working knowledge of our history we can be too easily destined to relive it. This is particularly the case in the area of Indigenous Affairs.

The Committee was aware that developing such a background report on remote Aboriginal communities was an ambitious task. The subject has a long, complex and contested history. Contemporary Indigenous affairs in Australia is an area in flux, and remains complex and contested.

As a result, the Committee is particularly appreciative of those individuals and agencies that took the time to make often detailed submissions in response to the Discussion Paper.¹⁵ The Committee believes that these individuals and agencies have contributed towards ensuring that this Report is a considerably more comprehensive and more accurate document than the original Discussion Paper.

Of necessity, however, reports such as *A Background Report of Remote Aboriginal Communities* will remain partial, and aspects of it, in an environment of such rapidly changing policy, will quickly become outdated.

Nonetheless, the Committee hopes that the Report will contribute to a more informed debate on what has recently been described as “...arguably the most complex and least successful area of public policy in Australia”;¹⁶ an area that has also been described in a submission on behalf of the Ngaanyatjarra communities of the remote Warburton region, Western Australia, as “...a battle

¹⁴ Education and Health Standing Committee. 2006, *Where from? Where to? A Discussion Paper on Remote Aboriginal Communities* (‘the Discussion Paper’), Report No. 6, State Law Publisher, Perth, p ix.

¹⁵ A complete list of submissions is included at Appendix 1.

¹⁶ Westbury, N and Dillon, M. 2007, ‘Removing the constraints’, *Australian Policy Online*, 19 December 2007, www.apo.org.au/webboard/print-version.chtml?filename_num=187535, accessed 20 December 2007.

ground for people who have far more power and influence than the Community members who live with the outcomes.”¹⁷

1.2 This Report

This Report is the sixth in the Committee’s *Inquiry into Successful Initiatives in Remote Aboriginal Communities* series. It is the Committee’s final account of the government arrangements which contributed to the emergence of remote Aboriginal communities, and the circumstances of remote Aboriginal communities in Western Australia today.

As indicated, it draws upon material originally published as Report No 6, *Where from? Where to? A Discussion Paper on Remote Aboriginal Communities*. This Discussion Paper concerned the history of remote Aboriginal communities in Western Australia and the major changes that have been taking place in the arrangements at all levels of government concerning Indigenous affairs in more recent times.

For the purposes of that Discussion Paper, the Committee had sought background information on the current arrangements relating to potable and waste water services, power supplies, housing, and the broader issue of funding, for remote Aboriginal communities. Informal briefings were provided by the Office of Energy, Horizon Power, the Water Corporation, the Department of Housing and Works, and the Department of Indigenous Affairs (refer to Appendix Two). The Chairman also met informally with the Acting State Auditor General to discuss the general absence of accountability measures to ensure that untied funding to State and local governments, allocated on a per capita basis to include Indigenous communities, or because of Indigenous disadvantage, is spent for these purposes.

These briefings and meetings contributed greatly to the Committee’s understanding of the context in which remote Aboriginal communities operate in Western Australia today. In addition to those briefings and meetings, the Committee also relied heavily upon a number of secondary sources in drawing together the material presented in the Discussion Paper. The Committee particularly would like to acknowledge the Department of Indigenous Affairs’ *Lost Lands Report*, published in 2003 but originally drafted in 1997,¹⁸ and the Department of Water’s 2006 *Report to the Minister for Water Resources on Water Services in Discrete Indigenous Communities*.¹⁹

The Discussion Paper was published as a preliminary account and the Committee invited submissions, welcoming the views, corrections and insights of interested members of the community, before finalising its findings and recommendations. The closing date for submissions was originally 18 May 2007. However, with the referral of another Inquiry to this Committee by the Legislative Assembly (discussed in more detail in Chapter 1.4), the deadline was extended

¹⁷ Submission No. 8 from Ngaanyatjarra Council and Ngaanyatjarraku Shire, 17 July 2007, p 19.

¹⁸ DIA. 2003, *Lost Lands Report*, Department of Indigenous Affairs, Perth.

¹⁹ Department of Water. 2006, *Report for the Minister for Water Resources on Water Services in Discrete Indigenous Communities - Final Report*, Department of Water, Perth.

until 17 August 2008. This Report is a compilation of the views, corrections and insights of those who made submissions and the original Discussion Paper.²⁰

1.3 This Inquiry

The Committee resolved to undertake this *Inquiry into Successful Initiatives in Remote Aboriginal Communities* on 23 August 2006. In some respects a continuation of the Committee's earlier Report No. 2, *Inquiry into the Swimming Pool Program in Remote Communities*, the intention was to highlight those initiatives which are bringing positive outcomes to remote Aboriginal communities. It was hoped this would not only provide models for consideration and adaptation by remote communities throughout Western Australia, but highlight successes at a time when there is much focus on the negative and dysfunctional aspects of some communities.

The Committee's Terms of Reference for this Inquiry are as follows:

That the Committee examine, report and make recommendations on successful initiatives in remote Aboriginal communities. The Committee will pay particular attention to:

1. The costs and benefits of successful initiatives;
2. The model utilised for the development and delivery of successful initiatives; and
3. Where possible, comparing and contrasting the models utilised for the development and delivery of successful initiatives.

1.4 A series of reports

As outlined in Chapter 1.1, in order to appreciate the measure for successful initiatives in remote Aboriginal communities, the Committee wanted to first gain an understanding of the broader context in which these communities operate. The investigations to gain this understanding resulted in the first three reports tabled by the Committee in relation to this Inquiry: Report No. 6, *Where from? Where to? A Discussion Paper on Remote Aboriginal Communities*, Report No. 7, *Initiatives in the Remote Indigenous Communities of Cape York*, and Report No. 10, *An Examination of Indigenous Employment by the State*.

As indicated, the Discussion Paper, published on 15 April 2007, incorporated historical research and information from a number of briefings relating to the provision of essential services to remote communities in Western Australia. This Report is based on the original Discussion Paper and the submissions received in response to its publication.

²⁰ The Discussion Paper had included two proposed findings and two proposed recommendations. Despite support in a number of submissions, the findings and recommendations have been omitted from this Report because the implications of the recent change in government at Commonwealth level for remote Indigenous community funding and policies remain unclear at the time of writing.

In November 2006 during the preliminary stages of this Inquiry, Committee members also travelled to Queensland to meet with Mr Noel Pearson and to visit a number of the Cape York communities. The Committee hoped to gain an insight, first-hand, into what was occurring there, given the remarkable influence of Mr Noel Pearson and the *Cape York Agenda*, with particular reference to its broader application through Commonwealth policies to Indigenous individuals and communities throughout Australia.

The Committee also took the opportunity while in far north Queensland to visit the Torres Strait region. The Committee was particularly interested in the role of the Indigenous regional representative authority, the Torres Strait Regional Authority (TSRA). Despite the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC) in 2005, the TSRA appeared uniquely placed in that it continued to be recognised and funded by the Commonwealth to represent the Indigenous people of the Torres Strait and to administer Indigenous programs in that region.

The Committee intended to produce a number of reports drawing from these travels during 2007. However, the referral of the *Inquiry into the Cause and Extent of Lead Pollution in the Esperance Area* to this Committee by the Legislative Assembly on 4 April 2007 interrupted the Committee's plans. Nevertheless, the Committee was in a position to publish its Report No. 7, *Initiatives in the Remote Indigenous Communities of Cape York*, on 21 June 2007. That report was essentially descriptive, and was intended to provide an account of the *Cape York Agenda*, its various initiatives, the complex array of organisations associated with its implementation, the critical debates surrounding its influence, and the considerable financial commitment of governments and others that has been marshalled to implement Mr Pearson's vision for the Cape.

Other reports the Committee intended to publish in this series were deferred until after the completion of the Committee's *Inquiry into the Cause and Extent of Lead Pollution in the Esperance Area*. With the tabling of the Committee's findings and recommendations on its *Inquiry into the Cause and Extent of Lead Pollution in the Esperance Area* on 6 September 2007, the Committee was able to return its focus to its original Inquiry.

The third report in this series again concerned preliminary work undertaken by the Committee to assess the efforts of the State, as the leading employer in Western Australia, to provide Indigenous people with opportunities for economic participation and accessible and appropriate services. Report No. 10, *An Examination of Indigenous Employment by the State*, established that State agency employment of Indigenous people approximated the Indigenous workforce participation rate in Western Australia. However, many State agencies had few, if any, Indigenous employees and the profile of the State agency workforce was not reflective of the broader community, including its growing Indigenous population.

The Committee believes that these three reports have enabled it, and members of the public interested in this Inquiry and without a first-hand knowledge of remote Aboriginal communities in Western Australia, to gain an understanding of the broader context in which those communities operate. That is, a context in which, to a significant degree, such communities have operated outside of the general institutional supports, such as basic infrastructure, mandatory standards, services and employment opportunities which are often taken for granted by others. It is also a

context in which Mr Noel Pearson and the *Cape York Agenda* were able to exercise a remarkable influence over public policy on Indigenous issues in Australia, in particular in relation to remote Aboriginal communities. This was at least in part the result of the vacuum in institutional Indigenous representation left with the dismantling of ATSIC in 2005.

The Committee believes that it is only once this political context is understood that the truly remarkable successes of some initiatives in remote Aboriginal communities can be appreciated.

More recent reports by the Committee in relation to this Inquiry have concerned such initiatives. The fourth report in the series, Report No. 11, *A Successful Initiative - Family Income Management*, concerned the Cape York Family Income Management (FIM) program. The Committee decided that FIM should be documented as a 'successful initiative' in its own right because, when the Committee travelled to Cape York in November 2006, the FIM initiative appeared to have been particularly successful in assisting Indigenous people to manage their income and to access banking services. FIM has been described as a money management system specifically designed to meet the goals of Indigenous people in the remote communities of Cape York. By documenting the FIM initiative, the Committee hoped to provide a model for consideration and possible adaptation by remote communities in Western Australia, and to also indicate that the very significant problems of such communities are not intractable, provided new initiatives are developed in an appropriate way.

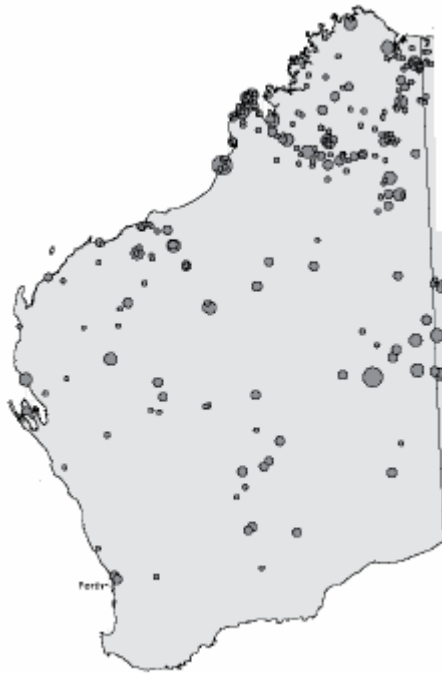
The fifth report in the series, Report No. 12, *Initiatives in the Remote Indigenous Communities of the Torres Strait Region*, had a particular focus on the continuing role of the Indigenous regional representative authority, the TSRA. The TSRA has continued to function despite the abolition of that model for Indigenous regional representation and administration in the remainder of Australia with the abolition of ATSIC in 2005. The Report also examined other initiatives in the Torres Strait region, specifically on Badu Island. The Report concluded by highlighting the connection between the successes of initiatives and communities in the Torres Strait and the representative structures and program delivery mechanisms that are in place for the Indigenous people of that region. The Committee recommended the 'Torres Strait model' of Indigenous regional representation for consideration and adaptation for use for the remote Aboriginal communities of Western Australia.

CHAPTER 2 A BRIEF HISTORY OF HOMELANDS TAKEN AND REGAINED

2.1 Where from (including some more recent developments)?

In recent times there has been intense focus on dysfunction and despair in remote Aboriginal communities. These communities are located far from the major administrative centres, as shown in Figure 2.1 below (where the diameter of the circles represent the community's Indigenous population).

Figure 2.1- Indigenous communities in WA



In 2006, a report of the Child Death Review Committee of Western Australia commented that:

The environmental circumstances in which many Aboriginal children died in the north of the state are alarming. These environments lacked service provision, infrastructure and were impoverished and unsafe for children. The Committee is very aware of the difficulties involved in working with Aboriginal families in these areas and their extended families. However, those working with these families ... appeared to accept as normal the impoverished and unsafe living conditions of children living in Aboriginal transitional or fringe communities...

It may be that if the circumstances of poverty and neglect underlying the likelihood of death in these communities cannot be managed, and parents are not able to safeguard their children's safety and wellbeing, possible removal has to be given more consideration.²¹

In February 2007, the Western Australian Special Adviser on Indigenous Affairs, Lieutenant General (Retd) John Sanderson, described the situation of Indigenous communities in WA in the following terms (further discussion of the Special Adviser's advice is included in Chapter 2.8):

Disadvantage is reported to be on a par with some of the worst Third World countries. Disengagement by Aboriginal people is at levels not seen since the 1960's.²²

On the 20 November 2007, the Premier tabled a copy in the Western Australian Parliament of the Government's internal functional review of the Department of Indigenous Affairs, undertaken by Dr Dawn Casey (further discussion of Dr Casey's report is in Chapter 2.8). The report states:

The ALT [Aboriginal Land Trust] estate is badly neglected. DIA [Department of Indigenous Affairs] acknowledge that there are some 3,500 houses and other buildings on the estate, many of which are dilapidated and in dangerous condition. There are problems with overcrowding, exposure to asbestos, contaminated water supplies, ageing and run down waste water and other environmental health infrastructure, poorly maintained roads, and lack of fire abatement and vermin control programs.

The State Solicitor's Office has advised that the ALT has a legal duty of care to the more than 15,000 residents who live on the ALT estate. Whilst government has provided an initial allocation of funds for urgent remedial work on the estate, the DIA estimate that a further \$8.5 million is required to meet its obligations to address land management issues over the next four years.

The issues inhibiting land transfer are complex. Nevertheless, the government has failed to progress the transfer of ownership of Aboriginal lands back to Aboriginal people, despite this being an urgent requirement a decade ago. The neglect of living conditions on the ALT estate remains an appalling indictment on the government. Where the government has had the means to make a direct and lasting impact on the lives of 15,000 (almost one quarter of all) Aboriginal people of Western Australia, they have failed to do so. Furthermore, it has left the government exposed to liabilities from the very people the ALT was established to benefit.²³

The recently released findings of the Coronial Inquest into 22 Indigenous deaths in the Kimberley region conducted by Coroner Alastair Hope, details a very disturbing picture (a fuller discussion of the Coroner's findings is in Chapter 2.8). The Coroner reported:

²¹ Child Death Review Committee Western Australia, *Annual Report 2005-2006*, Child Death Review Committee Western Australia, Perth, 2006, pp 20, 21.

²² Sanderson, J. 2007, 'Brief to the Minister for Indigenous Affairs in Preparation for a Meeting with Special Adviser on Tuesday 13 February 2007', p 1.

²³ Casey, D. 2007, *Report on the Review of the Department of Indigenous Affairs*, April 2007, p 19.

It was clear that the living conditions for many Aboriginal people in the Kimberley were appallingly bad. The plight of the little children was especially pathetic and for many of these the future appears bleak. Many already suffer from foetal alcohol syndrome and unless major changes occur most will fail to obtain a basic education, most will never be employed and, from a medical perspective, they are likely to suffer poorer health and die younger than other Western Australians. In this context the very high suicide rates for young Kimberley Aboriginal persons were readily explicable.

Evidence at the inquest revealed that there is no real leadership or coordination in the response to the disaster of Aboriginal living conditions in the Kimberley on the part of either the State or Commonwealth governments.

The evidence also revealed a lack of accountability in the response.²⁴

In the original Discussion Paper on which this Report is based, the Committee noted that often suggestions about what needed to occur in remote Aboriginal communities were justified by the adage ‘desperate times demand desperate measures’. The Committee noted that the extent of the crisis in many such communities had prompted discussion of what would otherwise appear drastic and radical measures - such as some of those initiatives occurring as part of Mr Noel Pearson’s reform agenda for Cape York, outlined in the Committee’s Report No. 7, *Initiatives in the Remote Indigenous Communities of Cape York*.

Subsequent to the publication of the Discussion Paper, the former Commonwealth government announced the ‘Northern Territory Emergency Response’ in June 2007. Measures announced as part of that intervention included:

- *Enforcing school attendance by linking income support and family assistance payments to school attendance for all people living on Aboriginal land and providing meals for children at school at parents’ cost;*
- *Introducing compulsory health checks for all Aboriginal children to identify and treat health problems and any effects of abuse;*
- *Acquiring townships prescribed by the Australian Government through five year leases including payment of just terms compensation;*
- *As part of the immediate emergency response, increasing policing levels in prescribed communities, including requesting secondments from other jurisdictions to supplement NT resources, funded by the Australian Government;*

²⁴ ABC News. 2007, ‘Coroner accuses Govt of “misdirecting” Indigenous funds’, 4 October 2007, www.abc.net.au/news/stories/2007/10/04/2051303.htm, accessed 5 October 2007, and see also ABC News. 2007, ‘Suicide victim’s mother pleads for better services’, 8 October 2007, www.abc.net.au/news/stories/2007/10/08/2054099.htm, accessed 9 October 2007; Strutt, J. 2007, ‘Forgotten among the squalor’, *The West Australian*, 15 October 2007, p 13; and Taylor, P. 2007, ‘Drink ban town’s neighbours have Crossing to bear’, *The Australian*, 30 October 2007, p 8.

- *Requiring intensified on ground clean up and repair of communities to make them safer and healthier by marshalling local workforces through work-for-the-dole;*
- *Improving housing and reforming community living arrangements in prescribed communities including the introduction of market based rents and normal tenancy arrangements;*
- *Banning the possession of X-rated pornography and introducing audits of all publicly funded computers to identify illegal material;*
- *Scrapping the permit system for common areas, road corridors and airstrips for prescribed communities on Aboriginal land; and*
- *Improving governance by appointing managers of all government business in prescribed communities.*²⁵

The Northern Territory intervention occurred in the absence of any meaningful consultation with affected Indigenous communities, and the proposed compulsory health checks of children had to be modified as these would have been ‘...a form of assault if carried out’.²⁶ Desperate measures for desperate times indeed.

With the recent change in government at the Commonwealth level there has been further modification to aspects of the intervention, in particular relating to the Commonwealth’s Community Development Employment Projects (CDEP)²⁷ program and the success or otherwise of the intervention will be evaluated after it has been in operation for 12 months.

The Committee remains in no doubt that current conditions in many remote communities demand urgent transformation and is cognisant of the crucial significance of efforts to tackle what often appear intractable problems. A number of the examples of such efforts, provided in submissions responding to the Discussion Paper, are included in Chapter 5 of this Report.

However, despite the urgent need for reform there are also demands that the issues warrant careful examination and evidence-based policy formulation. In February 2007, for example, the Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Tom Calma, expressed concerns that many of the current initiatives lacked any ‘...evidence that what they are pushing for has worked’.²⁸ More recently Mr Tom Calma, commented on events in Aurukun involving the sentences given to a group of men and juveniles for the sexual abuse of a 9-year-old girl and stated:

²⁵ Commonwealth Minister for Families, Community Services and Indigenous Affairs. 2007, ‘National emergency response to protect Aboriginal children in the NT’, *Media Release*, 21 June 2007, Canberra.

²⁶ Boffa, J. *et al.* 2007, ‘The Aboriginal Medical Services Alliance Northern Territory engaging with the intervention to improve primary health care’, *The Medical Journal of Australia*, 187 (11/12), p 617.

²⁷ CDEP accounted for approximately one quarter of Indigenous employment. Recent changes to CDEP are discussed in detail in Chapter 2.6(c).

²⁸ Karvelas, P. 2007, ‘Pearson “playing to white crowd”’, *The Australian*, 20 February, p 5.

In November 2001, Justice Tony Fitzgerald reported to the then Premier of Queensland [on] 'the causes, nature and extent of breaches of the law in Cape York communities, as well as the relationship between crime and substance abuse.'

The report recommended that there be 'acknowledgement that serious violence and abuse needs to be subjected to the full force of the law and a clear message that violence will not be tolerated.'

In particular, significant resources were provided to the Cape at both the federal and state levels through the Council of Australian Governments whole-of-government trial which commenced in 2002. We must ensure that the money is impacting in communities in the intended manner.²⁹

Following the change of Commonwealth government in December 2007, at the opening of the new Federal Parliament in February 2008 there was a traditional 'welcome to country' ceremony from the Indigenous traditional owners conducted for both houses of parliament, and both major political parties endorsed a national apology to the stolen generations. The Prime Minister also announced the Government's intention to establish a bi-partisan policy commission co-chaired by himself and the Leader of the Opposition to address Indigenous disadvantage. This commission's first task was nominated as tackling the issue of Indigenous housing.

This chapter is intended to contribute to the current debate on Indigenous policy by providing a background to the emergence of remote Aboriginal communities and an explanation, in part at least, of 'why things are the way they are'. It also appeared to the Committee that much of the contemporary debate on remote Aboriginal communities has been carried out as if such communities were homogeneous; particularly homogeneously 'dysfunctional'. Significantly, many of the larger remote communities emerged at the sites of reserves, missions and settlements to which Aboriginal people were often forcibly removed and detained for reasons of segregation and protection. The smaller outstations, on the other hand, emerged from the 1960s, after segregationist policies were repealed and Aboriginal people were free to return to their traditional lands and kin-based communities.

Remote Aboriginal communities are not therefore homogeneous, and as indicated in Chapter 3, nor are they homogeneously 'dysfunctional'. It is the Committee's view that in developing future policy on remote Aboriginal communities the available evidence of success, limited though it is, needs to be carefully considered.

2.2 Imperial oversight (1829-1897)³⁰

On establishing the Swan River Colony in 1829, the Governor declared that land in what is now known as Western Australia was British Sovereign Territory. Absent from this declaration was

²⁹ ABC News. 2007, 'Opinion - Aurukun story a clarion call for change', 13 December 2007, www.abc.net.au/news/stories/2007/12/13/2117575.htm, accessed 13 December 2007.

³⁰ This section of the Report is sourced from DIA. 2003, *Lost Lands Report*, Department of Indigenous Affairs, Perth, pp 9-12.

any recognition of a right to land by the original Indigenous inhabitants. Some 13 years later, however, the Governor gained power from the Imperial Parliament of Britain to reserve land for the 'Use and benefit of the Aboriginal inhabitants of the Country'.³¹ A number of such reserves were created between 1874 and 1884 and although all reserves were to support Christian missions to Aboriginal people, these reserves were officially the responsibility of the Aborigines Protection Board, the members of which were appointed by the Governor.

Western Australia went on to gain responsible government from Britain in 1890. However, because of British concern over the treatment of Aboriginal people in Western Australia it did not receive full responsibility for Aboriginal affairs. Section 70 of the *Western Australian Constitution Act 1889* provided that one per cent of gross revenue had to be 'appropriated for the welfare of aboriginal natives'. This provision was unpopular within the State, particularly after State revenue increased as a result of the gold rushes, and by 1897 legislation was passed to repeal section 70.³² For the first time the State of Western Australia assumed full responsibility for Aboriginal affairs within its boundaries.

2.3 Sole responsibility - Western Australia (1898 - 1966)³³

From 1898, the administration of Aboriginal people in Western Australia was through the State's Aborigines Department. At this time Aboriginal people who tried to participate in farming were hindered either by the *Land Act 1898* (WA), which prohibited Aboriginal people being given more than 200 acres (although 400 was considered the minimum for a viable farm) or by being granted farms that were declared to be reserves. Without title, Aboriginal farmers could not access loans for the improvements which were frequently a condition of the land grant.

A Royal Commission in 1904, called in response to ongoing British and eastern states' criticism over the problems and abuse of Aboriginal people in WA's north, recommended that large tracts of land be set aside for Aboriginal people. While the subsequent *Aborigines Act 1905* (WA) limited Aboriginal reserves to 2,000 acres, it also provided the Chief Protector with the power, amongst other things, to declare areas prohibited to Aboriginal people, and to remove and confine them to reserves proclaimed under the Act. In northern WA reserves were established and run by the newly amalgamated Department of Aborigines and Fisheries. The establishment of feeding depots, 'Aboriginal' pastoral stations, lock hospitals and additional reserves in the north were part of an expanding program of Aboriginal protection and segregation. In the south, settlements were created as well as 'native camping reserves' near townships where the:

*...appalling conditions engendered by the lack of even the most rudimentary facilities ... were often used as an argument for further segregation.*³⁴

³¹ Under the *Waste Lands Act 1842* (Imperial).

³² Confirmed in the later *Aborigines Act 1905* (WA). The subject of lengthy legal proceedings, culminating in *Yougarla v Western Australia* [2001] HCA 47 (9 August 2001), the High Court found that section 70 of the *Western Australian Constitution Act 1889* had been validly repealed by the 1905 Act.

³³ This section of the Report is sourced from DIA. 2003, *Lost Lands Report*, Department of Indigenous Affairs, Perth, pp 12-24.

From 1915, with the appointment of Mr A O Neville as Chief Protector, the centralised native settlement system began to dominate government policy on the administration of Aboriginal people. These settlements were funded through the closing down of ration depots and halving government assistance to the missions. In the south of the State, other than New Norcia, missionary activity became confined to providing a Christian influence in the settlements.

By 1920 the administration of Aboriginal people in the north was transferred to the Department of the North-West, to which Mr Neville was appointed as Secretary. In the south it was transferred to the Chief Inspector of Fisheries and the Deputy Chief Protector of Aborigines, and removal to settlements was less utilised as gazettal of native camping reserves was seen as a less expensive alternative.

With the Depression, Aboriginal people who could no longer be employed by farmers moved to the camping reserves and over time many of these reserves were moved further from the towns. In addition to increasing segregation in country towns, a pass system was introduced in 1937 to restrict Aboriginal people not resident in Perth, or who could not demonstrate legitimate business there, from entering the city.

By the mid 1930s allegations of slavery, maltreatment of Aborigines by pastoralists and abuse of Aboriginal women prompted another Royal Commission. The overhaul of the *Aborigines Act 1905* (WA) which followed resulted in it being renamed the *Native Administration Act 1936* (WA). The new Act largely continued the policies of the original Act, although with a greater regulatory role over missions. By the end of the 1930s, there were 40 native camping reserves created for the purposes of segregation and, of the 39 farming properties previously reserved for particular Aboriginal people, only nine had not been resumed by the State.

During World War II, and subsequently, there were changes to the strict segregationist policy which saw Aboriginal people gradually become entitled to Commonwealth social security entitlements and to gain restricted access to citizenship rights. At the same time more native camping reserves were being created as Aboriginal people began to concentrate in regional centres because of better access to employment and government services.

However, with the formalisation of a policy of ‘assimilation and supervision’ from 1948 there was a shift away from the use of native camping reserves. In the south, a program to normalise reserves commenced with provision of toilets and better water supplies, then temporary accommodation (sheds), and, beginning in the second half of the 1950s, with the construction of temporary housing.

This coincided with enactment of the *Native Welfare Act* (WA) in 1954. That Act removed the powers to declare towns and cities as prohibited to Aboriginal people and for protectors to order the removal and confinement of Aboriginal people to reserves. In the north, cattle stations reserved for Aboriginal use were disposed of and large tracts were excised from reserves. The Aboriginal settlements in the south were given to the control of churches, with financial support from the government, to cater for Aboriginal children removed from their families.

³⁴ *ibid.*, p 16.

Up until this time, few Indigenous people were able to vote. The Constitution of Australia provided that:

No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State, shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of Parliament of the Commonwealth.

Legislation had ensured that the provision was applied to ‘any aboriginal native of Australia’ to exclude them from voting unless they were on the State’s electoral roll in 1901.³⁵ However, shortly after the *Commonwealth Electoral Act 1918* was amended in 1962 to provide that Indigenous people could enrol to vote in Commonwealth elections if they wished, the right to vote in State and Territory elections was also extended to Indigenous people in the Northern Territory and Western Australia.³⁶

By 1963 the legal restrictions on Aboriginal people were largely repealed although the Department of Native Welfare continued to use the power to reserve land for Aboriginal housing throughout town and city boundaries across the State. Many of these lots, however, were in remote parts of town, underdeveloped and un-serviced. Where lots were developed, the houses were consistently substandard.

2.4 Shared responsibility: WA and the Commonwealth (from 1967)

As a result of the 1967 referendum, the Commonwealth was granted power for the first time to ‘make special laws’ for Aboriginal Australians resident in the States (it already had power to legislate for those in the Territories).³⁷ Western Australia no longer had sole administrative

³⁵ Australian Electoral Commission. 2006, *History of the Indigenous Vote*, Australian Electoral Commission, Canberra, p 5. The Commission reports:

Electoral officials had the power to decide who was an ‘aboriginal native’ and who was not. It was common for some people of Aboriginal and Torres Strait Islander descent to be allowed to vote (usually only if they lived like white people) and for others to be refused.

³⁶ *ibid.*, p 8. In 1965, when Queensland followed the other States and permitted Indigenous people to vote in State elections, Indigenous people around Australia gained the same voting rights as other Australians.

³⁷ National Archives of Australia, *Fact Sheet 113 - Aboriginal and Torres Strait Islander People*, p 1. Section 51 (xxvi) of the Constitution had stated that the Commonwealth had power to make laws for:

The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws.

The ‘Yes’ case for the 1967 referendum identified two purposes for deleting the words ‘other than the aboriginal race in any State’. The first purpose was to:

remove any ground for the belief that, as at present worded, the Constitution discriminates in some ways against people of the aboriginal race (Kartinyeri v The Commonwealth [1998] HCA 22 (1 April 1998), par 26).

The second purpose was:

to make it possible for the Commonwealth Parliament to make special laws for the people of the Aboriginal race, wherever they may live (ibid., par 30).

responsibility for its Aboriginal population although, initially, this new legislative power did not result in the Commonwealth assuming any additional financial responsibilities.³⁸

(a) The origins of the homelands movement (1972)³⁹

In 1972, however, the Commonwealth established the Department of Aboriginal Affairs (DAA) and at about this time there were also significant government policy shifts away from an assimilationist policy to one of self-determination, and towards land rights. Commonwealth expenditure on specific Indigenous programs doubled,⁴⁰ and consistent with the policy direction of Aboriginal self-determination, Aboriginal-controlled and managed corporations were funded to provide services at the community level.⁴¹ Commonwealth policy of this time has been described as being driven by the view that ‘...the states were not fulfilling their responsibilities to Aboriginal and Torres Strait Islander citizens’, and as one:

*...that by-passed the states and funded Aboriginal and Torres Strait Islander corporations to deliver government support and programs.*⁴²

At about this time the changes to social security benefits (eg. making payments available in cash) combined with the new policies of self-determination and land rights facilitated the ‘homelands’ movement.⁴³ Homelands were described as:

*...small decentralised communities of close kin, established by the movement of Aboriginal people to land of social, cultural and economic significance to them.*⁴⁴

The origins of these communities was described by a Commonwealth Parliamentary Inquiry in 1987 as:

*The history of the homelands movement is one of a concerted attempt by Aboriginal people in ‘remote’ areas of Australia to leave government settlements, reserves, missions and non-Aboriginal townships and to re-occupy their traditional country.*⁴⁵

³⁸ Gardiner-Garden, J. 1998, ‘Identifiable Commonwealth Expenditure on Aboriginal and Torres Strait Islander Affairs’, *Current Issues Brief*, 18, 1997-98.

³⁹ Unless otherwise indicated, this section is sourced from DIA. 2003, *Lost Lands Report*, Department of Indigenous Affairs, Perth, pp 24-27.

⁴⁰ *ibid.*

⁴¹ Westbury, N. and Dillon, M. 2006, ‘The Institutional Determinants of Government Failure in Indigenous Affairs’, *Australian Financial Review*, 13 December 2006, p 6.

⁴² *ibid.*

⁴³ House of Representatives, Standing Committee on Aboriginal Affairs. 1987, *Return to Country: the Aboriginal Homelands Movement in Australia*, Canberra, p 18.

⁴⁴ *ibid.*, p xiii.

⁴⁵ *ibid.*, pp 7-8.

By 1973 the Commonwealth Government had decided to support the homelands movement and to provide basic establishment grants.⁴⁶ This appears to be related to a broader Commonwealth agenda of:

*...the Commonwealth Government [becoming] increasingly involved in Aboriginal affairs as the direct funding agency for all programmes to provide those special services required by Aborigines beyond those available to them as members of the general community.*⁴⁷

(b) 'Mainstreaming' by the State (1972-1973)

While these developments were occurring at a federal level, in Western Australia in 1972 the *Native Welfare Act 1954* (WA) was repealed. According to the then, and last, Commissioner of Native Welfare, Mr Frank Gare, the Native Welfare Department was seen by the State government of the time as 'unnecessary':

*If natives were to be integrated, they should be treated the same as anyone else and should have access to the same legislation and administrative machinery as everyone else.*⁴⁸

This resulted in Aboriginal housing matters being transferred to the State Housing Commission together with the 1,200 properties reserved for 'native housing'. A number of reserves including hostels, community halls and lots which had been reserved for the 'Requirements of the Department of Native Welfare' were transferred to the Department for Community Welfare.

The Department of Community Welfare was also allocated responsibility for welfare issues and matters relating to Aboriginal children. In 1972, there were 3,099 Aboriginal people in institutions in Western Australia, the majority of them children.⁴⁹ The separation of Aboriginal children from their families as a matter of government policy had, by this time, been occurring in Western Australia for a century. Originally removed as 'orphans' (although they had living parents) or as 'apprentices' under the terms of the *Industrial Schools Act 1874* (WA), the 1905 legislation specifically authorised the forcible removal of Aboriginal children from their families. However, from 1951, the adoption of assimilationist policies saw the removal of Aboriginal children take place, in the main, under general child protection legislation. This did not appear to alter the frequency of their removal. Nor did the transfer of responsibility for Aboriginal child welfare to the Department of Community Welfare in 1972. For example, between 1979 and 1981 57 per cent of children in care in WA were Aboriginal. The removal of Aboriginal children is a contentious issue and, for Aboriginal people, also a highly traumatic one. It has been dealt with in

⁴⁶ *ibid.*, p 17.

⁴⁷ Commissioner for Aboriginal Planning. 1974, *Annual Report for the Year Ended 30th June, 1974*, Canberra, p 7.

⁴⁸ Gare, F. 1998, 'Interview with Frank Ellis Gare, last Commissioner for Native Welfare', Battye Library, Perth, p 86.

⁴⁹ National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (Australia). 1997, 'Western Australia', in *Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, Human Rights and Equal Opportunity Commission, Sydney, Chapter 7.

more appropriate detail elsewhere (eg. the *Bringing them home* report and the more recent Child Death Review Committee's report referred to earlier in Chapter 2.1).⁵⁰

Returning to 1972, Mr Gare noted that:

It became obvious though ... that there were some things which couldn't be handed over [to the same legislation and administrative machinery as everyone else']. There were no appropriate departments to take over some of the functions. For instance, consultation with Aborigines, preservation of traditional culture, and handling estates of Aborigines. And this led to the establishment of the Aboriginal Affairs Planning Authority.⁵¹

The much smaller Aboriginal Affairs Planning Authority (AAPA) was established on 1 July 1972 to coordinate the activities of various government agencies and '...to foster the economic, social and cultural advancement of Aborigines of the State'.⁵² The AAPA also administered the Aboriginal Lands Trust, with Aboriginal people appointed as trustees by the Minister of Aboriginal Affairs. The Trust had 86 reserves transferred to it, consisting of 24 million acres.⁵³ However, title and control of these lands were effectively retained by the Crown, and for this reason they were not seen as being subject to the general regulatory framework that applied elsewhere.

(c) Collaborative State-Commonwealth arrangements (1974-1984)

By 1974, in a unique⁵⁴ arrangement, the Commonwealth Department of Aboriginal Affairs (DAA) in Western Australia became responsible for the administration of the State's *Aboriginal Affairs Planning Authority Act 1972*, with the exception of the Aboriginal Lands Trust. Mr Frank Gare became the head of both the State's AAPA and the Commonwealth's DAA in Western Australia. Mr Gare later conceded the 'joint administration' had odd consequences such as correspondence with the same individual having to reflect that person's different functions, but:

It didn't cause any trouble at all. It meant there was absolute coordination between the two [Commonwealth and the State] because the one person held both jobs. So there was no need for formal consultation.⁵⁵

⁵⁰ *ibid.*; Child Death Review Committee Western Australia, *Annual Report 2005-2006*, Child Death Review Committee Western Australia, Perth, 2006.

⁵¹ Gare, F. 1998, 'Interview with Frank Ellis Gare, last Commissioner for Native Welfare', Battye Library, Perth, p 86.

⁵² Commissioner for Aboriginal Planning. 1973, *Annual Report for the Year Ended 30th June 1973*, Canberra, p 7.

⁵³ *ibid.*

⁵⁴ This was unique in Aboriginal affairs, but similar to the arrangements for the State and Commonwealth statistical authority at the time. Gare, F. 1998, 'Interview with Frank Ellis Gare, last Commissioner for Native Welfare', Battye Library, Perth, p 87.

⁵⁵ Gare, F. 1998, 'Interview with Frank Ellis Gare, last Commissioner for Native Welfare', Battye Library, Perth, pp 88-89.

During the ten years the arrangement was in place, the Commonwealth-funded and staffed State AAPA distributed many millions of dollars of Commonwealth funds annually to Western Australian agencies for housing, education, health, employment and welfare, with additional funding being granted directly to Aboriginal organisations and communities in the State.⁵⁶

Interestingly, during this time the State's view on the purpose of Commonwealth funding appeared to change. Originally the funding had been described as being to provide for '...special services required for Aborigines beyond those available to them as members of the general community'.⁵⁷ Later the funding was described as being '...provided by the Federal Government for the benefit of Aborigines in Western Australia'.⁵⁸ By 1975-76, for example, the bulk of the funding allocated by the Commonwealth, via AAPA, to the State Housing Commission was being spent on urban housing.⁵⁹

In its submission responding to the Discussion Paper, the Department of Indigenous Affairs noted that this was a significant shift:

Rather than supplementing mainstream services, Commonwealth and other Indigenous specific funding has instead substituted for services usually provided by mainstream agencies. Thus creating an environment where basic essential services are provided on a 'funds permitting' basis rather than as the normal business of mainstream agencies.⁶⁰

With much of the land on which Aboriginal communities were located remaining Crown land, the State was also exempted from the general regulatory framework that applied elsewhere (refer to Chapter 2.8). As a result, and unlike the services usually provided by mainstream agencies, there was no legal requirement that funds be spent on essential services for many discrete Aboriginal communities.

(d) The origins of the Community Development Employment Projects (CDEP) (1977)

The Community Development Employment Projects (CDEP) program was initiated by the Commonwealth in 1976-77 with the aim of providing Aboriginal communities with the opportunity to undertake employment-oriented projects designed to develop their communities.⁶¹ In lieu of individual unemployment benefits, block funding was made available consisting of the total unemployment benefit of the community, together with an additional 20 per cent to provide

⁵⁶ Commissioner for Aboriginal Planning, Annual Reports for the years ended 30 June 1974 to 30 June 1984, and Gardiner-Garden, J. 1998, 'Identifiable Commonwealth Expenditure on Aboriginal and Torres Strait Islander Affairs', *Current Issues Brief*, 18, 1997-98.

⁵⁷ Commissioner for Aboriginal Planning. 1973, *Annual Report for the Year Ended 30th June 1973*, p 7.

⁵⁸ Commissioner for Aboriginal Planning. 1977, *Annual Report for the Year Ended 30th June 1977*, p 7.

⁵⁹ Commissioner for Aboriginal Planning. 1976, *Annual Report for the Year Ended 30th June 1976*, p 16.

⁶⁰ Submission No. 13 from DIA, 31 August 2007, p 2.

⁶¹ House of Representatives, Standing Committee on Aboriginal Affairs. 1987, *Return to Country: the Aboriginal Homelands Movement in Australia*, Canberra, p 143.

for the costs of administration, materials and tools for the projects.⁶² Recipients could be exempted from participating in the activities usually required to be eligible for unemployment benefits (remote area exemptions or 'RAEs') on the basis that there was no local access to a labour market, labour market program or vocational training course.⁶³

In responding to the Discussion Paper on which this Report is based, the Ngaanyatjarra Council and Ngaanyatjarraku Shire submitted:

The original outlines and guidelines for CDEP were tabled in the Australian Parliament's House of Representatives, 26 May 1977. The following is an extract from that tabled report:

Factors which led to the development of the program

1. *High unemployment among Aboriginals living in remote areas or as separate communities where normal job opportunities are inadequate.*
2. *The resultant inactivity from unemployment, coupled with the payment of unemployment benefit, has led or contributed to deleterious social effects within the communities including:*
 - *adverse attitudes of Aboriginal men to work;*
 - *severe drunkenness and associated violence;*
 - *health hazards, and child neglect which occurs because some parents use their unemployment benefit for alcohol instead of food and clothing; and*
 - *acute juvenile delinquency.*
3. *Requests have been made by communities to the Minister and Department to provide work instead of unemployment benefits. Certain communities have refused to accept unemployment benefits but face increasing pressure to accept it as a source of cash income.*
4. *Large imbalances in income being received by Aboriginals in remote or separate communities:*
 - *among regions;*
 - *among communities; and*
 - *among individual Aboriginals within communities.*

Objectives of the pilot program

5. *To provide employment opportunities thereby reducing the need for unemployment benefit for unemployed Aboriginals within the community at a cost approximating unemployment benefits.*
6. *To include in the employment provided, activities directed at combating the social problems referred to, so as to help reduce their deleterious effects and progressively improve community stability.*

⁶² *ibid*, pp 142-143.

⁶³ Department of Employment and Workplace Relations. 2007, 'Updated Questions and Answers for the CDEP Guidelines 2006-07', www.workplace.gov.au/NR/rdonlyres/93B45EF0-8908-4FB0-BA43-2534BFE6623A/0/Finalupdate24Oct.pdf, accessed 5 February 2007.

7. *To progressively eliminate the imbalances in incomes referred to in (4).*
8. *To maximise the capacity of Aboriginal communities to determine the use of their workforce.*

Guidelines

9. *Community Development Employment Grants will be applied to provide employment to unemployed members of an Aboriginal community and will be confined to Aboriginals living in remote areas or as separate communities where there is high unemployment and inadequate job opportunities and where the projects have been specifically requested by a community.*
10. *Grants will be paid to Aboriginal community councils but where appropriate may be paid direct to clan groups.*
11. *Grants to individual communities should not exceed the total entitlement of individual members to unemployment benefits as determined by the Department of Aboriginal Affairs in consultation with the Department of Social Security.*
12. *Specific grants may be made for the purchase of materials and equipment required for the implementation of a particular project.*
13. *The type of employment to be undertaken will be agreed between the individual communities and the Department of Aboriginal Affairs. Projects may include: economic ventures, town management activities, social advancement and environment improvement.*
14. *Each community will be encouraged to establish its own method of remuneration for its members who participate in the project provided that:*
 - *all unemployed community members eligible to apply for unemployment benefits will be given the opportunity to participate; and*
 - *each participating community member, provided he contributes the required minimum hours or satisfies other minimum criteria determined by the community, will be guaranteed a minimum income approximating his normal unemployment benefit entitlement.*
15. *In assisting communities to determine methods of remuneration for individual members, the Department of Aboriginal Affairs will encourage communities to adopt co-operative and/or contract employment systems.*
16. *The Department of Aboriginal Affairs will assist and advise communities in the implementation of the projects.*
17. *It has been agreed that the Department of Employment and Industrial Relations will provide/arrange vocational training to assist Aboriginals to participate in the project or where desired to obtain normal employment outside the community.*
18. *The community, when required shall satisfy the Department of Aboriginal Affairs that the project is being implemented in accordance with these guidelines.*
19. *The community shall assist the Department of Aboriginal Affairs to evaluate and monitor the effectiveness of the project, including its social effectiveness (Australian Parliament, House of Representatives, Daily Hansard, 26 May 1977, p 1922.)*

The CDEP program was the instrument that enabled Ngaanyatjarra people to address their appalling living conditions and social circumstances in the late 1970s and 1980s. The program became the basis for developing governance, functional administration and reducing community violence driven by social dislocation and fierce competition over very scarce resources.

*CDEP allowed the Ngaanyatjarra Communities to effectively manage a 'welfare economy' with a substantial element of participants forgoing individual benefit in favour of a common good. The program conformed with the principle of subsidiarity, that things are best done at the closest level to that type of activity.*⁶⁴

Ten years after it was implemented, the report of the House of Representatives Standing Committee on Aboriginal Affairs, *Return to Country: The Aboriginal Homelands Movement in Australia*, noted that CDEP allowed communities to define 'work' for the purposes of remuneration as what was seen as valuable by the community:

*The purpose of CDEP in homeland centres should be to provide homeland dwellers with a guaranteed income support to undertake those productive activities which are important to them and their lifestyle.*⁶⁵

However, it also found that much of the CDEP expenditure contributed to subsidising the provision of municipal services in discrete communities, services which in the wider Australian community would be provided by local government or by separate public utilities.⁶⁶

(e) Land rights (1975-1986)

At around this time in the Northern Territory⁶⁷ and South Australia,⁶⁸ the granting of land rights had enabled the establishment of homelands with an economic base built upon subsistence activities of hunting, gathering and fishing. In New South Wales, the government introduced an Act in 1983 which effectively established, and provided limited power and funding to, State, regional and local Aboriginal Land Councils throughout New South Wales. This Act provided for

⁶⁴ Submission No. 8 from Ngaanyatjarra Council and Ngaanyatjarraku Shire, 17 July 2007, pp 12-14.

⁶⁵ House of Representatives, Standing Committee on Aboriginal Affairs. 1987, *Return to Country: the Aboriginal Homelands Movement in Australia*, Canberra, p 157.

⁶⁶ *ibid.*, p 144; ANAO. 2001, *Municipal Services for Indigenous Communities: Aboriginal and Torres Strait Islander Commission*, Australian National Audit Office, Canberra, pp 11-15.

⁶⁷ In 1976 the Federal Liberal Government amended a Labor Bill and passed the *Aboriginal Land Rights (Northern Territory) Act 1976* which was implemented in 1977. The purpose of the Act was described as follows:

Previously gazetted 'Native Reserves' for the use and benefit of Aborigines were scheduled to the Act and for the first time 'the benefits' intended were made possible through [the] mechanism of the Act enabling Aboriginal people equal negotiating status in 'arms length' commercial arrangements affecting their land and lives. The States were expected to follow the Northern Territory, although not immediately, and not in the same format. (Royal Commission into Aboriginal Deaths in Custody, Regional Report of Inquiry into Underlying Issues in Western Australia, Australian Government Publication Service, Canberra, 1991, 6.4)

⁶⁸ In 1981 the Pitjanjatjara Bill, relevant only to the north-west reserves in that State, was passed (*ibid.*).

a fixed 75 per cent of the land tax to be paid for a period of 15 years with half of the annual amount to be invested for the future needs of Aborigines in New South Wales.⁶⁹ While there was specific provision made for land in some Territories and States, however, it was the Commonwealth which was seen at that time as largely responsible for the development and funding of homelands.

In Western Australia, divisions had emerged between the Commonwealth and State in the late 1970s, and came to a critical level around 1981 over Aboriginal land issues in relation to Noonkanbah.⁷⁰ In May the following year the State government proposed to appoint an independent Commissioner for Aboriginal Planning, partially bringing an end to the joint arrangement between the Commonwealth and the State over Aboriginal affairs.⁷¹

Although new governments were subsequently elected at both Commonwealth and State levels in 1983, and an Aboriginal Land Inquiry was established in Western Australia 1983,⁷² tensions emerged once more. A particular tension was over discussion that the Commonwealth planned to institute some form of inquiry aimed at producing legislation which would address the land rights of Indigenous people throughout Australia.⁷³ By the time the Western Australian government put forward an Aboriginal Lands Bill in 1985, the joint Aboriginal affairs arrangements between Western Australia and the Commonwealth had ended. The State wanted independent administration and the Commonwealth wanted an agency to be clearly identified as being responsible to implement Commonwealth policy in Aboriginal affairs.⁷⁴ When the Western Australian Aboriginal Land Bill did not pass both Houses of Parliament there was further conflict between the State and Commonwealth over the issue of Aboriginal land rights. However, no State legislation eventuated when the Commonwealth abandoned its plans for national uniform land rights in March 1986.⁷⁵

(f) Funding the communities (from 1986)

Negotiations arising as a result of the abandonment of land rights in Western Australia (which is still the only one of the States and Territories in Australia without land rights legislation)⁷⁶ led to a

⁶⁹ Royal Commission into Aboriginal Deaths in Custody. 1991, *Regional Report of Inquiry into Underlying Issues in Western Australia*, Australian Government Publication Service, Canberra, chapter 6.4.

⁷⁰ Commissioner for Aboriginal Planning. 1981, *Annual Report for the Year Ended 30th June 1981*, p 7. The Noonkanbah dispute 'resulted in the use of a special convoy of drilling material travelling from Perth to the West Kimberley in an atmosphere of intense public feeling'. The exploratory drilling program on what local people regarded as a site of cultural significance did not prove to be a commercial well (*ibid.*).

⁷¹ Commissioner for Aboriginal Planning. 1982, *Annual Report for the Year Ended 30th June 1982*, p 7.

⁷² Royal Commission into Aboriginal Deaths in Custody. 1991, *Regional Report of Inquiry into Underlying Issues in Western Australia*, Australian Government Publication Service, Canberra, chapter 6.4.

⁷³ *ibid.*

⁷⁴ Commissioner for Aboriginal Planning. 1984, *Annual Report for the Year Ended 30th June 1984*, p 7.

⁷⁵ Black, D, 1986, 'Political Chronicle', *Politics and History*, Vol. 32, No. 3, p 493.

⁷⁶ Altman J. and Dillon M. 2006, *A Profit-Related Investment Scheme for the Indigenous Estate*, CAEPR Discussion Paper No. 270/2004, Australian National University, Canberra, p 1.

joint State-Commonwealth agreement, the Aboriginal Communities Development Program. The program was to be funded for \$100 million over the next five years, and contained provision for the State to secure areas of land, by means of excisions from pastoral and vacant Crown land, to satisfy Aboriginal residential needs in areas of traditional significance.⁷⁷ The Commonwealth role was to provide infrastructure for the homelands communities once the land was acquired.⁷⁸ In conjunction with this, it was agreed that the State would be responsible for the repair and maintenance of power, water and waste water services to 48 of the larger Indigenous communities in Western Australia.⁷⁹ The Commonwealth, however, continued to provide supplementary funding to assist in the provision of capital works and power house fuel in the 48 communities and ‘...for all aspects of essential service delivery in the remaining communities’.⁸⁰

The Department of Indigenous Affairs recently described the ‘list of 48’ as consisting of ‘...generally large permanent communities where the infrastructure was of a level acceptable to the State’.⁸¹ Unfortunately no copy of the original agreement or related documentation could be located, but in responding to the Discussion Paper, the Department of Indigenous Affairs submitted:

*The ‘Agreement’ for the State government to assume limited responsibility for the services to 48 communities relates to a series of Cabinet decisions that were made in the mid 1980s. The State’s agreement was conditional on the infrastructure in these communities being at an acceptable standard, that the Commonwealth would continue to provide capital funding and that outstations were excluded from State responsibility.*⁸²

It is the State’s view that ‘...the Commonwealth had assumed responsibility for all remote Aboriginal communities prior to 1985’⁸³ (presumably since the initiatives implemented in 1972) and it appears that this was thought to include not only the outstations, but also the old ‘native camping reserves’ and the larger, established communities on the old settlements and missions.

Recently a Senior Officer Group (including Commonwealth and State officers and a representative of the Western Australian Local Government Association) described this arrangements as:

Essentially, up until the 1970s, the discrete communities were either church missions or native welfare government settlements that were completely excluded from mainstream services. These communities were governed under management offers administered by the

⁷⁷ Royal Commission into Aboriginal Deaths in Custody. 1991, *Regional Report of Inquiry into Underlying Issues in Western Australia*, Australian Government Publication Service, Canberra, chapter 6.4.2.

⁷⁸ *ibid.*

⁷⁹ *ibid.*

⁸⁰ The Commonwealth of Australia, ATSIC, The Government of the State of Western Australia. 2000, *Agreement for the Provision of Essential Services to Indigenous Communities in Western Australia*, p iv.

⁸¹ DIA. 2005, ‘RAESP Management Workshop’ 8 November 2005, p 1.

⁸² Submission No. 13 from DIA, 31 August 2007, p 2.

⁸³ Western Australian Treasury. 2000, ‘Commonwealth Grants Commission Indigenous Funding Inquiry Submission’, No. IFI/SUB/0021, p 26.

*State. Following the 1967 referendum there came a policy shift and discrete communities were then politically acknowledged as Commonwealth responsibility and in the 1970s and 1980s under self-management policies pursued by the Whitlam, Fraser and Hawke Governments, the management of discrete communities was transferred from government and church to Aboriginal community councils, the majority of which were incorporated under Commonwealth law.*⁸⁴

The use of the term ‘discrete communities’ in this summary is significant. Although the State has noted that ‘...services to indigenous people not in remote communities have always been provided as part of mainstream service delivery’,⁸⁵ it appears that the State’s position has been that the Commonwealth also assumed responsibility for town-based Aboriginal communities. Most recently this has been confirmed in the Department of Treasury and Finance submission responding to the Discussion Paper. The Department commented on concerns about ‘the new approach’ by the Commonwealth to Indigenous housing and infrastructure (discussed in Chapter 5.2), stating that this had resulted in:

*...the State having to provide approximately \$9 million per annum towards town-based communities as a result of the Commonwealth withdrawing funding.*⁸⁶

The contention over the division of jurisdictional responsibilities for funding Indigenous communities was apparent as long ago as 1987 when the House of Representatives Standing Committee on Aboriginal Affairs reported on the homelands movement. In its *Return to Country*, the Committee reported that:

It is the Commonwealth’s view that it is the responsibility of State and Northern Territory governments to provide to homeland dwellers the general community services which they provide to all other citizens.

*... The differing views of the States and Northern Territories are based on the premises that the homelands movement is costly and as the Commonwealth has largely been responsible for stimulating the movement through its funding programs and the granting of land rights in the Northern Territory, it is unreasonable to expect the States and the Northern Territory to accept the responsibility for the provision of essential services and other State-type services without the injection of substantial additional funds.*⁸⁷

Return to Country had identified 700 small communities with 14,500 associated people. The Report offered strong and bipartisan support of the homelands movement, despite some reservations about issues associated with levels of service provision. It found that the role of the Commonwealth was essentially a ‘seeding’ role, with ‘special’ funding for development programs

⁸⁴ Sustainable Environmental Health Infrastructure Senior Officer Group. 2007, *The Bilateral Agreement on Indigenous Affairs Issues for Local Government: Discussion Paper*, September 2007, p 3.

⁸⁵ *ibid.*

⁸⁶ Submission No. 12 from Mr Timothy Marney, Under Treasurer, Department of Treasury and Finance, 22 August 2007, p 4.

⁸⁷ House of Representatives, Standing Committee on Aboriginal Affairs. 1987, *Return to Country: the Aboriginal Homelands Movement in Australia*, Canberra, p 100.

such as CDEP and enterprise development; while the States were liable for ‘the “essential” facilities and services which they are obliged to provide to all their citizens’.⁸⁸

2.5 The ATSIC era (1990-2005)

In 1990, the Aboriginal and Torres Strait Islander Commission (ATSIC) replaced the Commonwealth Department of Aboriginal Affairs.⁸⁹ ATSIC had both an administrative and elected arm which allowed it to act as both the primary representative voice for Aboriginal and Torres Strait Islander peoples at national level and to also operate as a government agency.⁹⁰ As such it had both advisory and decision-making functions. It had a broad legislative mandate on behalf of Aboriginal people and Torres Strait Islanders which included the formulation and implementation of programs, monitoring the effectiveness of programs conducted by all bodies and agencies, and developing policy proposals.⁹¹ ATSIC Regional Councils consisted of elected members who in turn participated in the selection of 12 national Commissioners.⁹² Regional Councils were also required to formulate a regional plan and to assist, advise and co-operate in the implementation of that plan, and to represent and advocate for their constituents.⁹³ ATSIC was a key supporter for the homelands movement - both at a policy level and financially.

Shortly after the creation of ATSIC, the *Mabo* decision of 1992⁹⁴ provided recognition of Indigenous people’s legal right to land and the movement to traditional lands was facilitated by later successful native title claims.⁹⁵ Recent research has indicated that the legal recognition of native title has not brought the range of benefits to Indigenous people that might have been

⁸⁸ *ibid.*, pp xvii-xviii.

⁸⁹ National Archives of Australia, *Fact Sheet 113- Aboriginal and Torres Strait Islander People*, p 1.

⁹⁰ Behrendt, L. 2005, ‘The Abolition of ATSIC - Implications for democracy’, in *Democratic Audit of Australia- November 2005*, http://democratic.audit.anu.edu.au/papers/200511_behrendt_atsic.pdf, accessed 1 February 2007

⁹¹ *Aboriginal and Torres Strait Islander Commission Act 1989* (Commonwealth), section 7.

⁹² Behrendt, L. 2005, ‘The Abolition of ATSIC - Implications for democracy’, in *Democratic Audit of Australia - November 2005*, http://democratic.audit.anu.edu.au/papers/200511_behrendt_atsic.pdf, accessed 1 February 2007.

⁹³ *ibid.*

⁹⁴ *Mabo and Others v. Queensland* (No. 2) [1992] HCA 23; (1992) 175 Commonwealth Law Reports 1, (3 June 1992).

⁹⁵ ANAO. 2001, *Municipal Services for Indigenous Communities: Aboriginal and Torres Strait Islander Commission*, ANAO, Canberra, p 28.

expected,⁹⁶ but by the late 1990s the Indigenous land base had expanded and there were growing pressures from Indigenous people for support for further decentralisation of services.

By 1996, ATSIC imposed a moratorium on the funding of new homelands communities.⁹⁷ At this time these were becoming more commonly known as ‘outstations’, indicative of both the reliance of the small communities on the larger Aboriginal townships as service centres, and of the movement between the two as ‘...a culturally distinctive feature of the way Aboriginal people live’.⁹⁸

The Western Australian State government subsequently endorsed its own outstations policy in 1997, in response to an ATSIC discussion paper on the topic. That policy stated:

1. *The funding of infrastructure to outstation communities is the responsibility of the Commonwealth Government and of the communities themselves;*
2. *Funding of outstation communities should not take precedence over the identified needs of larger, permanent communities;*
3. *Outstations should only be funded if they satisfy the core criteria of:*
 - *demonstrated support from the associated base community (if any) for the diversion of resources to the proposed outstation;*
 - *principal residence of the applicants for a significant part of the year;*
 - *secure land tenure granted by the State in accordance with criteria established by the Minister for Lands (where secure tenure is lacking, funding provided in special circumstances should be conditional upon adherence to all other criteria agreed with the State);*
 - *minimal environmental health risk to be assessed in consultation with relevant local authorities, including an adequate supply of potable water;*
 - *provision for planned access by road, air or sea and the preparation of adequate community emergency management plans;*
 - *completion of a planning and coordination process to the satisfaction of the State.*

This process must ensure:

⁹⁶ Laurie, V. 2007, ‘Land use contracts fail to deliver’, *The Australian*, 30 January 2007, pp 1-6; Laurie, V. 2007, ‘Overlooked by the boom: Land access deals have failed to deliver jobs and benefits to Aborigines’, *The Australian*, 30 January 2007, p 11; Pearson, N. 2007, ‘Boom and dust lifestyle’, *The Australian*, 3 February 2007, p 29. These reports related to research by Griffith University Prof. Ciaran O’Faircheallaigh who found that after five years of detailed examination of 45 land use agreements that half were ‘basket cases’ that should not have been entered into or had delivered few cultural or monetary benefits for Aboriginal people. Refer to Chapter 4.7 in this report for more discussion on this topic.

⁹⁷ Aboriginal Access and Living Areas Pastoral Industry Working Group. 2003, *Final Report*, p 54.

⁹⁸ Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra, p 1.

- *appropriate consultation with relevant State and local government agencies;*
 - *proper planning for the development and maintenance of the community including its relationship to other associated communities;*
 - *guaranteed access to funds to maintain essential services at a standard acceptable to State regulatory bodies;*
 - *strategies to assess and monitor environmental health risk; and*
 - *adherence to local government building and health regulations.*
4. *The provision of services to outstation communities by State agencies should be negotiated on a case-by-case basis with the relevant functional agency (eg. Health, Education, Local Governments) prior to the establishment of new communities. These negotiations should include specific agreement for Commonwealth funding and agreement about the level and nature of services to be provided.*⁹⁹

In 1999 ATSIC released new policy principles setting out the basis on which the moratorium on new outstations was removed. These required Regional ATSIC Councils to apply planning guidelines which provided some transparency in priority setting to communities involved in these movements.¹⁰⁰ The *National Homelands Policy: ATSIC's Policy for outstations, homelands and new and emerging communities* set out four principal criteria for the establishment of outstations:

- secure land tenure (a focus on the place);
- the outstation must be the principal residence of members (a focus on people);
- access to potable water at outstations (again a focus on the place); and
- support from a community organisation or Outstation Resource Agency (ORA).¹⁰¹

The policy framework also allowed for the transparent assessment of needs, minimum standards in housing and infrastructure (a requirement that was problematic owing to the high costs of delivery and the nature of local priorities), the need for planning, and the option for ATSIC to withdraw support. ATSIC policy also stated unequivocally that development at outstations would be staged.¹⁰² It highlighted that outstations could not expect the same level of housing, infrastructure and services as available within existing communities unless populations stabilised and grew. This view reflected recommendations made in the earlier *Return to Country* report.¹⁰³ Within two

⁹⁹ Attachment to Submission No. 13 from DIA, 31 August 2007.

¹⁰⁰ ANAO. 2001, *Municipal Services for Indigenous Communities: Aboriginal and Torres Strait Islander Commission*, Australian National Audit Office, Canberra, p 29.

¹⁰¹ Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra, pp 6-7.

¹⁰² *ibid.*, p 7.

¹⁰³ *ibid.*

years, ATSIC had retreated and imposed a moratorium on the funding of new ORAs through its Community Housing and Infrastructure Program (CHIP).¹⁰⁴

By 2000, the Western Australian Government had entered into an agreement with ATSIC and the Commonwealth to expand its provision of maintenance and repairs to permanent Aboriginal communities from 48 to 64 large ones (at least 50 residents). ATSIC agreed to fund capital infrastructure and municipal services, including power house fuel, at these communities.¹⁰⁵ The Commonwealth and ATSIC also undertook to provide maintenance and repair to 'emerging communities' of between 40 and 49 people until these were transferred to State responsibility. The State, ATSIC and the Commonwealth also agreed on funding the 'normalisation' of services to Aboriginal town-based communities (not necessarily remote) by mainstream service delivery.

An Australian National Audit Office (ANAO) report found that in 2000-01, ATSIC was providing some \$40 million a year nationally:

...for the recurrent costs of operating and maintaining services such as town management and rubbish disposal, and essential community services such as water, sewerage, power, and local roads in a number of Indigenous communities. ATSIC provides these services by funding community-based Indigenous organisations to implement them. The services are usually provided to communities located in rural and remote localities. In the wider Australian community, the services being delivered by ATSIC's funding in these areas are normally provided by local government or by separate public utilities operating in States and regions...

*The ANAO concluded that ATSIC's Municipal Services activities enable specific Indigenous communities, particularly those in remote areas, to obtain some services they need for maintaining living and environmental health standards. The activities are managed in a way that is broadly consistent with financial reporting and accountability requirements.*¹⁰⁶

Almost half of these municipal funds were expended in WA. The ANAO stated that:

*Over a number of years, ATSIC has provided capital works and power house fuel in these 48 [discrete Aboriginal] communities (the list has been increased to 62 in the past 2 years) and all aspects of essential services delivery in many smaller communities. Power house fuel in the ATSIC CHIP 1997-1998 budget was some \$5.8 million.*¹⁰⁷

The ANAO also found that:

¹⁰⁴ FACS. 2006, *Community Housing & Infrastructure Program (CHIP) - Program Guidelines 2005-06*, Department of Family and Community Services, Canberra, 5.3.3.

¹⁰⁵ The Commonwealth of Australia, ATSIC, The Government of the State of Western Australia. 2000, *Agreement for the Provision of Essential Services to Indigenous Communities in Western Australia*.

¹⁰⁶ ANAO. 2001, *Municipal Services for Indigenous Communities: Aboriginal and Torres Strait Islander Commission*, Australian National Audit Office, Canberra, pp 11-12.

¹⁰⁷ *ibid.*, p 115.

*Through the CDEP, ATSIC delivers services some of which substitute for services of a municipal character. But it does not collect data on municipal services impacts of the CDEP, and it has difficulty in presenting comprehensive information about the extent of its Municipal Services role in discussions with other agencies.*¹⁰⁸

In 1999-2000 separate funding for Western Australia was provided by ATSIC under its CDEP program and totalled \$112 million. This was expended primarily in remote areas of the State.¹⁰⁹ Despite having only the third largest Indigenous population and third largest remote/very remote Indigenous population,¹¹⁰ CDEP expenditure in Western Australia was higher than in every other State and Territory by at least \$4.5 million.¹¹¹

In 2002, another agreement was entered into between the State, the Commonwealth and ATSIC, this time "...for the provision of housing and infrastructure for Indigenous people in Western Australia for the period July 2002 - June 2007". The agreement highlighted that:

*Approximately 11% of Aboriginal people living in Aboriginal communities in Western Australia reside in temporary dwellings, with 23% of permanent dwellings requiring major repairs and 11% requiring replacement. It is estimated that nearly \$400 million is needed to repair existing houses in line with national standards and to provide enough new houses to eliminate overcrowding and homelessness.*¹¹²

Amongst other things, there was agreement to pool Commonwealth, ATSIC and State funding for Indigenous housing and infrastructure needs. The agreement also emphasised that:

*Commonwealth funds will target housing and related infrastructure in rural and remote areas where there is a high need and where there are no other housing options.*¹¹³

Although the pooling of funds did not take effect as intended in the 2002-03 financial year, the agreement provided an indicative breakdown of the funding for expenditure on Indigenous housing and infrastructure throughout the State. It comprised almost \$100 million from the Commonwealth, with half from the ATSIC administered National Aboriginal Health Strategy

¹⁰⁸ ANAO. 2001, *Municipal Services for Indigenous Communities: Aboriginal and Torres Strait Islander Commission*, ANAO, Canberra, p 15.

¹⁰⁹ *ibid.*, p 92. No more recent data could be located and the ABS advised that no comparative data on CDEP expenditure per State is published.

¹¹⁰ ABS. 2001, *Population Characteristics, Aboriginal and Torres Strait Islander Australians*, Cat. No. 4713.0, Australian Bureau of Statistics, Canberra, p 22. According to this data, New South Wales had an Indigenous population of 134,888, Queensland 125,910 and WA 65,931. Northern Territory had the largest Indigenous population in remote or very remote regions of 66,188; Queensland had 30,389 and WA 29,751.

¹¹¹ This was possibly related to the large number of remote Indigenous communities, and hence higher administration costs, associated with Western Australia as opposed to a State such as Queensland with a similar remote Indigenous population.

¹¹² The Commonwealth of Australia, ATSIC, The Government of the State of Western Australia. 2002, *An Agreement for the Provision of Housing and Infrastructure for Aboriginal and Torres Strait Islander People in Western Australia July 2002 - June 2007*, p 3.

¹¹³ *ibid.*, p 4.

(NAHS) program and additional lesser funds for municipal services in remote communities (Municipal Services Funding - MUNS), for remote essential services, for town planning and for Aboriginal rental housing. The State was to contribute \$12.5 million, with additional funding of about \$4 million per annum being taken from the State's Department of Housing and Works budget utilising untied Commonwealth funding provided under the Commonwealth State Housing Agreement.¹¹⁴ The proposed State Treasury funding for 2002-03 was to be considerably higher than had previously been made available for these purposes.¹¹⁵

According to Professor Jon Altman of the Centre for Aboriginal Economic Policy Research (CAEPR) at the Australian National University, the Community Housing and Infrastructure Needs Survey (CHINS) conducted by the Australian Bureau of Statistics in 2001, showed that:

*...in the 1990s ATSI did a fair job of closing the gaps between townships and outstations that were extreme in the 1970s and 1980s. ... much of this improvement was due to the efficacy of the ORAs [Outstation Resource Agencies], especially as they became CDEP organisations in the 1990s and administered significant quantities of Commonwealth Community Housing and Infrastructure Program (CHIP), National Aboriginal Health Strategy (NAHS) and Housing and Infrastructure Priority Program dollars.*¹¹⁶

If Professor Altman's analysis is correct, it was ATSI and the CDEP funds, together with the work of the ORAs, which were fundamental in maintaining the viability of outstations and improving conditions in them. It was at about this time that Mr Noel Pearson published his seminal *Our right to take responsibility*, stating that 'passive welfare' had undermined Aboriginal Law, led to grog and alcohol abuse in Aboriginal communities, and he began advocating the 'right to a real economy' for Aboriginal people.¹¹⁷ Mr Pearson also highlighted that the existing system of:

...community governance keeps the power (the right and responsibility) to decide and take action away from individuals. This removes responsibility and initiative from the people themselves...

*... when I talk about 'leadership' I talk about a pervasive concept. It is something that everybody is capable of exercising ... The pyramid style conception of power and governance is reinforced by the formal system of governance.*¹¹⁸

¹¹⁴ The Commonwealth of Australia, ATSI, The Government of the State of Western Australia. 2002, *An Agreement for the Provision of Housing and Infrastructure for Aboriginal and Torres Strait Islander People in Western Australia July 2002 - June 2007*, p 22.

¹¹⁵ DIA. 2002, *Services to Discrete Indigenous Communities in Western Australia*, Discussion Paper, Department of Indigenous Affairs, Perth, p 14.

¹¹⁶ Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra, p 7.

¹¹⁷ Pearson, N. 2000, *Our Right to Take Responsibility*, Noel Pearson & Associates, Cairns QLD, p 5.

¹¹⁸ *ibid.*, pp 47-52.

Ms Kerry Arabena, a visiting Research Fellow at the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), and a descendant of the Merriam people of the Torres Strait, has argued that a number of suggestions put forward by Mr Pearson in *Our Right to Take Responsibility* were adopted by the Howard Government to implement its agenda on Indigenous affairs. In particular, Ms Arabena criticised Pearson's contention that leadership was something that 'everyone must do' because it implied that no representative 'intermediaries' such as ATSIC were required.¹¹⁹

The Committee was particularly keen to visit with Mr Pearson and to observe his initiatives in Cape York. Mr Pearson's analysis of the difficulties confronting Indigenous Australia and proposed solutions had striking resonance with the former Commonwealth's *New ways of working* in Indigenous affairs, and also more broadly with contemporary public debate surrounding remote Aboriginal communities. These initiatives have been the subject of other reports by this Committee: Report No. 7, *Initiatives in the Remote Indigenous Communities of Cape York* and Report No. 11, *A Successful Initiative - Family Income Management*.

2.6 The Commonwealth's *New ways of working* (2004-2007)

The former Commonwealth Minister for Indigenous Affairs, Mr Brough, published an *Indigenous Fact Sheet* about the 'New Arrangements in Indigenous Affairs', stating that 'important changes' were being made from 1 July 2004. It referred to special programs still being in place, but stated these were to be "...administered by the agencies that provide similar services for all Australians". It also referred to the various agencies that would coordinate these programs, including the Ministerial Taskforce on Indigenous Affairs, Indigenous Coordination Centres which were to be located in 30 locations across Australia, and highlighted that the Council of Australian Government (COAG) was to be a key strategic forum and that "...the new arrangements build on work sponsored by COAG since 2000".¹²⁰ Discussion of the COAG initiatives follows in Chapter 2.6(b) below.

As indicated, ATSIC and CDEP had been integral in the development and support of the remote communities and outstations. The former Commonwealth government's 'new arrangements' would see substantial reform in Indigenous policy with the dismantling of ATSIC, the move to mainstream service delivery and increasing restrictions on the availability of CDEP.

There was one clear regional exception to these reforms. The Torres Strait Regional Authority (TSRA), with powers similar to those of ATSIC, was retained in the Torres Strait. That Authority also continued to administer CDEP funding,¹²¹ unlike every other region in Australia where the

¹¹⁹ Arabena, K. 2005, *Not Fit for Modern Society: Aboriginal and Torres Strait Islander people and the new arrangements for the administration of Indigenous Affairs*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra, pp 22-23.

¹²⁰ Minister for Families, Community Services and Indigenous Affairs. [undated], *Indigenous Fact Sheet 3.1 New Arrangements in Indigenous Affairs*.

¹²¹ Torres Strait Regional Authority, Education, Training and Employment, www.tsra.gov.au/the-torres-strait/issues/employment,-education--training.aspx, accessed 3 April 2008.

program was administered through the Department of Employment and Workplace Relations (DEWR). The opportunity to observe the success or otherwise of the governance regime in the Torres Strait, which seemed to be different to that used in other remote Indigenous communities, was a significant factor shaping the Committee's travel itinerary in far north Queensland in November 2006. The Committee's travel to the Torres Strait region is the subject of Report No. 12, *Initiatives in the Remote Indigenous Communities of the Torres Strait Region*.

(a) ATSIIC

The Commonwealth announced its intention to abolish both ATSIIC and the Aboriginal and Torres Strait Islander Services (ATSIS)¹²² on 15 April 2004. Programs and services which ATSIS had administered were distributed to mainstream Commonwealth government agencies. The transfer of the vast majority of programs occurred on 1 July 2004, while on 16 March 2005 the Commonwealth Parliament passed the ATSIIC Amendment Bill abolishing ATSIIC and ATSIS. The legislation was proclaimed with effect from 24 March 2005 and ATSIIC Regional Councils ceased operations on 30 June 2005.¹²³

Critics have noted that, although the rationale for the abolition of ATSIIC was often tied to the poor socio-economic indicators for Indigenous Australians, ATSIIC did not have funding responsibility for either health or education.¹²⁴ Moreover, although it did not have strong voter turnouts at its elections, these were in some instances higher than at local government or trade union elections (particularly in those electorates where remote communities had specific and special service needs).¹²⁵

Nonetheless, the Committee notes that there was broad agreement, even amongst those who supported its continuation, that there were significant problems with the ATSIIC processes. For example, in 2003 the *Review of the Aboriginal and Torres Strait Islander Commission* reported:

¹²² The Commonwealth established the Aboriginal and Torres Strait Islander Services (ATSIS) as a separate Commonwealth Agency on 1 July 2003 to make all individual funding decisions concerning programmes delivered by ATSIIC. ATSIIC Commissioners and Regional Councillors were to continue to determine policies and priorities for expenditure, in line with the original intention behind the establishment of ATSIIC (Department of Immigration and Multicultural and Indigenous Affairs, *Fact Sheet Indigenous Affairs Budget: Chronology of Indigenous Policy Achievements*, p 4). The Commonwealth established ATSIS because of concerns about accountability and conflict of interest. Hannaford, J. Huggins, J. and Collins, B. 2003, *Report of the Review of the Aboriginal and Torres Strait Islander Commission, In the Hands of the Regions - A new ATSIIC*, 2003, p 19.

¹²³ The Agreements, Treaties and Negotiated Settlements Project database, 'ATSIS', www.atns.net.au/biogs/A002578b.htm, accessed 5 February 2007.

¹²⁴ Behrendt, L. 2005, 'The Abolition of ATSIIC - Implications for democracy', in *Democratic Audit of Australia- November 2005*, http://democratic.audit.anu.edu.au/papers/200511_behrendt_atxic.pdf, accessed 1 February 2007.

¹²⁵ For example, voter turnout in the Northern Territory reached 34.68 per cent, and in WA reached 27.70 per cent (*ibid.*).

This first comprehensive external review of the Aboriginal and Torres Strait Islander Commission (ATSIC), the principal adviser to government on Aboriginal and Torres Strait Islander affairs, has found the organisation is in urgent need of structural change.

ATSIC needs the ability to evolve, directly shaped by Aboriginal and Torres Strait Islander people at regional level. This was intended when it was established, but has not happened. ATSIC needs positive leadership that generates greater input from the people it is designed to serve. One of its most significant challenges is to regain the confidence of its constituents and work with them and government agencies and other sectors to ensure that needs and aspirations are met. ATSIC also has to operate in a way that engages the goodwill and support of the broader community.

The review panel's report recommends a package of reforms which give greater control of ATSIC to Aboriginal and Torres Strait Islander people at regional level. These reforms should enable Aboriginal and Torres Strait Islander peoples to stimulate change where it is most needed. Along with the recent COAG initiatives to address the appalling degree of Aboriginal and Torres Strait Islander disadvantage, a regional orientation will strengthen the voice and efficiency of regional councils and establish the necessary framework for integrated service and program delivery.¹²⁶

However, rather than acting on the recommendations of this review it had commissioned, the Commonwealth government, with the support of the Opposition, abolished ATSIC.

Subsequently, what had been a moratorium in 2002 imposed by ATSIC on funding of new ORAs appeared to have been extended in 2006-07 as a cessation altogether on the funding of new homelands and outstations.¹²⁷ What might be considered a significant policy shift seems to have occurred without debate.

(b) Shared responsibilities and regional partnerships

After abolishing ATSIC, the former Commonwealth government's primary avenues for engaging Aboriginal communities were through the implementation of Shared Responsibility Agreements (SRAs) and Regional Partnership Agreements (RPAs). The SRAs were negotiated with families, or communities which were not formally structured, and which specified the mutual obligations of both parties in relation to specific projects. The RPAs were broader framework agreements, entered into between governments and a range of Indigenous organisations (which again often had no clear formal mandate to act as representatives for their communities), and included businesses and other groups.

In a joint submission responding to this Committee's Discussion Paper, the Ngaanyatjarra Council and Ngaanyatjarraku Shire provided the following information on these forms of 'partnerships'

¹²⁶ Hannaford, J., Huggins, J. and Collins, B. 2003, *Report of the Review of the Aboriginal and Torres Strait Islander Commission, In the Hands of the Regions - A new ATSIC*, November 2003, p 5.

¹²⁷ The Department of Family and Community Services, *Community Housing & Infrastructure Program (CHIP) - Program Guidelines 2006-07*, at 2.5, states that 'the moratorium on the funding of new homelands and outstations remains in place'.

with government and ‘...the relationship and structures established by governments to engage with community members’:

The Ngaanyatjarra Council and Ngaanyatjarraku Shire entered into a Regional Partnership Agreement (RPA) with the Australian and State Governments in August 2005, in substantial part to seek to achieve some certainty and stability in its relationship with government in a volatile policy environment.

One of the main objectives was to achieve a level of certainty and security in relation to the provision of essential services, in particular power and community administration, provided under the Australian Government’s Municipal Services Program. The inclusion of a guarantee relating to diesel fuel, required for the electricity generators, was a core feature of a regional Shared Responsibility Agreement.

It is fair to say that the RPA has largely failed to live up to expectations. It does not provide a single, coordinated engagement with government (at either level). Agencies fiercely maintain their silos and vertical lines of accountability. Flexibility is a concept not a reality.

The Wanarn community continues to wait for its new store, agreed to in a Shared Responsibility Agreement (SRA) signed almost two years ago. It continues to ask for the same simple request at every government meeting — a new store for a community that has outgrown their old store, and currently condemned by the Shire environmental officer to be in breach of public health regulations.

The Warburton Youth SRA was a success in spite of its SRA status, not because of it. A successful program will survive regardless of bureaucratic bumbblings and agency program managers who cannot see how outcomes can be met in a number of creative ways, not just those prescribed in a set of guidelines.

New SRAs have been difficult to negotiate, with agency staff taking months to respond to simple requests or proposals, by which time community members and staff have lost interest or motivation. One SRA was encouraged in the development stage for four months, before the ICC advised that only half of the initiatives would be supported. It is still in draft format, two months later, awaiting ICC feedback on what constitutes suitable ‘mutual obligation’.

The investment in SRAs, however, only really constitutes the crumbs of the table. With little regard for Ngaanyatjarra feedback on the critical community support programs, the SPA has effectively delivered another bureaucratic process, complicated and inefficient, with few discernible benefits.

Government agency staff fly or drive in to the Ngaanyatjarra Communities in uncoordinated droves, arriving at community meetings unprepared and unable to answer basic questions like how much funding is available for new government initiatives. Government agency staff end up disputing internal matters in front of bewildered

*community members, who wonder how the relative logic of ATSIIC program and policy making processes could be dismantled for this outcome.*¹²⁸

(c) Community Development Employment Projects (CDEP) program

Although not abolished, CDEP also underwent significant reform. The former Minister's Foreword in the 2005 publication *Building on Success: CDEP- Future Directions* stated:

*The Australian Government is seeking to challenge the welfare culture in favour of a work and entrepreneurial culture. A key to moving away from welfare is to build workforce participation with policies that support more Indigenous people getting real jobs and owning their own homes and to encourage commercial development along with effective service delivery of education, health and other essential services. At the same time, we recognise that some labour markets are limited and that programmes of community development will remain an integral component of the new approach.*¹²⁹

However, the DEWR website stated that "...RAEs [Remote Area Exemptions] are being progressively removed around Australia in recognition of increased opportunities for people in remote areas to participate in work or work-related activities".¹³⁰ It was reported in December 2006 that more than 95 per cent of the 549 Aboriginal people who resided in 23 communities which had their RAE removed were unable to find 'real work'.¹³¹ Affected communities included Aurukun in Queensland and Halls Creek in WA.¹³²

The Commonwealth subsequently described CDEP as "...a stepping stone to economic independence"¹³³ with an emphasis on planning "...to move participants into a real job".¹³⁴ Together with the plan to remove RAEs from all remote communities, this demonstrated a very different understanding of the function of CDEP to the earlier view that it was an income guarantee allowing Indigenous people to pursue activities which were of value to their communities.

In their joint submission, the Ngaanyatjarra Council and Ngaanyatjarraku Shire recounted how "...the original community development and employment projects that were envisaged in 1977

¹²⁸ Submission No. 8 from Ngaanyatjarra Council and Ngaanyatjarraku Shire, 17 July 2007, pp 17-19.

¹²⁹ Department of Employment and Workplace Relations. 2005, *Building on Success CDEP - Future Directions*, Department of Employment and Workplace Relations, Canberra, p iii.

¹³⁰ Department of Employment and Workplace Relations. 2007, *Updated Questions and Answers for the CDEP Guidelines 2006-07*, www.workplace.gov.au/NR/rdonlyres/93B45EF0-8908-4FB0-BA43-2534BFE6623A/0/Finalupdate24Oct.pdf, accessed 5 February 2007.

¹³¹ Karvelas, P. 2006, 'Remote Aborigines failing in job search', *The Australian*, 13 December, pp 1-6.

¹³² Department of Family and Community Services [sic], *Community Housing and Infrastructure Program (CHIP) E-Sub Program Guidelines 2006-07 For Applicant Organisations*, p 5.

¹³³ Australian Government. [undated], *Achieving Indigenous Economic Independence: Indigenous Economic Development Strategy*, p 9.

¹³⁴ Department of Employment and Workplace Relations. 2007, *Updated Questions and Answers for the CDEP Guidelines 2006-07*, www.workplace.gov.au/NR/rdonlyres/93B45EF0-8908-4FB0-BA43-2534BFE6623A/0/Finalupdate24Oct.pdf, accessed 5 February 2007.

have been largely ignored in the latest chaotic policy shift in a mainstream world” and described the impact this has had on the Ngaanyatjarra communities:

This program, now controlled by the Commonwealth Department of Employment and Workplace Relations (DEWR) has altered beyond recognition. CDEP is now a top down program, driven by ruthless adherence to narrow and prescriptive guidelines, with little regard for its social or economic effect on communities.

The program management is also very concerned that it is not used to supplement or substitute the funding responsibilities of other employer or service providers. This has inhibited their capacity to work effectively with other agencies. DEWR have ‘siloe up’.

Despite its successes in promoting community stability and certainty in remote communities, and providing much needed support to community services and infrastructure, CDEP has been widely denigrated as flawed and ineffective. In its place, it has been reinvented as a short term ‘welfare to work’ measure. There has been no acknowledgement of the vital and continued importance of this program to remote Aboriginal communities since its inception.

Instead, the practical outcome for community members and staff is increased bureaucratisation, ever increasing limitations on community flexibility to manage its affairs, and increased tendency to ‘escape’ to the more certain environment of direct individual welfare entitlements available through Centrelink. If all community members were to move to Centrelink, however, community capacity and engagement would fall substantially. Ironically, the shift in Australian Government policy has created a perverse [outcome] - encouraging people to move from work to welfare.¹³⁵

With the introduction of the *Northern Territory Emergency Response* by the former Commonwealth government, the restrictions placed on CDEP went even further. It was announced in July 2007 that CDEP in the Northern Territory, including in some of the most remote and disadvantaged communities in Australia, “...will be progressively replaced by real jobs, training and mainstream employment programs”.¹³⁶ It appears that, at least in part, this had been to facilitate the associated emergency measure of quarantining community members’ income “...to make sure that people are spending the money on essentials, on food for children. The other thing is to protect people and protect everybody from humbugging.”¹³⁷

Quarantining of income was effected through the Commonwealth’s social security administration. Although people in receipt of CDEP income do not receive many of the protections and benefits of other wage-earners, such as Award rates and superannuation contributions, CDEP is not

¹³⁵ Submission No. 8 from Ngaanyatjarra Council and Ngaanyatjarraku Shire, 17 July 2007, pp 12-14.

¹³⁶ Commonwealth Minister for Indigenous Affairs. 2007, ‘Jobs and training for Indigenous people in the NT’, *Media Release*, 23 July 2007.

¹³⁷ Major General David Chalmers, Intervention Task Force, reported on ABC. 2007, ‘NT intervention delivers mixed results’, *The 7:30 Report*, 16 October 2007, www.abc.net.au/7.30/content/2007/s2060915.htm, accessed 1 November 2007.

classified as welfare payments but as wages and recipients are not counted as unemployed. As a result, quarantining such people's income required that they be moved from CDEP to welfare.¹³⁸

It is of note that with the recent change of government at the Commonwealth level, the removal of CDEP funds from the remote communities of the Northern Territory communities is being reversed. However, there has been no indication whether the kinds of changes described in the Ngaanyatjarra communities' submission will also be reversed.

(d) Recentralisation

Professor Altman has questioned such 'new arrangements' as part of an apparent trend in Indigenous affairs to:

*...encourage the recentralisation from small discrete Indigenous communities to larger discrete Indigenous communities [or] for a move from outstations to townships or from townships to larger urban centres to improve Indigenous people's livelihood prospects.*¹³⁹

Early reports on the movement of Indigenous people to outstations were hailed as Aboriginal people seeking economic independence and self-sufficiency, and were also recognised as:

*...a reaction to the stresses of living in settlements, reserves and missions and to the practice of bringing diverse groups of Aboriginals together to live in these artificial communities. There was widespread dissatisfaction with the institutional nature of these settlements and missions and a recognition that they had enormous social problems ... For Aboriginal people the perceptions of these communities were as 'no good', 'too much trouble', 'people fightin [sic]', 'too much worry', 'sad place' and 'too much sick there'.*¹⁴⁰

According to Professor Altman, the effectiveness and coherence of the former Commonwealth government policy on Indigenous affairs appeared limited by a lack of understanding and evidence:

In December 2005, Senator Vanstone suggested that outstation people might need to migrate to larger townships if they were to access services. But not long afterwards in March 2006, the new Minister for Indigenous Affairs, Mal Brough, referred to 150 (out of 225) of these townships as 'living hell holes' and town camps as 'urban ghettos'... It does seem problematic when one Minister suggests improvement is only possible if small

¹³⁸ Aborigines in remote communities have also been affected by other changes made to the Federal social security system by the Howard Government. A recent report noted that "Aboriginal people are among the hardest hit in a Centrelink crackdown on welfare recipients" and "In northern Australia, 68 per cent of those who lost all Centrelink payments for eight weeks were indigenous (271 out of 401) and, in Western Australia, 29 per cent (568 out of 1,960), or almost one in three who lost payments for eight weeks, were indigenous." <http://news.smh.com.au/aborigines-hardest-hit-in-dole-changes/20080414-25yy.html>, accessed 14 April 2008.

¹³⁹ Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra, p i.

¹⁴⁰ House of Representatives, Standing Committee on Aboriginal Affairs. 1987, *Return to Country: the Aboriginal Homelands Movement in Australia*, Canberra, p 14.

outstations are closed down, while the next Minister identifies the proposed destinations such as larger townships and urban centres in very negative terms. Perhaps politicians and policy makers are too distanced from the problems of centralisation and the reasons why today's outstation people chose to decentralise.

It appears that the Howard Government, perhaps a little simplistically, sees a trade off between economic equality and cultural plurality ... with outstations symbolising the most culturally different and, consequently, the least likely to succeed in mainstream economic terms. It is noteworthy that such views have been supported by some Indigenous spokespeople like Warren Mundine, who has a somewhat evolutionary take on outstations, and Noel Pearson, who sees Indigenous futures, perhaps a little homogeneously, in the 'real' (or mainstream) economy.

In the 'Beyond Conspicuous Compassion' speech, Vanstone appears to have targeted the opportunity for Indigenous people to choose to live fundamentally differently from the mainstream as an issue up for 'open' debate. While the need for a national debate is to be encouraged, this needs to be an informed, transparent and evidence-based debate. So far this is far from the case ...¹⁴¹

Further highlighting this apparent lack of consistency in the direction of Indigenous affairs policy was a review of the CHIP program conducted by Price Waterhouse Coopers in 2007. The review recommended to:

Continue the shift away from building housing "on country" outstations and homelands and focus on building new housing where there is access to education, health, law and order and other basic services.¹⁴²

The report's recommendations were described in the media as "...a radical plan to accelerate the [Commonwealth] Government's push to move indigenous Australians into larger settlements".¹⁴³ This 'push' was occurring despite the former Minister's reported comments describing the majority of those larger settlements as 'living hell holes' and town camps as 'urban ghettos'.¹⁴⁴

The practical implications of the former Commonwealth government policies were outlined in a submission from the Department of Education and Training responding to the Committee's Discussion Paper. The Department advised:

¹⁴¹ Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra, p 13.

¹⁴² Price Waterhouse Coopers. 2007, *Living in the Sunburnt Country- Indigenous Housing: Findings of the Review of the Community Housing and Infrastructure Programme*, p 23. [www.facs.gov.au/internet/facsinternet.nsf/via/indighousing/\\$file/chip_reviewreport.pdf](http://www.facs.gov.au/internet/facsinternet.nsf/via/indighousing/$file/chip_reviewreport.pdf), accessed 3 April 2008.

¹⁴³ Karvelas, P. 2007, 'No more bush homes for Aborigines', *The Australian*, 9 March 2007, p 1.

¹⁴⁴ Reported in *The Age*, 20 and 21 March 2006, as quoted in Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra, pp 10-13.

The decommissioning of ATSIC and proposed changes to CDEP may impact on people in some smaller outstations to the extent that they move into larger communities or regional centres. Should this be the case, there is the potential for more adverse conditions occurring, such as overcrowding or even the creation of ghettos on the edges of towns. For example, staff in the Goldfields Education District have indicated that people are already moving into Warburton from smaller outstations and suffering the effects of housing shortages and overcrowding.

Principals and teachers are often the only service providers living in remote communities and are reliant on the ongoing provision of essential services. Any decisions about reducing or removing the provision of essential services to the communities will impact upon Department of Education and Training staff.

Implications of removing essential services from or closing down small communities for the Department include the need to review facility needs, staff movement, additional staff accommodation requirements in major centres and asset management. Most assets are transportable, though some are permanent, such as some teacher housing. In some larger communities school sites have no room on the school site to expand to accommodate substantial increases in student numbers. In such cases, additional land may need to be acquired for the school (if available) or the school may need to be relocated. The land area designated for schools in remote communities is significantly smaller than for urban areas. Different language groups living together in the same town can become an issue for law and order. The recent difficulties experienced in Hall's Creek provide an example.

CDEP had a strong training component requirement. Many TAFEWA colleges have had close links with CDEP agencies which resulted in ongoing training being provided for people involved in CDEP projects. Recently, some TAFE colleges have experienced a fall off in the number of Aboriginal students continuing their training courses and lower Aboriginal student contact hours overall. The decrease in student contact hours will have future implications in terms of reduced funding for targeted initiatives which will affect the employment of lecturers and support staff for Aboriginal students. Decreases in training provisions for Aboriginal students will ultimately limit their ability to take up employment opportunities.¹⁴⁵

Additional evidence of the limited effectiveness of the previous policy directions can be seen in the outcome of the 'whole-of-governments' initiative in Indigenous affairs under the auspices of the COAG trials, as discussed next.

¹⁴⁵ Submission No. 5, from Ms Sharyn O'Neill, Director General, Department of Education and Training, 11 July 2007, p 5.

2.7 Council of Australian Governments (COAG) Indigenous Trial Sites (2002-2006)¹⁴⁶

In 2002, prior to the demise of ATSIC but without its direct participation, the Council of Australian Governments (COAG) agreed to a trial of a ‘whole-of-governments’ cooperative approach in up to ten, but eventually only eight, Indigenous communities or regions. The Indigenous trial sites selected included Wadeye in the Northern Territory, Cape York in Queensland and the South East Kimberley in Western Australia. COAG expectation was:

... that the lessons learned from this initiative will be able to be applied more broadly.

Governments agreed that outcomes need to be improved and the way to do that is twofold:

- *governments must work together better at all levels and across all departments and agencies; and*
- *Indigenous communities and governments must work in partnership and share responsibility for achieving outcomes and for building the capacity of people in communities to manage their own affairs.*

This means that responsibility for the condition and well-being of Indigenous communities is one shared by the community, its families and individuals and with governments - this is being called Shared Responsibility.¹⁴⁷

Describing in July 2004 the Commonwealth government initiatives, including its partnership with the States in the COAG trials, the then-Minister of Immigration and Multiculturalism and Indigenous Affairs said:

We have stripped away layers of bureaucracy to make it easier for Indigenous communities to work with Government... The bureaucracy was stifling outcomes. ATSIC was simply another bureaucracy. It was created to get around these difficulties - but in the end only added to them...

In a nutshell, we will produce better results by stripping away the layers of bureaucracy, by listening to local communities, responding to their requirements and sharing responsibility for outcomes with them.¹⁴⁸

¹⁴⁶ COAG is the peak intergovernmental forum in Australia, comprising the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association (ALGA). It has been a significant forum in which a ‘joined-up government’ approach to addressing Indigenous issues has been espoused over the past 15 years. Following the first COAG meetings in 1992, and the National Commitment to the planning and provision of Government programs and services for Aboriginal and Torres Strait Islander people as a shared responsibility and a legitimate policy interest of all spheres of Government, a series of bilateral agreements were entered into, some of which, involving the Western Australia, have been referred to previously.

¹⁴⁷ www.indigenous.gov.au/coag/coag_initiative.html, accessed 6 February 2007.

The evaluation of the trial sites was originally to occur within two years of their commencement;¹⁴⁹ however, the evaluation reports were only made available in late February 2007. Prior to that, newspaper reports had indicated that there were concerns about the departmental costs of administering funds associated with the COAG community projects.¹⁵⁰ For example, in the South East Kimberley trial site, funding by the lead agency (the Department of Transport and Regional Services) was estimated as consisting of \$672,000 expenditure on Canberra-based staff, \$399,800 on Halls Creek-based staff and only \$470,000 on community projects and initiatives.¹⁵¹

Although not part of the COAG trials, an evaluation on the amount of 'red tape' facing Indigenous communities seeking to engage with government was published in May 2006. Surveying 22 Indigenous organisations nominated by the Indigenous Coordinating Centres, it also raised serious concerns. It found that:

- *Relatively small exposure or risk in small grants is not recognised in the way these grants are treated. This is significant because just under half the grants are for \$50,000 or less, and just over 60% are for less than \$100,000. In general, small grants are treated the same as much larger grants with, for example, similar reporting frequency, and large numbers of performance indicators for which data has to be collected: data that is not necessarily useful to the organisation in managing the grant activity. The time taken to report on the smaller grants is generally the same as for larger grants, making the cost per dollar of income very much higher on small grants than large grants.*
- *Annual applications are required for the 66% of grants from programs that continue year after year, even though little changes in the circumstances or risk profile of the funded organisations year after year.*
- *Organisations are receiving little feedback on their reports, and funding departments appear to be making relatively limited use of the information being collected. Of particular concern is that there is minimal analysis or monitoring of the cash position of the organisations, leaving one of the major risks for funding departments unmonitored, despite the effort going into reporting.*
- *Performance indicators are not very closely matched to funded activity in the majority of funding agreements. As reported in Section 5.10 Performance indicators not related to activity, a little over 75% of the schedules have a majority of indicators that are not likely to be useful in managing the activity or organisation well, or informing future policy and program settings. In effect, this*

¹⁴⁸ Minister for Immigration and Multiculturalism and Indigenous Affairs. 2004, 'Deeds more important than words', *Media Release*, 9 July 2004.

¹⁴⁹ www.indigenous.gov.au/coag/evaluation/default.html, accessed 6 February 2007.

¹⁵⁰ Schubert, M. 2006, 'Aboriginal aid swamped by red tape', in *The Age*, 16 February 2006.

¹⁵¹ Answer to Question on Notice REGS 01 asked in the Senate by Senator O'Brien, *Senate Rural and Regional Affairs and Transport Legislation Committee*, Consideration of the Senate Budget Estimates May 2005.

means that in 75% of the schedules, performance reporting requirements meet the generally agreed definition of 'red tape'.¹⁵²

In Senate Estimates Committee hearings in November 2006, the still unreleased evaluation reports of the COAG trial sites described outcomes at the sites as 'varied'¹⁵³ and the report on Wadeye, which had been leaked to newspapers and politicians, was said to refer to:

- departmentalism and program silos continuing to dominate;
- a lack of communication across and between government; and
- a reduction in Indigenous participation.¹⁵⁴

The Associate Secretary of the Commonwealth Department of Families, Community Services and Indigenous Affairs, confirmed that the other lead agencies involved in five of the eight trial sites had "...handed [them] back to us", stating that:

As a result of the evaluations that are about to be considered by government, I think that consideration will be given to bringing the trials to an end and moving on, but that will have to be resolved in partnership with the appropriate state or territory jurisdiction.¹⁵⁵

In February 2007, with the release of the eight trial site evaluation reports and the *Synopsis Review*,¹⁵⁶ the then Commonwealth Minister for Indigenous Affairs was reported as conceding that some of the eight communities hosting the COAG trials were worse off than before the system was implemented.¹⁵⁷ In fact, the evaluation report on the Wadeye trial site stated that although housing and construction had been identified as one of three 'key regional priorities':

With regard to housing, the community has seen four houses for Indigenous occupants built over a period of three years. During that same period some 15 houses were made

¹⁵² Morgan Disney & Associates. 2006, *A Red Tape Evaluation in Selected Indigenous Communities - Final Report for the Office of Indigenous Policy Coordination*, OIPC, Canberra pp 7-8.

¹⁵³ Gibbons, W. 2006, (Associate Secretary, Department of Families, Community Services and Indigenous Affairs), Commonwealth, Senate, *Standing Committee on Community Affairs - Estimates (Hansard)*, 2 November 2006, p CA 39.

¹⁵⁴ Senator C Evans, Commonwealth, Senate, *Standing Committee on Community Affairs - Estimates (Hansard)*, 2 November 2006, pp CA 31, 33 (referring to the Wadeye Trial site evaluation report by Mr Bill Gray of April 2006); and see Taylor, L. 2006, 'Wadeye experiment a failure', *Australian Financial Review*, 2 November 2006, p 7.

¹⁵⁵ Gibbons, W. 2006, (Associate Secretary, Department of Families, Community Services and Indigenous Affairs), Commonwealth, Senate, *Standing Committee on Community Affairs - Estimates (Hansard)*, 2 November 2006, p CA 40.

¹⁵⁶ Morgan Disney & Associates *et al.* 2006, *Synopsis Review of the COAG Trial Evaluations: Report to the Office of Indigenous Policy Coordination*, OIPC, Canberra.

¹⁵⁷ ABC News. 2007, 'Brough vows to fix "flawed" trials in Indigenous communities', www.abc.net.au/news/newsitems/200702/s1855013.htm, accessed 23 February 2007.

*uninhabitable for periods of up to three months through gang violence and an additional 200 babies were born into the community.*¹⁵⁸

It also noted that the Wadeye Indigenous community representative organisation, the Thamarurr Regional Council:

...participated believing that the combined and coordinated resources of both governments would result in early and visible improvements in the wellbeing of the people and the infrastructure of the town and surrounding region. These expectations were reinforced by visits by the Prime Minister, The Chief Minister of the NT and other Ministers over the past three years. Their expectations have not been realised and there is frustration and disappointment regarding the lack of visible and tangible outcomes on the ground.

*The Commonwealth and NT Governments, on the other hand, foresaw that considerable preliminary and planning work would be necessary before any major improvements would be seen on the ground. They were also aware of the considerable lead times associated with the budget processes of government.*¹⁵⁹

According to the *Synopsis Review*:

Some of the controversy about whether the Trials have been a success or not has been based on misunderstanding about the purpose and potential of the Trials...

It appears that most communities and governments entered into agreements in the belief that the Trials were primarily about priorities and issues in their communities.

...[Instead] The Trials were not expected to achieve significant change in the complex issues for Indigenous communities, families and individuals in 1 - 2 years. They were designed to begin to make radical change to how parties worked together that was recognised to be an essential change to achieve major improvement.

*Unfortunately one of the problems that emerged early in some sites was that over ambitious plans were set with the implication that the issues might be addressed in a short time frame.*¹⁶⁰

However, it was not just the ‘ambitious plans’ at ‘some sites’ that created the problems relating to Indigenous expectations of new outcomes. The COAG Indigenous Trial Sites website stated:

Key elements

Each trial site is different. The monitoring framework has been designed to track and capture outcomes from this new approach, taking account of the differences between the

¹⁵⁸ Gray, B. 2006, *Council of Australian Governments (COAG) Trial Evaluation Wadeye Northern Territory*, p 12.

¹⁵⁹ *ibid.*, p 11.

¹⁶⁰ Morgan Disney & Associates *et al.* 2006, *Synopsis Review of the COAG Trial Evaluations: Report to the Office of Indigenous Policy Coordination*, pp 12, 19, 30.

*sites. The evaluation framework will be used to assess whether the approach adopted in the trial leads to improved social and economic circumstances for Indigenous people in the participating communities.*¹⁶¹

It would appear that the COAG trials 'evaluation framework' itself was based upon the expectation that these would lead to improved social and economic circumstances for the participating Indigenous communities.

More recent government interventions into Aboriginal communities have been under the auspice of these communities being assessed as 'communities in acute crisis' under bilateral agreements between the Commonwealth and States. One example of this is the 2006 *Bilateral Agreement on Indigenous Affairs 2006-2010* between the Commonwealth of Australia and the State of Western Australia.¹⁶² That Agreement identified Kalumburu as an 'acute crisis' community, and stated:

*The governments agree that they will initially work together at Kalumburu to assist developing a blue print for future joint ventures in Western Australia.*¹⁶³

Quite apart from the apparent failings of many of the COAG trials to lead "...to improved social and economic circumstances for Indigenous people in the participating communities", critics of these initiatives and the style of the former Commonwealth government's policies claim these:

*...are essentially a means to delimit and focus government actions to a finite number of priority locations. While perhaps smart politics – governments appear to be addressing the worst problems – these ad hoc and 'targeted' approaches reflect policymakers' realisation that current policy settings and program allocations will not deliver the across the board institutional reforms necessary to address entrenched Indigenous disadvantage.*¹⁶⁴

2.8 Indigenous Affairs in Western Australia (2005-2007)

In recent years, the State of Western Australia has been involved with the Commonwealth's 'new ways of working' in Indigenous affairs, through a number of RPAs, the COAG trial in the Tjurabalan region (south east Kimberley) and as a party to two significant bilateral agreements with the Commonwealth.

¹⁶¹ www.indigenous.gov.au/coag/evaluation/default.html, accessed 6 March 2007.

¹⁶² The Commonwealth of Australia and the State of Western Australia. 2006, *Bilateral Agreement on Indigenous Affairs 2006-2010*, pp 12-13.

¹⁶³ *ibid.*, p13.

¹⁶⁴ Westbury, N. and Dillon, M. 2006, 'The Institutional Determinants of Government Failure in Indigenous Affairs', *Australian Financial Review*, 13 December 2006, p 20.

In relation to the latter, in the past ATSIC had been a party to Commonwealth and State agreements affecting Indigenous people in Western Australia.¹⁶⁵ With the abolition of ATSIC, agreements such as the State/Commonwealth *Bilateral Agreement for the provision of Housing, Infrastructure and Essential Services for Indigenous People in Western Australia November 2005 - June 2008*, and the *Bilateral Agreement on Indigenous Affairs 2006-2010*, have been concluded without the formal endorsement of, and in the absence of formal consultation with, Aboriginal communities.¹⁶⁶ Both of these agreements have critical implications for Indigenous communities throughout Western Australia. *The Agreement for the provision of Housing, Infrastructure and Essential Services for Indigenous People* is discussed in more detail in Chapter 5.

Subsequent to the two Bilateral Agreements, in February 2007, the Western Australian Special Adviser on Indigenous Affairs, Lieutenant General (Retd) John Sanderson,¹⁶⁷ noted that the National Framework of Principles for Delivering Services to Indigenous Australians attached to the Commonwealth/State Bilateral Agreements "...calls for a commitment to Indigenous participation at all levels and suggests a departure from the past in this regard".¹⁶⁸ The Special Adviser also noted the "...fundamental importance of Indigenous participation at all levels in the system" to address issues of the:

*...extraordinary levels of Indigenous disadvantage, the widespread lack of confidence in the current system and the foreseeable potential for the situation to rapidly worsen over the next 12 months.*¹⁶⁹

The Special Adviser went on:

It is not possible for me to separate matters of Indigenous participation from the systemic issues of institutional governance, as they are intimately connected and are equally important to achieving the desired outcomes. ...

*There is no doubt that the abolition of the Aboriginal and Torres Strait Islander commission (ATSIC) almost three years ago has left a vacuum in Indigenous representation that is yet to be filled.*¹⁷⁰

¹⁶⁵ For example, The Commonwealth of Australia, ATSIC, The Government of the State of Western Australia, *Agreement for the Provision of Essential Services to Indigenous Communities in Western Australia*, 2000; and the Commonwealth of Australia, ATSIC, The Government of the State of Western Australia, 2002, *An Agreement for the Provision of Housing and Infrastructure for Aboriginal and Torres Strait Islander People in Western Australia July 2002 - June 2007*.

¹⁶⁶ Mitchell, B, Western Australian Local Government Association, 2007, 'Failure to consult puts Indigenous services at risk', (Advertisement), *The West Australian*, 18 December 2007, p 4. Under the agreement, Local Governments are responsible for the delivery of services, but also were not consulted.

¹⁶⁷ Former Governor of Western Australia.

¹⁶⁸ Sanderson, J, 2006, *Quarterly Report to the Premier and the Minister for Indigenous Affairs - 1st Quarter: 1 September 2006-30 November 2006*, p 2. See also COAG, 1992, *National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders*, 7 December 1992, chapters 4.1 and 4.3.

¹⁶⁹ Sanderson, J, 2007, *Brief to the Minister for Indigenous Affairs in Preparation for a Meeting with Special Adviser on Tuesday 13 February 2007*, p 1.

The Special Adviser also reported that:

*It is a widely held view that the current state of Indigenous affairs in WA is disastrous. Disadvantage is reported to be on a par with some of the worst Third World countries. Disengagement by Aboriginal people is at levels not seen since the 1960's. Administratively, the Department of Indigenous Affairs (DIA) is in disarray. There is a lack of clarity of its role internally and externally; leadership has been unstable for many years including four different Ministers for Indigenous Affairs since 2001; morale is low; indigenous employment at middle and senior levels is at an all time low; indigenous staff turnover is exceptionally high; non-indigenous staff turnover is above average; and the Department has a poor reputation throughout Government, the Indigenous community, the corporate and non-government sectors. All of this is compounded by the uncertainty while waiting for the outcomes of a high-level functional review that commenced fifteen months ago.*¹⁷¹

A functional review of the Department of Indigenous Affairs (DIA) by Dr Dawn Casey was finalised in April 2007. The purpose of the review was described as being:

*...to consider and report on how the Department of Indigenous Affairs (DIA) specifically, and government generally, can be best organised to deliver outcomes for the Indigenous community of Western Australia.*¹⁷²

In his submission responding to the Committee's Discussion Paper, the Auditor General advised that the Department of Indigenous Affairs "...received clear audit opinions in 2005-06 for its financial statements, controls and performance indicators".¹⁷³ Dr Casey's review reported that:

*The DIA's mission is to 'close the gap between the social, cultural and economic well being of Indigenous and non-Indigenous people through strategic whole-of-government management and empowering Indigenous people'. The DIA seeks to achieve its mission through three core functions: whole-of-government policy and coordination of services; the management, protection and promotion of Aboriginal heritage sites and culture; and the effective and sustainable management of the land estate held by the Aboriginal Lands Trust (ALT) for Indigenous Western Australians and transfer of its ownership to Indigenous people.*¹⁷⁴

The recent DIA's report, *The Western Australian Overcoming Indigenous Disadvantage Report 2005* (based on the national framework of the same name and measuring the gap between Indigenous and non-Indigenous Western Australians) is relevant in light of the purpose of the

¹⁷⁰ Sanderson, J. 2006, *Quarterly Report to the Premier and the Minister for Indigenous Affairs - 1st Quarter: 1 September 2006-30 November 2006*, p 1.

¹⁷¹ Sanderson, J. 2007, *Brief to the Minister for Indigenous Affairs in Preparation for a Meeting with Special Adviser on Tuesday 13 February 2007*, p 1.

¹⁷² Casey, D. 2007, *Report on the Review of the Department of Indigenous Affairs*, April 2007, p 8.

¹⁷³ Submission No. 7, from Mr Colin Murphy, Auditor General, 13 July 2007, p 1.

¹⁷⁴ Casey, D. 2007, *Report on the Review of the Department of Indigenous Affairs*, April 2007, p 9.

Casey review and the Department's mission of 'closing the gap'. The findings of the 2005 report included:

- *In the period 1996-2001 the life expectancy of Indigenous people was typically 15 – 20 years less than that of non-Indigenous people, with Western Australia having the second highest Indigenous mortality rate in Australia;*
- *In 2003, around a quarter of full-time Indigenous students continued to year 12 (from year 8), compared with close to three-quarters of non-Indigenous students;*
- *In 2004, of those Indigenous students that commenced year 11 in the previous year, 22 per cent of them attained their Western Australian Certificate of Education (year 12 certificate), whereas 57 per cent of non-Indigenous students attained their year 12 certificate;*
- *In 2001, less than one in ten Indigenous persons aged 15 years and over had attained a post school qualification (9%). This is lower than the rate among non-Indigenous people (32%) and all Indigenous Australians (12%);*
- *In 2001, unemployment rates for Indigenous people were more than three times that for non-Indigenous people in most ATSIC regions;*
- *In 2001, 43 per cent of Indigenous people had a gross weekly individual income of less than \$200, compared with 28 per cent of the non-Indigenous population;*
- *In 2002, the level of home ownership in Western Australia amongst Indigenous people was 19 per cent, while for non-Indigenous people it was 74 per cent;*
- *Although Indigenous male suicides in Western Australia have decreased in recent years (from 70 per 100,000 population in 1998 to 38 in 2002), the rate is still nearly double that for non-Indigenous males;*
- *In 2003-04, the rate of substantiated child protection notifications in Western Australia among Indigenous children was nearly eight times that reported for non-Indigenous children;*
- *Indigenous Western Australians are over 15 times more likely to die from homicide than non-Indigenous people;*
- *In 2001, Indigenous females were 12 times more likely to be assaulted than non-Indigenous females; and*
- *Indigenous people are vastly over-represented in the prison population. Thirty eight per cent of all prisoners in Western Australia are Indigenous, whereas Indigenous people are only 3.5 per cent of the total population of Western Australia.¹⁷⁵*

¹⁷⁵ *ibid.*, pp 11-12.

Dr Casey concluded:

*Despite 100 years of dedicated Aboriginal affairs agencies, radical shifts in public policy, the continuous review of administrative arrangements by state and federal governments, legislative reform, thousands of recommendations arising from royal commissions and other inquiries, and a surfeit of research findings, the discrepancy between the social and economic well-being of Indigenous and non-Indigenous people could be described as a vast gulf, rather than a ‘gap’.*¹⁷⁶

With reference to the capacity of the Department of Indigenous Affairs to address this ‘vast gulf’, however, it is important to be clear about the underlying causes. The Committee’s Discussion Paper highlighted how basic standards, such as the general framework of legislative requirements relating to health, did not necessarily apply to many discrete remote Aboriginal communities in Western Australia. As indicated in Chapter 2.4(c), because of the status of much of that land as Crown (more recently known as State) land, the State was exempted from the general regulatory framework that applied elsewhere. There was no legal requirement that funds be spent on essential services for discrete, remote Aboriginal communities. For example, the 1996 Western Australian Supreme Court case of *Atyeo v The Aboriginal Lands Trust* established that Parliament did not intend the State to be bound by provisions of the *Health Act 1911* (WA) requiring that no house be built without providing for “...sanitary conveniences, and also bathroom and laundry and cooking facilities... in accordance with the by-laws of the local authority”.¹⁷⁷ As a result, the Court held that the Aboriginal Lands Trust (as a non-commercial State enterprise) was **not** required to provide the inhabitants of Mardiwah Loop, residents of a reserve ‘for the “Use and Benefit of Aboriginal Inhabitants”’, with toilet and ablution facilities. Other regulatory regimes which did not (and still do not) apply to many remote Aboriginal communities include building regulations, local government laws and planning requirements.¹⁷⁸

In its submission (an ‘interim response’ due to the rapid change occurring in this area) the Western Australian Local Government Association (WALGA) highlighted how the status of land on which many Aboriginal communities are located impeded service delivery:

The legacy of the land status of Aboriginal communities being situated on Crown reserves impacts on Local Government’s statutory obligations to provide services and facilities to the residents of the communities. Statutes are presumed not to bind the Crown and do not unless there is an express provision in a particular statute to the contrary.

Crown land tenure restricts Local Government’s ability to apply and enforce a number of Acts. These include:

- *Local Government Act: Local Laws do not apply to Aboriginal communities.*

¹⁷⁶ *ibid.*, p 12.

¹⁷⁷ *Atyeo v The Aboriginal Lands Trust* [1997] *Australian Indigenous Law Reporter* 24; (1997) 2 *Australian Indigenous Law Reporter* 45, Supreme Court of Western Australia, 4 November 1996, Perth.

¹⁷⁸ Environmental Health Needs Coordinating Committee. 2005, *Environmental Health Needs of Indigenous Communities in Western Australia: The 2004 Survey and its Findings*, Environmental Health Needs Coordinating Committee, Perth, p23.

- *Roads: Local Government's responsibilities of the roads going into Aboriginal communities and the roads within Aboriginal communities depends on their status as a dedicated, public thoroughfare.*
- *Environmental Health: Expressly where specifically expressed as binding the Crown, the Health Act 1911 is currently held not to apply to land held by the Aboriginal Lands Trust which is an agency or instrumentality of the Crown. Part VIII of the Health Act, which generally relates to food, binds the Crown.*
- *Local Government (Miscellaneous Provisions) Act 1960: Provisions do not apply to any building owned or controlled by, or under the control or management of the Crown in right of the State or a department agency or instrumentality of the Crown in the right of the State.*
- *Dog Act: Provisions do not apply on Crown Land*
- *Emergency Management: The current situation in relation to the integration of remote Indigenous communities into local emergency management policy arrangements is haphazard. There is an uncertain relationship between remote Indigenous communities and Local Government.*

Amending legislation to bind the Crown is one solution. In lieu of legislative change, Local Government has worked with the State on policy initiatives to facilitate service provision to Aboriginal communities including town planning and building services. State initiatives undertaken in partnership with Local Government;

- *Statement of Planning Policy and Town Planning Programme*
- *Environmental Health Officer Network*
- *Code of Practice for Infrastructure Development...*

The State Government has had a strategic focus on normalisation: providing citizenship entitlements to large, permanent communities on the basis that they should be treated equitably and comparably to mainstream towns....

State initiatives include:

- *Town Reserves Regularisation Programme*
- *Remote Area Essential Services Programme*
- *Aboriginal Community Strategic Investment Programme*
- *Statement of Planning Policy and Town Planning Programme*
- *Environmental Health Officer Network*
- *Code of Practice for Infrastructure Development*
- *Outstation and Homeland Policy*
- *Community Management and Government Support*
- *Aboriginal and Remote Community Power Supply*
- *Energy and Water Efficiency Programme*
- *Multipurpose Policing Facilities*

- *Bi-lateral Agreements*
- *State and Commonwealth Government have been pooling their resources to maximize efficiencies: however the quantum of funding is not adequate to meet current and future needs*
- *Whilst this new approach aims to reduce waste and duplication there is a need for new State and Commonwealth funding to address the substantial backlog in infrastructure needs on the communities.*

It is acknowledged that there is inadequate funding by the State and Commonwealth to meet their responsibilities to communities including community infrastructure and community service. It is recognized that there is a significant backlog in identified and unfunded infrastructure needs on Aboriginal communities including the provision of housing, roads, and community facilities.¹⁷⁹

Responding to this issue in its submission, DIA advised that:

DIA, through the Environmental Health Needs Coordinating Committee has led a number of initiatives to circumvent [‘the legislative and regulatory impediments to improving environmental health on Aboriginal Lands Trust Land’] pending the required legislative change. There are three important documents that should be referred to regarding development on Aboriginal Lands Trust (ALT) land:

- a. Land Use and Development Policy, Aboriginal Lands Trust, 2006;*
- b. Planning for Aboriginal communities, Statement of Planning Policy 3.2, Western Australia Planning Commission, 2000; and*
- c. Code of Practice for Housing and Infrastructure Development in Western Australian Indigenous Communities, Indigenous Environmental Health Coordinating Committee, 2006 (revised).*

Note that a new Public Health Act, as well as Building Act, are in development in Western Australia. The intent of these proposed legislative changes is to bind the Crown.¹⁸⁰

It is clear that there have been important new policy initiatives in this area, including a number associated with the DIA. Nevertheless, some 40 years after the population of Western Australia voted overwhelming to end constitutional discrimination against Indigenous Australians, no Western Australian government or Parliament has acted to ensure that something as basic as

¹⁷⁹ Submission No. 14 from Western Australian Local Government Association (WALGA), 5 September 2007, pp 6-8.

¹⁸⁰ Submission No. 13 from DIA, 31 August 2007, p 1.

health legislation applies to Western Australian Aboriginal people living in remote communities.¹⁸¹

Returning to the review of DIA, Dr Casey found that there was "...a large vacuum being felt by Aboriginal people throughout Western Australia in regards to representation of their interests" and confusion about the role of the Department.¹⁸² Dr Casey reported that "...the great majority of Aboriginal people consulted during the review were highly critical of DIA".¹⁸³

It was Dr Casey's assessment that:

*With 22 government agencies under 16 Ministers receiving an estimated \$1.2 billion annually in funding targeted at providing services to Indigenous people, it is clear from the sheer size of the task, that a 'whole-of-government' approach delegated to a single government agency, has not achieved and will not achieve, the required outcomes.*¹⁸⁴

Instead, Dr Casey recommended that services that are provided for Aboriginal people "...the same as they are for non-Indigenous people such as water and power" and services "...that need to be delivered in a culturally appropriate manner for them to be successful ... [including] health, housing, education" should be:

*...delivered through line agencies that develop expertise to work directly with Aboriginal people and communities. This should be seen as part of their core business, the results of which they are fully accountable for.*¹⁸⁵

Dr Casey recommended that the role of the Department of Indigenous Affairs:

...in whole of government policy and coordination be reallocated to other government agencies, with a new accountability framework being developed to ensure outcomes for the \$1.2 billion allocated to programs and services targeted at Indigenous Western Australians.

*The DIA should be reconstituted as a department providing services in Aboriginal lands, native title, heritage and culture. Such a Department will be able to focus on, and give prominence to matters that are unique to Aboriginal people...*¹⁸⁶

¹⁸¹ A Consultation Draft on the proposed Health Act, which would bind the State, was expected to be released at the end of September 2007 (Sustainable Environmental Health Infrastructure Senior Officer Group. 2007, *The Bilateral Agreement on Indigenous Affairs Issues for Local Government: Discussion Paper*, September 2007, p 9).

¹⁸² Casey, D. 2007, *Report on the Review of the Department of Indigenous Affairs*, April 2007, p 20.

¹⁸³ *ibid.*

¹⁸⁴ *ibid.*, p 68.

¹⁸⁵ *ibid.*, pp 21-22.

¹⁸⁶ *ibid.*, p 22.

The Auditor General's submission responding to the Committee's Discussion Paper highlighted that difficulties in whole of government policy and coordination in Indigenous affairs went well beyond those associated with DIA's role. The Auditor General advised that:

Interagency Collaboration

The Progress with Implementing the Response to the Gordon Inquiry (November 2005) examination reviewed the effectiveness of reporting and monitoring the progress of implementing the Action Plan in response to the Gordon Inquiry into family violence and child abuse in Aboriginal communities. The examination found that there are inadequacies in the central reporting and monitoring of progress against the Action Plan.

In the absence of an authoritative account and appropriate public reporting, we examined a sample of 10 key initiatives. Audit found that effective collaboration between agencies has proved a significant challenge and has contributed to delays in three major initiatives. Clarity of roles and the management of overlapping responsibilities is critical to the effectiveness of collaboration between agencies.

*Audit has repeatedly encountered the theme of interagency collaboration in our performance examinations program, highlighting the extent of the challenge across the sector. Other audit reports that touch on this issue include *Behind the Evidence: Forensic Services* (May 2006) and *Production, Transport and Disposal of Controlled Waste* (October 2005). Effective coordination can be particularly challenging for initiatives that involve a combination of Commonwealth, State or local governments, or the not-for-profit sector. A range of audit reports, such as *Management of the Ramsar Wetlands* (September 2006) and *Management of Natural Resource Management Funding* (November 2004) contain findings in this regard.¹⁸⁷*

The topic of 'whole of government policy and coordination' is an extensive one, and currently is the subject of inquiry by another Legislative Assembly committee, the Community Development and Justice Standing Committee.¹⁸⁸

The Premier declined to adopt Dr Casey's recommendations, stating in Parliament that:

Some time ago, the state government commissioned a functional review of the Department of Indigenous Affairs. Today I would like to outline our response to that review. Many people believe that this department should be abolished. I do not subscribe to that view. We need the department to maintain a specific voice for Aboriginal people across the government sector. However, we should not believe that it is only the Department of Indigenous Affairs that should be concerned for Aboriginal people. ... I believe it is up to all government agencies to ensure there is a fair and equitable delivery of services to Aboriginal people. Having a Department of Indigenous Affairs does not mean that other

¹⁸⁷ Submission No. 7 from Mr Colin Murphy, Auditor General, 13 July 2007, p 2.

¹⁸⁸ That Committee's report on 'Collaborative Approaches in Government' is due to be tabled by 27 November 2008 (refer to the 'Collaborative Approaches in Government' link listed on the Western Australian Parliament's website: www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Committees+-+Inquiries, accessed 15 January 2008).

agencies should abrogate their responsibilities to Aboriginal people. However, I believe that the department must be restructured and refocused. Therefore, the Department of Indigenous Affairs will be restructured into two specific areas. One area of the department will deal with the specific statutory roles of land, heritage and culture. The Office of Native Title will be transferred to the Department of Indigenous Affairs, but that will not occur until early in 2009 so that we do not disrupt the good work that is already underway on many significant projects. The other area of the department will play a lead role in developing Indigenous policy, economic development in particular, and in determining and measuring how strategic outcomes are being met. This will ensure that the department is well placed to drive and lead change through a coherent policy framework that is focused on economic development and social responsibility. In short, I want to give the department some grunt. To ensure that these goals are realised, a cabinet standing committee on Indigenous affairs will be created. The committee will be chaired by the Minister for Indigenous Affairs and will include the Deputy Premier in his capacity as both the Treasurer and the Minister for State Development; the Minister for Police and Emergency Services; the Minister for Planning and Infrastructure; and the Minister for Child Protection. This will ensure a unifying focus for all ministers involved and stronger accountability measures in the delivery of programs.¹⁸⁹

(a) WA Coroners report into 22 deaths in the Kimberley region

The report of the WA Coroner Mr Alastair Hope into 22 deaths in the Kimberley region was released in February 2008. This inquest was initiated because the suicide rates of young Aboriginal people in the Kimberley increased dramatically in 2006. In that year there were 22 Aboriginal self-harm deaths in the Kimberley (an increase of over 100%). By contrast, in the non-Aboriginal Kimberley population there was no increase and only 3 deaths by self-harm for a larger population.

The Aboriginal suicide rates for the Fitzroy Crossing region were particularly bad with 8 self-harm deaths in 2006 in a population of about 3,500. During the inquest the Coroner visited a number of Aboriginal remote communities, particularly in the Fitzroy Crossing area. Inquest hearings took place in Broome, Derby, Fitzroy Crossing and Kununurra. In each of those locations the Coroner took evidence from witnesses who described about living conditions in nearby communities and some more remote communities.

The Coroners report highlights that, despite existing Commonwealth and WA funding,:

...conditions are getting even worse for Aboriginal people in the Kimberley and the gap between the well-being of Aboriginal and non-Aboriginal people is now a "vast gulf".¹⁹⁰

He further concludes:

¹⁸⁹ Hon A J Carpenter, Premier, Western Australia, Legislative Assembly. 2007, *Parliamentary Debates* (Hansard), 30 August 2007, pp 4598-4599.

¹⁹⁰ Hope, A. 2008, *Kimberley Finding*, Coroner's Court of WA, Perth, Executive Summary.

...the system, which has applied \$1.2 billion or thereabouts each year for Aboriginal people and has achieved the results described in these reasons, is clearly seriously flawed. In spite of the lack of results, it appears that no individual or organisation in government has been monitoring the performance of the various government agencies and that no identified individual or organisation has been held responsible for achieving improved outcomes for Aboriginal people.¹⁹¹

In a wide ranging report, the Coroner highlights a number of underlying institutional factors behind the deaths which address major deficits in Government administration, leadership and accountability. He also exposes the lack of provision of adequate services in relation to child protection, education, housing, primary, preventative and mental health, CDEP payments, housing, alcohol, policing and substance abuse more generally.

The Coroner's report sets out 27 recommendations identifying a suggested range of actions which he considered could be taken to address these issues. The report also explored the circumstances of the individual tragedies of the 22 deaths. The WA Government responded to his report on 7 April 2008 and noted that "It highlights the efforts being made currently in Fitzroy Communities and the leadership that is being provided to involve aboriginal [sic] people more closely in the work that is being done."¹⁹² This response also suggested that the key areas for government action were "...housing, infrastructure, education, young people, health and leadership."

The Government's response to the Coroner's recommendations lists a number of the departmental programs in the Kimberley region. However, there does not appear to be a response to recommendation six that called for "...a system of accountability which would require relevant officials to accept responsibility for achieving targets considered attainable with resources provided" and "...also identify what proportion of the money has been used in administrative costs as against provision of services".

The Government's response received criticism from some Indigenous groups, such as the Kimberley Aboriginal Law and Culture Centre, because it didn't provide any new funds or suggest new initiatives, other than the re-establishment of the Indigenous Advisory Group which had been disbanded several years ago.¹⁹³

¹⁹¹ *ibid.*

¹⁹² DIA. 2008, *WA State Government Response to the Hope Report*, Department of Indigenous Affairs, Perth, p 1.

¹⁹³ *ibid.*, p37.

Finding 1

In light of the seriousness of the health and social conditions identified by the Hope Inquest into 22 Indigenous deaths in the Kimberley, the Committee believes that an urgent Government response to the Inquiry's recommendations is required with sufficient resources to adequately address the identified needs.

Recommendation 1

This Committee recommends that, in light of the further recent deaths of youths in the Kimberley and the findings contained in this Report, the WA Government response to the recommendations made by the Coroner in the Inquest into 22 Indigenous deaths in the Kimberley must include a detailed program of social and economic initiatives.

2.9 Perspectives from 'those who live with the outcomes'

In its submission responding to the Discussion Paper, the Kimberley Aboriginal Law and Culture Centre (KALACC) stated:

At present, the State of Western Australia is largely missing from a large number of remote towns. This absence of State Government presence has severe implications for the everyday lives of Aboriginal people.

KALACC acknowledges the network of Telecentre and/or Rural Transaction Centres throughout regional and remote West Australia. However, it still remains the case that if residents of Fitzroy Crossing lose a set of vehicle number plates they have to travel the 500 kilometre round trip to Derby, arrive in Derby by midday on the appointed day and hope that when they get to Derby they have with them the appropriate paperwork. This scenario poses particular and significant difficulties for Aboriginal people.

Apart from the procedural issues referred to above, there are also serious issues pertaining to the coordinated development of State Government Strategies. KALACC applauds the Fitzroy Futures Forum.¹⁹⁴ However, we note that the senior Government officer given responsibility for leading this process is based in Perth, occasionally visits Fitzroy Crossing and retains a number of portfolio responsibilities.

¹⁹⁴

A forum for cross-community approval of large-scale infrastructure projects in the Fitzroy Valley. It is made up of small business owners, representatives of the Shire of Derby/West Kimberley, staff from various Indigenous service organisations and mainstream government service departments such as health and education, and interested people from communities in the area (ICGP. 2007, *Community Governance - an occasional newsletter from the Indigenous Community Governance Project*, Vol. 3 No. 2, July 2007, p 1).

Fitzroy Futures is based around a capital works program to the value of between \$50 and \$60 million. To date the construction of the new hospital has nearly been completed and the community has not seen any significant progress on issues such as the development of indigenous employment, training and education programs associated with capital works development. KALACC believes that if there was a greater, more permanent government presence in remote and regional towns, then there would be an improved coordination of significant State Government resources.

KALACC also notes that the committee's report illustrates in some detail the bureaucracy and ineffectiveness of the Commonwealth's COAG process. We have noted the same ineffectiveness... KALACC criticised the COAG process for failure to engage with indigenous community and indigenous organisations, over-expenditure on bureaucracy and under-investment in those issues and projects which the COAG trial site communities had identified as being their key priorities.

Having criticised the processes associated with the Tjurabalan COAG Trial site, KALACC also wishes to acknowledge that there are significant challenges associated with coordinating three levels of government.

Part of the reason why we wish to make the above acknowledgement is because in Fitzroy Crossing we have witnessed the significant challenges associated with getting one level of Government, in this case the State government, to act in a coordinated manner. KALACC repeats its earlier statement of support for the Fitzroy Futures Forum process and for the State Government staff who are leading the process. However, we nonetheless assert that the State Government needs to refine its processes for achieving:

- *A capital works program with social outcomes agenda;*
- *A coordinated and structures process which requires several State Government agencies to collectively work towards a shared vision and agenda;*
- *A 'whole of community' consultative process which engages the Aboriginal community.¹⁹⁵*

The Committee notes that the concerns raised by the KALACC submission reflect the analysis published in an earlier report, No. 10, on Indigenous employment by the State. In that report reference was made to an article 'The Institutional Determinants of Government Failure in Indigenous Affairs' by Mr Neil Westbury and Mr Michael Dillon, which identified that:

...one of the primary reasons for the continuation of extremely poor Indigenous social and economic outcomes over the past thirty years, and for the social crisis in many remote communities, has been the progressive disengagement of government institutions and civil society from Indigenous people's lives and concomitant impact on Indigenous citizens' own perceptions of their place in Australia...

¹⁹⁵ Submission No. 11(a) from Kimberley Aboriginal Law and Culture Centre (KALACC), 15 August 2007, pp 6-7.

*There are a range of reasons why government disengagement has persisted in the Indigenous realm. First, in terms of service delivery, globalisation has meant that both the public and private sector have withdrawn infrastructure across the board in regional Australia. The progressive contraction of banks, post offices and other once common facilities in regional centres has meant that remote citizens have a more limited experience of national commercial norms and opportunities. In an economy where the vast majority of jobs are in service industries, the contraction of services is essentially the contraction of the so-called 'real economy'. As a result, Indigenous citizens miss out on the normal opportunities to participate in the economic and commercial life of the nation.*¹⁹⁶

This disengagement has consisted of both a decline in service delivery and a decline in what has been referred to as 'the architecture of the state', that is:

*...the framework of rules and opportunities which constrain, guide and empower all Australians. It is that framework which has disappeared in remote communities and probably to a substantial extent in urban Indigenous communities, and which must be renegotiated and redesigned with Indigenous communities.*¹⁹⁷

While programs such as the Fitzroy Futures Forum¹⁹⁸ give clear indication that governments are reversing the trend towards disengagement over the last 30 years, there is an enormous and costly gap to fill in those towns where the State is 'largely missing'. In its Report No. 10, the Committee identified these circumstances as providing the State with an opportunity to stimulate employment for its Indigenous citizens in a meaningful and sustainable way, including training and employment opportunities for local Indigenous people.

In their joint submission, the Ngaanyatjarra Council and Ngaanyatjarraku Shire also provided a perspective on recent policies:

The main 'client' in Aboriginal affairs is not its Aboriginal citizens. While they are subject to the myriad of changing policies and programs created to address their needs, they are not the intended beneficiaries of changing policies. The voting non-Aboriginal public, informed primarily by the media, dictate the policy platforms of the major parties.

This is ably demonstrated by the previous Federal election policy 'reforms'. The Australian Government made no secret for a long period of time about the dissatisfaction it felt with the inherited Indigenous affairs arrangements. This was based on two fundamental reasons:

¹⁹⁶ Westbury, N. and Dillon, M. 2006, 'The Institutional Determinants of Government Failure in Indigenous Affairs', *Australian Financial Review*, 13 December 2006, pp 14-15. See also Education and Health Standing Committee, *Where from? Where to? A Discussion Paper on Remote Aboriginal Communities*, Report No. 6, State Law Publisher, Perth WA, 2007.

¹⁹⁷ Westbury, N. and Dillon, M. 2006, 'The Institutional Determinants of Government Failure in Indigenous Affairs', *Australian Financial Review*, 13 December 2006, p 17.

¹⁹⁸ See http://www.anu.edu.au/caepr/Projects/CG_Newsletter_Vol.3_No.2.pdf (accessed 1 May 2008) for a description of the Forum.

- *The policy of self determination (particularly land based) was a form of separatism, and not a basis for progress to a fuller involvement with the wider Australian community;*
- *The general concern that substantial government funds were poorly targeted and badly spent. An increase in spending was being mismatched by an embarrassing decline in outcomes across a range of indicators.*

The Aboriginal and Torres Strait Islander Commission (ATSIC) was committed to a treaty as a major policy platform. The Government saw this as unproductive 'gesture' politics. ATSIC's very limited response to family violence and sexual assault, where it was being reported as a major crisis in the Indigenous community by researchers and the press, further reinforced that the Commission was out of touch with its fundamental obligations to Indigenous people and therefore failing to deliver. The Australian Government wanted to be seen to be moving with urgency towards improvement on key performance indicators in the Indigenous community.

At the same time, arising from Council of Australian Government (COAG) Indigenous initiatives, there were also a series of other reforms being trialled in seven discrete regions:

- *A belief that the existing programs would be delivered more effectively by mainstream agencies than by an Indigenous specific agency, with the stated requirement that agencies must be more 'flexible and responsive';*
- *Informed by Noel Pearson, an ideological conviction that welfare reform to address welfare dependency lay at the heart of any sustainable improvement in the health, education, living conditions and economic participation of Indigenous Australians.*

As part of the COAG trials, a new funding approach was also being explored. This approach was in its nascent stages, and largely untested in terms of effectiveness, namely, Shared Responsibility Agreements (SRAs). Essentially, SRAs were non-binding agreements between communities and government to work in greater partnership and more flexible. The notion of mutual obligation, at an individual and family level, was posited but not actually evident in many of the agreements signed in COAG sites.

These ideas were being worked into a policy and program framework when Mark Latham, then Opposition Leader of the Labor Party, made an announcement that the Labor Party intended to abolish ATSIC.

Sensing its opportunity, the Coalition acted quickly. Their timetable completely changed. Unresolved issues were buried in the cascading tide of rapidly moving events.

The Australian Government responded by introducing wide ranging structural reforms to the administration of Indigenous affairs at a federal level. ATSIC was effectively abolished. Indigenous-specific programs were 'mainstreamed' to an array of Australian Government agencies. Indigenous Coordination Centres (ICCs) were created as whole of government, 'one stop shopfronts', staffed by multiple agencies with no coordinated accountability

lines. Public service agencies with a history of working and responding vertically were asked to coordinate horizontally. Leadership and flexibility were the catchcries of the day, but far from the reality.

The new order of Indigenous affairs had a philosophical basis without a fully developed instrument for delivery and implementation. The appetite for urgency and change on the part of the Commonwealth was insistent and relentless. This urgency for change was not matched by a fully evolved set of policies and strategy for implementation, instead largely feeding a political agenda.

Once the frenzy of electioneering was over, government agencies and staff, and Aboriginal communities were left with a largely unworkable model. The Australian Government was transparently making it up as it went along. ...

The unsettled nature of the Australian Government arrangements has been underlined by the administrative shuffling of an uncomfortable cross-portfolio responsibility for coordination between agencies (from the Department of Immigration, effectively disappearing into a reconstituted Department for Families, Communities and Indigenous Affairs). Restructures are the order of the day, with staff rapidly moving between agencies, newly created divisions and taskforces. With the national 'coordinating' department changing its name and structure every six months, it was not surprising that the ICCs have become risk-averse and lost almost all capacity for effective local decision-making.

The current Northern Territory emergency only serves to confirm this assessment. With another election looming, once again Australian and State/Territory Government agencies are thrown headlong into another urgent reform to Indigenous affairs and its administrative arrangements. The current 'crisis' will only serve to further undermine attempts to gain a stable administrative structure, understood by all levels of government and community members. With resources now being diverted towards the Northern Territory, the capacity for discretionary and 'flexible' responses to communities just a few hundred kilometres from the Territory will decrease even further.¹⁹⁹

It does not appear that the experiences highlighted in the submissions received in response to the Committee's Discussion Paper of current government ways of working with Indigenous communities were unusual. The ANU's Indigenous Community Governance Project (ICGP) conducted two years of fieldwork, one year of preliminary work and a second year "...based on evidence drawn from case studies of Indigenous governance in action within differing community, geographical, cultural and political settings across the nation". Its findings were supplemented by an examination of "...the views of the Australian Government's Secretaries' Group on Indigenous Affairs [and] the current status of NT and WA Government policy frameworks".²⁰⁰ Amongst other things, the ICGP reported:

In 2005 and 2006, the issue of 'governance of governments' and the practical capacity of public-sector employees and procedures has been identified as a key factor impacting on

¹⁹⁹ Submission No. 8 from Ngaanyatjarra Council and Ngaanyatjarraku Shire, 17 July 2007, pp 4-6, 19.

²⁰⁰ Hunt, J. and Smith, D. 2007, *Indigenous Community Governance Project: Two Year Research Findings*, CAEPR Working Paper No. 36/2007, Australian National University, Canberra, p xi.

the effectiveness of Indigenous governance. This is especially the case in the context of the current hyper-fluidity of policy and changes to program findings and reporting requirements.

Unfortunately, there is a relative absence of publicly available evaluation and administrative data about major government policy and program changes currently being implemented in Indigenous Affairs. This lack of government program transparency compares poorly with government's own requirements on Indigenous organisations for mandatory reporting on outcomes and expenditure in regard to the same program areas.

Based on evidence from the ICGP case studies, it appears that current 'whole-of-government' policy frameworks and goals are not matched by departmental program funding arrangements, or by the implementation of place-based initiatives in Indigenous contexts. Indeed, there appears to be a significant mismatch between policy and purpose and policy implementation on the ground.

While there have been some positive program initiatives by individual government officers and offices observed in the case studies, significant challenges are emerging in the implementation of the 'new arrangements' on the ground.

Across the case studies there is little sense of governments responding in a collaborative, integrated way that would lead to sustained structural changes in how they engage with Indigenous communities and their governance arrangements.

The Australian Government's policy goal of 'whole-of-government' partnership seems to evaporate or fail by the time it is implemented on the ground. Indeed, Indigenous communities and organisations seem to be confronted by several different 'whole-of-government' approaches by different departments and different jurisdictions.

Program 'territorialism' on the part of government departments and across jurisdictions remains entrenched in spite of whole-of-government goals. This means Indigenous organisations need high levels of negotiation and leadership experience to be able to manage the rate of externally imposed changes. They also need considerable management and financial skill to continue to pull together funds from disparate programs that have changing guidelines and uncertain implementation procedures, in order to sustain their functions. Only the most capable and well-connected are able to do this.

The case studies over two years are highlighting that financial arrangements in Indigenous Affairs require reform at several levels.

Firstly, it is clear that the Commonwealth Grants Commission's formula for state and local governments fails to take account of the large backlogs in essential infrastructure in many communities (in areas such as housing, transport communications, education and health facilities etc.). Nor do census data provide an adequate basis for Indigenous per capita disbursements. There are significant opportunity costs' for governments associated with these in the current demographic context.

Secondly, there is a mismatch between government policy strategies and the systems for implementation, particularly in relation to funding arrangements. As government policy in

many jurisdictions increasingly focuses on the development of regional initiatives and agreements, departmental program—funding silos remain a powerful constraint. They act as a hindrance to the creation of integrated regional budgets that could support regional governance strategies and priorities, and they undermine sustained coordination between departments.

The institutional mechanisms of governance within and between governments need substantial reform if Indigenous community governance is to be improved. Trilateral agreements over regional areas between governments and networks of Indigenous ‘communities’ may be a promising way forward. But the findings emerging from the ICGP case study research and the lessons of the COAG trials need to be applied if more comprehensive regional agreements are to succeed.

There are also major gaps in governments’ own capacity to support Indigenous capacity development and to support integrated funding initiatives and accountability. This is a significant and important challenge for governments to grasp.

Urgent work is required to develop bipartisan policy frameworks, agreed between jurisdictions, to provide policy and funding stability within which stronger Indigenous governance can develop.²⁰¹

Finding 2

Each of the remote Indigenous communities in Western Australia differs in its social and economic needs based on its unique history of interaction with the state since European colonisation, and in particular, on any dislocation from its traditional lands.

²⁰¹

Hunt, J. and Smith, D. 2007, *Indigenous Community Governance Project: Two Year Research Findings*, CAEPR Working Paper No. 36/2007, Australian National University: Canberra, pp xix, xx, 46.

CHAPTER 3 REMOTE ABORIGINAL COMMUNITIES NOW

3.1 Data on remote communities

The issue of alleged undercounting of Indigenous people in the five-yearly Censuses undertaken by the Australian Bureau of Statistics (ABS) was recently highlighted when, according to the 2006 Census, the Indigenous population of West Kimberley declined between 2001 and 2006. This is the first time such a decline has been recorded in this region since the Census began counting Aborigines in 1971.²⁰²

A follow up 2006 Census Post Enumeration Survey (PES) (the first completed in remote Indigenous communities), contributed to an analysis that pointed to an undercount of nearly one in four Indigenous people across WA. This undercount rate is higher still in regional areas away from Perth. The evidence of this significant undercount has important implications for the development of evidence-based policy and programs in Indigenous affairs. It also has important flow on effects on the calculation of per capital adjustments to local government funding by the Commonwealth, and those made under the Commonwealth Grants Commission processes. These issues are further canvassed in Chapter 5.

There is a plethora of data available on remote Aboriginal communities, however there is also a lack of consistency in the timing and scope of surveys producing the data, and consistent with the above West Kimberley findings, significant discrepancies in the results.²⁰³ For example, the 2006 Community Housing and Infrastructure National Survey (CHINS) data identified the total usual population of discrete Indigenous communities in Australia as almost 15 per cent lower than in 2001. The 2006 population was reported as 92,960, down 15,125 from a total of 108,085 in 2001. The ABS has attributed this unusual result to improved data collection.²⁰⁴ That CHINS survey identified the population of discrete communities in Western Australia as 13,838. However, in its submission to the Committee the Department of Indigenous Affairs suggested that, based on field work and the Environmental Health Needs Survey (EHNS) of 2004, the population of discrete communities was 17,291. Complicating matters further, remote communities are a subset of

²⁰² Taylor, J. 2008, Indigenous Labour Supply Constraints in the West Kimberley, CAEPR Working Paper No 39/2008, Australian National University, Canberra, pp 2-3.

²⁰³ The Committee also noted a significant discrepancy when analysing data on Indigenous State public sector employees for its Report No. 10, with the Census reporting 91,447 State public sector employees of whom 1,770 (1.9 per cent) identified as Indigenous, compared to 128,052 State public sector employees reported by the Public Sector Management Office (on the basis of payroll records), of whom 2.5 per cent identified as Indigenous (Education and Health Standing Committee, Report No. 10, *An Examination of Indigenous Employment by the State*, 2007, p 34). The ABS Census figure may be an underestimate of the number of employees working in the public sector (refer to ABS Data Quality Statement for the Government/non-government employer data item available from the ABS website).

²⁰⁴ ABS. 2006, *Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities*, Cat. No. 4710.0, Australian Bureau of Statistics, Canberra, pp 3-4.

discrete Indigenous communities that include ‘town reserves’, communities which are adjacent to, in or near established towns and cities.²⁰⁵ In its submission, DIA cautioned:

*Discussions of Indigenous communities and population sizes are fraught with difficulties both in terms of the mobility of many remote populations and the logistical difficulties in gaining reliable survey information.*²⁰⁶

It is beyond the scope of this Inquiry to resolve the discrepancies amongst the various survey results. The Committee acknowledges, however, that the data relied upon in various sections of this Report is not necessarily comparable.

Finding 3

There is a lack of co-ordination and collaboration in the consistency, scope and collection timing of data surveys conducted in remote Indigenous communities by State and Federal agencies. This creates data sets that are inconsistent, unreliable and incomparable, resulting in flow-on effects for the development of new policies in Indigenous affairs (eg. per capita funding calculations, resource distribution and variable service provision calculations).

Recommendation 2

That the Government identify, and give authority to, a specific agency for the oversight, co-ordination, timing and collation of any survey collection and data analysis involving remote Indigenous communities. That this collection be called the WA Remote Indigenous Communities Dataset (WARICD) and be available on the nominated agency’s web site.

3.2 Australia-wide data - CHINS

The most recent available data from the Community Housing and Infrastructure Survey (CHINS) of 2006 identified the total usual population of discrete Indigenous communities in Australia as

²⁰⁵ Environmental Health Needs Coordinating Committee. 2005, *Environmental Health Needs of Indigenous Communities in Western Australia: The 2004 Survey and its Findings*, Environmental Health Needs Coordinating Committee, Perth, p 27.

²⁰⁶ Submission No. 13, DIA, 31 August 2007, p 2.

almost 15 per cent lower than the 2001 survey.²⁰⁷ This decline was attributed to improved data collection rather than any actual decline in the population of discrete communities.²⁰⁸

The 2006 CHINS identified 1,187 discrete Indigenous communities in Australia, with only four communities being located in ‘Major Cities’ and 1,008 (85%) located in ‘Very Remote’ regions.²⁰⁹ Twenty-three per cent of all discrete Indigenous communities (274 of 1,216) were located in Western Australia, second only to the Northern Territory.²¹⁰ The CHINS 2001 results had identified 29 more discrete Indigenous communities. The ABS attributed this decline in number of communities as being “...largely due to a number of small discrete communities being abandoned and not expected to be reoccupied”.²¹¹

Significantly, the 2006 CHINS data identified improvements in housing and infrastructure in discrete Indigenous communities since the previous survey:

- *Of the 92,960 Aboriginal and Torres Strait Islander people reported as living in discrete Indigenous communities, a total of 4,039 people (4%) were reported as living in temporary dwellings. This compares with 5,602 people (5% of the total population of 108,085 in discrete Indigenous communities) in 2001.*
- *Bore water continues to be the main source of drinking water for Indigenous communities being used by 58% of communities, compared to 64% in 2001. More communities obtained their drinking water from adjacent town water systems in 2006, 18% compared to 15% in 2001. The number of communities with no organised water supply has dropped from 21 in 2001 to 9 in 2006.*
- *There were 274 communities connected to state grid as the main source of electricity in 2006, an increase of 5 per cent since 2001. The most common main source of electricity was community generators reported in 32% of communities, followed by state grid (23%), solar and solar hybrid (18%), and domestic generators (15%).*

²⁰⁷ ABS. 2006, *Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities*, Cat. No. 4710.0, Australian Bureau of Statistics, Canberra, p 17.

²⁰⁸ *ibid.*, pp 3-4.

²⁰⁹ *ibid.*, p 13. The ‘Major Cities’ and ‘Very Remote’ references are to the Accessibility/Remoteness Index of Australia (ARIA) which was developed by the Commonwealth Department of Health and Aged Care and the National Key Centre for Social Applications of Geographic Information Systems in 1997. ARIA measures the remoteness of a point based on the physical road distance to the nearest Urban Centre. The Remoteness Structure contains the following categories: Major Cities of Australia; Inner Regional Australia; Outer Regional Australia; Remote Australia; Very remote Australia; and Migratory (ABS. 2000, *ABS Views on Remoteness*, Cat. No. 1244.0, Australian Bureau of Statistics, Canberra, pp 1-19).

²¹⁰ ABS. 2002, *Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities*, Cat. No. 4710.0, Australian Bureau of Statistics, Canberra, pp 13-14.

²¹¹ ABS. 2006, *Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities*, Cat. No. 4710.0, Australian Bureau of Statistics, Canberra, p 3.

- *A total of 630 communities (53%) reported public access to a telephone within the community, compared with 597 (49%) in 2001.*
- *A total of 136 discrete Indigenous communities (11%) had public access to the Internet.*
- *A total of 245 discrete Indigenous communities (21%) reported a primary school located within the community, 49 communities (4%) reported a secondary school up to year 10, and 40 communities (3%) a secondary school to year 12. While there was a decrease of 18 (27%) in the number of communities with a secondary school up to year 10, 14 of these communities are now reporting a secondary school up to Year 12 located in the community. The number of discrete Indigenous communities that had a secondary school up to year 12 increased, up 23 (135%) from 17 discrete Indigenous communities in 2001 to 40 communities in 2006.²¹²*

In relation to outstations with a population size of less than 100, a comparison of the 2006 and the 2001 CHINS data indicates that in 2006 there were 988 communities, compared to 991 in 2001. In 2006, outstations were mainly located in the Northern Territory, followed by Western Australia, Queensland and South Australia. This order remained unchanged from the 2001 survey. As a result, it appears that Professor Altman's analysis of outstation data from the 2001 CHINS remains relevant:

- In 2001, the total population of outstations was 19,817 with an average size of 20. (In 2006, total population of outstations was 18,822, once more averaging to approximately 20 persons.) According to Professor Altman, there was some similarity between this contemporary post-colonial figure and the average size of co-residing units in pre-colonial times.
- While there were a few small discrete Indigenous communities in the more settled States of New South Wales, Victoria and Tasmania, these might be a different form of community from outstations in remote and very remote regions; on average, these communities are markedly larger than communities in the other States.
- In 2001, the vast majority of outstations were in very remote (87%) and remote (9%) Australia, with most associated with Aboriginal land ownership. In 2006, 85 per cent of discrete communities were very remote and nine per cent were remote.²¹³
- In 2001, almost all outstations were linked to larger communities and ORAs (Outstation Resource Agencies). It was estimated that there were about 100 ORAs Australia-wide: some dedicated to outstation support, and some general service organisations that also serviced outstations.²¹⁴

²¹² *ibid.*, p 4.

²¹³ *ibid.*, p 17.

²¹⁴ Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra, p 4.

3.3 Discrete communities in Western Australia²¹⁵

Using data collected for the Environmental Health Needs Survey (EHNS) in 2004, an analysis by the Department of Water indicated that there were approximately 300 discrete Indigenous communities in Western Australia, home to almost 17,000 people. Communities including around 45 Aboriginal town-based communities, 91 large and mid-sized remote communities serviced by the Remote Area Essential Services Program (RAESP) and six town reserves that were also on RAESP. Similar to the more recently published CHINS and Census data, the Department of Water reported that most discrete Indigenous communities were located in very remote parts of the State and were small, with a usual population of 50 people or less. It identified about 20 of the communities as having populations of over 200, with a small number of these having populations of over 400. The community of Bidyadanga is home to about 850 people and is one of the larger population centres in the Kimberley region (though smaller than others like Broome and Derby). The population distribution of these communities is shown in Table 3.1.

Table 3.1- Discrete Indigenous Communities in Western Australia (2004 EHNS data)²¹⁶

Community population size	Communities		Usual population	
	No.	%	No.	%
Less than 50 people	174	63.5	2,945	17.4
50-199 people	81	29.6	6,925	40.9
200 or more people	19	6.9	7,082	41.8
All communities	274	100	16,952	100.0

Based on this data, the Department of Water found that the Indigenous population of small remote communities in WA was not increasing substantially, although it was increasing in many of the larger communities and regional centres. It also noted that the Indigenous population in the State was increasing overall due to the comparatively high birth rate compared to the non-Indigenous population.

²¹⁵ Unless otherwise indicated, this section of the Report is sourced from Department of Water. 2006, *Report for the Minister for Water Resources on Water Services in Discrete Indigenous Communities - Final Report*, Department of Water, Perth, pp 17-27. That report relied upon the 2004 data in the 2005 Environmental Health Needs Coordinating Committee (EHNCC) *Environmental Health Needs of Indigenous Communities in Western Australia: the Survey and its findings*, EHNCC: Perth.

²¹⁶ Department of Water. 2006, *Report for the Minister for Water Resources on Water Services in Discrete Indigenous Communities - Final Report*, Department of Water, Perth, p 19. DIA has provided more 'updated' data, reproduced below, also said to be based on the 2004 Environmental Health Needs Survey (EHNS) but verified by field visits (Submission No. 13 from DIA, 31 August 2007, pp 1, 2). It reported 287 communities with a usual population of 17,291 and an increased number of communities of less than 50 (184) and 50-199 (85) with one less community of 200 or more (18). As this section relies upon the analysis of the Department of Water of the original data reported at Table 3.1, the DIA data was not incorporated.

Finding 4

The Committee had difficulty in obtaining a list of the name and exact geographical location of the 274 remote Indigenous communities in WA identified in the EHNS report of 2004.

Recommendation 3

That the proposed WA Remote Indigenous Communities Dataset (WARICD) include a list of the name and geographical location of all the remote Indigenous communities in WA, and that this list is updated annually.

(a) Infrastructure

The Department of Water found that most Aboriginal communities in WA located in remote areas, had innate challenges to effective service delivery. This was due to limited access to technical expertise, long distances, and a long history of sub-standard services and the circumvention of State or local government approval processes. These communities seemed to be affected by legacies of discriminatory practices, insufficient and ad hoc funding and poor quality infrastructure.

However, analysis of the 2004 EHNS data by the Department of Water demonstrated progress in meeting priority health needs, particularly water supply and sewerage in larger communities. This has been attributed to improved targeting of resources; better coordination and resource sharing between the Commonwealth and the State; the concentration of resources in larger communities; the application of improved standards and surveillance; and increased expenditure through state and national infrastructure programs.

Finding 5

That State and Local Government approval processes, in conjunction with insufficient and ad hoc funding arrangements and a history of sub-standard services, discriminatory practices and poor infrastructure, have severely impacted upon remote communities and meant that they have not received basic service delivery from agencies required to meet the challenges posed by the location of these communities.

Recommendation 4

That targeted funding and resources be sustained over the long term in order that remote Indigenous communities can benefit from prolonged infrastructure arrangements, including training schemes to assist community members develop the skills for employment in the maintenance of their community's basic service infrastructure.

(i) Outstations and Small Remote communities²¹⁷

The most numerous type of Indigenous community in WA (approximately 200) were the outstations and small remote communities, usually with less than 50 people. They were home to about 3,000 people, or 18 per cent of the population resident in discrete communities.

Small communities and outstations received comparatively limited services or support from government. Traditionally, infrastructure capital funding was provided to these communities through a range of Commonwealth programs, such as the National Aboriginal Health Strategy (NAHS), although there was no ongoing funding for operations and maintenance. Emergency repairs were funded through the Municipal Services Program, which was part of the Community Housing Infrastructure Program (CHIP). People living in small remote communities were not charged directly for water services and power was often supplied by diesel fuel generators that were run by the community, also with the assistance of MSP funding.

The Department of Water attributed the limited support these communities receive, in part, to a legacy of the division of State and Commonwealth responsibilities. As explained above, while the Commonwealth, through ATSIC, supported the establishment of these communities through the provision of funding for infrastructure, the State has been reluctant to take responsibility for the cost of ongoing operations and maintenance. The DIA submitted that there has been a specific exclusion of outstations from State responsibility (refer above to Chapter 2.4) and that this had been confirmed in successive Commonwealth/State bilateral agreements.²¹⁸

At the time the Department of Water's report was published, the Commonwealth provided contingency funds for emergency services and repairs to the water supply and other basic infrastructure in small communities. In the recent Commonwealth/State bilateral *Agreement for the provision of Housing, Infrastructure and Essential Services for Indigenous People in Western Australia* the parties agreed to develop a strategy for progressing the joint funding, planning, coordination and management of housing, infrastructure and essential services beyond those discrete Aboriginal communities already serviced by the Western Australian government. In its submission, DIA advised that this joint strategy for servicing these communities "...is being

²¹⁷ The division between 'outstations' and 'small permanent' remote communities was not clear, as most communities have periods of significant fluctuations in population.

²¹⁸ Submission No. 13 from DIA, 31 August 2007, p 3.

progressed through the implementation of the Bilateral Agreement on Indigenous Affairs (July 2008)".²¹⁹ However, the Department of Water submitted that there was a view within State government agencies that many of the small remote communities were unsustainable.

(ii) Mid-sized and Large Remote Communities

The majority of the Indigenous people living in remote communities (over 82 per cent) were in 100 mid-sized or large communities, including town-based communities.²²⁰ Mid-sized communities are those with a population greater than 50 and a large community can be considered to be over 200 people. These 100 communities were serviced under the Remote Areas Essential Services Program (RAESP), a joint Commonwealth/State program for the provision and maintenance of water, power and wastewater services. There are five town-based communities included in the RAESP program.²²¹ Communities eligible for State RAESP support were generally those communities of 50 people or more with an agreed standard of infrastructure. A Program Manager (Parsons Brinckerhoff) was appointed jointly by Department of Housing and Works (the lead State agency) and the Commonwealth to oversee the program and reported to a steering committee convened by DIA.

For the RAESP program, WA was divided into three regions (Kimberley, Pilbara/Gascoyne and Goldfields/Central Reserves), which were serviced by contracted service providers. These were Kimberley Regional Service Providers, Pilbara Meta Maya and Ngaanyatjarra Services (Goldfields/Central Reserves). Planned maintenance services were undertaken every six to eight weeks. Water testing was undertaken on a monthly basis. An additional benefit of RAESP was that it provided Indigenous community-based training and employment opportunities for Essential Service Operators located within the communities.

In 2006, the Department of Water noted that State contributions for RAESP had decreased in the previous five years, despite the number of communities in the program increasing significantly. The Commonwealth provided around \$12-15 million per annum to the RAESP capital works program. The annual State contribution was around \$3.7 million towards maintenance, disinfection and testing and emergency breakdown services. The actual cost for maintenance was around \$10 million, with the shortfall met by pooled funds under the Infrastructure and Housing Agreement. DIA advised in its submission that the State allocation for RAESP has recently increased for the 2007-08 financial year to \$9.7 million.²²²

According to its submission, the Department of Water a 'chuck in' system applied to town-based communities where the Water Corporation charges the community for services supplied.²²³ The

²¹⁹ *ibid.*

²²⁰ Submission No. 10 from Department of Water, 8 August 2007, p 1.

²²¹ *ibid.*, p 1. Town-based communities are discussed further in Chapter 3 (a) (iii).

²²² Submission No. 13 from DIA, 31 August 2007, p 3.

²²³ Submission No. 10 from Department of Water, 8 August 2007, p 2.

most recent Bilateral Agreement promotes the installation of individual water meters in the larger communities with the aim of ‘normalisation’ of services and improved water conservation.²²⁴

The State and Commonwealth have also agreed to fund an Aboriginal Remote Community Power Supply Project (ARCPSP). This was being implemented at a cost of some \$100 million over ten years with Horizon Power overseeing the provision by a private contractor of diesel-powered electricity to five large communities in the Kimberley. Individual power meters were being installed and usage will be charged at the uniform tariff, with consumers able to access rebates.

The ARCPSP project commenced in 2000 and has been associated with a complaint in 1998 of racial discrimination against the State and Western Power to the Human Rights and Equal Opportunity Commission by Warmun, one of the five communities in the project. The background to the complaint was:

Electricity produced at the Ord River is transported 200 kilometres by powerlines to Wyndham, a town of 750 to 800 people. Warmun is only 32 kilometres from the hydroelectricity plant and has a population of 400 to 600 ... yet it has to take responsibility for the generation of its own power. Warmun is not on the State government’s [2000] list of communities [for which it takes responsibility for the provision of essential services].²²⁵

In February 2007 the station at Warmun commenced operation. The four other power stations progressively become operational during the second half of 2007.²²⁶ The intention is that this project will be expanded to include other large Indigenous communities, although additional funding has not yet been agreed between the State and Commonwealth.

Finding 6

The Committee finds that the ARCPSP has successfully provided essential power supplies to some remote communities in the Kimberley and additional funds should be urgently provided by the State and Federal Governments to allow it to expand to all of the major Indigenous remote communities in WA.

There had been no comparable initiatives implemented in relation to water supplies and the Department of Water (DoW) noted in its report the need for a specific agency to ‘champion’ this

²²⁴ The Commonwealth of Australia and the State of Western Australia. 2005, *Bilateral Agreement for the provision of Housing, Infrastructure and Essential Services for Indigenous People in Western Australia November 2005 - June 2008*.

²²⁵ Robbins, J. 2000, ‘The Price of Power: Essential Services in Remote Indigenous Communities’, *Indigenous Law Bulletin*, 138.

²²⁶ Office of Energy, ‘Aboriginal and Remote Communities Power Supply Project’, www.energy.wa.gov.au/3/3220/64/aboriginal_and_.pm, accessed 17 January 2008.

issue. Subsequently, in its submission, DoW stated that its role since it was established in January 2006 had been:

...to ensure the State's water resources are planned and managed to meet community requirements. This includes ensuring that West Australians have access to water services.

Following the preparation of the report on Indigenous water services, the DoW took the lead role on improving the standard of water services (water and waste water) to Indigenous communities. This is seen as a co-ordination role bringing together policy, resourcing and implementation requirements to enhance the existing arrangements. The role involved liaising and working with the many agencies that are already involved in supplying water and other essential services to these communities, and working with them to improve the situation and implement government policies.²²⁷

(iii) Aboriginal town-based communities

Aboriginal town-based communities are located near existing towns, generally on reserve land. There are two main categories of town-based community- those that are basically a suburb of a rural town and those that are discrete communities located up to five kilometres away. Classification as an Aboriginal town-based community occurs when the communities are connected to either town power or town water supplies. DoW advised that there are approximately 42 town-based communities in WA.²²⁸

Inside the reserve's boundary, maintenance of reticulation and power supplies has been the responsibility of the community and, according DoW, was supported by RAESP in only five communities. These communities were generally charged for water services on a communal basis by the Water Corporation, although a small number of communities had individual meters to assist communities to determine household contributions. In its submission, the Water Corporation advised that of the town-based communities it serviced, 11 had individual property meters and nine had individual property meters with a master meter used for billing purposes. The remaining town-based communities did not have individual meters, and one only received wastewater services.²²⁹

The Office of Energy reports that historically electricity to town-based communities was supplied to a single point of connection via a master meter and the community received an aggregate bill from Horizon Power. Horizon Power did not sub-meter and bill individual users and it neither owned nor was responsible for the maintenance of the electricity distribution infrastructure within these communities. These communities generally adopted a 'chuck-in' method to collect money from residents to pay the electricity account.²³⁰

²²⁷ Submission No. 10 from Department of Water, 8 August 2007, p 1.

²²⁸ *ibid.*

²²⁹ Submission No. 9 from Water Corporation, 26 July 2007, p 1.

²³⁰ Office of Energy - Town Reserve Regularisation Program, www.energy.wa.gov.au/3/3222/64/town_reserves_r.pm, accessed 21 February 2007.

However, the Department of Housing and Works, in conjunction with the Commonwealth, has now been implementing a Town Reserves Regularisation Program (TRRP) in nominated town-based communities. TRRP aims to upgrade and transfer responsibility for services to mainstream providers, and, as part of the program Horizon Power was to individually meter consumers and assume responsibility for the operation, repair and maintenance of the distribution network.²³¹

That Bilateral Agreement on Indigenous Housing, Infrastructure and Essential Services also sets as an objective that communal water and wastewater infrastructure should be owned, managed and maintained by the Water Corporation. It was therefore of some concern to the Committee that despite the length of time this program had been in place, Aboriginal town-based communities recognised by the Department of Housing and Works did not completely correspond to those recognised by the Water Corporation.²³² In particular, it is of concern to the Committee that there are apparently five communities classified as Aboriginal town-based communities by the Department of Housing and Works of which the Water Corporation advised it had "...no knowledge of the water supply status".²³³ The Committee was advised that these five communities were only being serviced "...on an extreme emergency basis" by the Department of Housing and Works.²³⁴

In 2000, the State and Commonwealth Governments contributed around \$2.8 million each for the TRRP. Subsequently, there had been no specific budget allocation for the program, although initially funds provided under the State/Commonwealth Agreement could be used to support the regularisation of services in town reserve communities. During the 2006-07 financial year approximately \$3 million had been provided from pooled funds under the Agreement.

²³¹ Office of Energy - Town Reserve Regularisation Program, www.energy.wa.gov.au/3/3222/64/town_reserves_r.pm, accessed 21 February 2007.

²³² The Water Corporation identified three types of discrepancies. In relation to the five communities that were recorded as town-based communities on the Water Corporation's list but not the Department of Housing and Works' (DHW) list, the Corporation advised that these communities '*were all essentially mainstreamed*'. In relation to another five communities that were recorded as town-based communities on the DHW Works' list but not the Water Corporation's list, the Corporation advised that these communities were recorded as the DHW or DIA as the property owner, and:

...therefore views these accounts in the same way as accounts for the Government Employee's Housing Authority and other DHW properties. However, for the purposes of this comparison they need to be considered along with other communities receiving water services from the Water Corporation. They are not remote communities (Submission No. 9 from Water Corporation, 26 July 2007, Attachment, pp 1, 2 - Attachment originally provided to the Committee on 22 February 2007).

An additional seven communities were identified as town-based communities on the DHW list, but the Water Corporation advised that it had '*no knowledge of the water supply status*'. It advised that a number of communities were '*remote from town centres*' and that four communities (Bungardi, Burawa, Darlungunga and Parukupan) were not connected to the Fitzroy Town Water Supply. Water Corporation further advised that the remaining three communities (Madunka Ewarry, Barrel Well and Emu Creek) '*have not been identified as being serviced by the Water Corporation*' (*ibid.*, p 2).

²³³ Submission No. 9 from Water Corporation, 26 July 2007, Attachment, p 2.

²³⁴ E-mail from Manager Service Delivery, Water Corporation, 14 March 2007.

However, after 30 June 2007 the State assumed full responsibility for housing and essential services in these communities. DIA's submission advised that the State government announced an additional \$35 million over four years for these services as part of the 2007-08 State budget.²³⁵ The Department of Treasury and Finance's submission noted that this new financial commitment by the State was indicative of "...the Commonwealth withdrawing this funding under its new approach to Indigenous housing and infrastructure" which it considered "...a cost shifting exercise".²³⁶

(iv) Developments in relation to the provision of water services

The 2006 Department of Water report identified that there had been no comparable initiatives to ARCPSP implemented in relation to water supplies and noted the need for a specific agency to 'champion' this issue.²³⁷ DoW also stated that subsequent to the publication of this report it had taken the "...lead role on improving the standard of water services (water and waste water) to Indigenous communities".²³⁸ It also advised that "...in the essential services area, the program for power was started in 2000 and is ahead of the water services program".²³⁹

DoW continued:

The thrust at the moment is to develop a program that encapsulated the regularisation and normalisation objectives across Indigenous communities of all sizes. We are investigating developing a program to normalise water services in communities greater than 200 people (similar to the Aboriginal and Remote Communities Power Supply Project (ARCPSP), revitalising the Town Reserve Regularisation Program (TRRP) for town-based communities, extending the Remote Areas Essential Services Program (RAESP) to discrete remote communities less than 50 people and trying to be innovative with technological and other solutions for the small communities.

... the DoW is [also] represented on COAG Working Group for Reconciliation that is associated with the implementation of the National Action Plans for Reconciliation in Natural Resource Management (NRM) and Primary Industries (PI).

In recent meetings the Working Group has identified two major issues that need to be addressed:

Potable Water - *this has been raised as a major opportunity to be addressed at regional and remote levels through funding other than NRM funding to assist service delivery of this natural resource to Indigenous communities.*

²³⁵ Submission No. 13 from DIA, 31 August 2007, p 3.

²³⁶ Submission No. 12 from Mr Timothy Marney, Department of Treasury and Finance, 22 August 2007, p 4.

²³⁷ Department of Water. 2006, *Report for the Minister for Water Resources on Water Services in Discrete Indigenous Communities - Final Report*, Department of Water, Perth, p 19.

²³⁸ Submission No. 10 from Department of Water, 8 August 2007, p 1.

²³⁹ *ibid.*

The Working Group completed a briefing note for the relevant Councils to address the issue and this is yet to be confirmed. It has been recommended by the Working Group that this issue is too large to be funded by the State and Territory Governments and is the responsibility of the National Water Initiative.

***Welfare to Work Reforms** - the second issue is the new policy of 'Welfare to Work' reforms being introduced that will have an impact upon the Indigenous communities involved in NRM and PI projects that are supplemented with the CDEP project. It has been raised by the Working Group in another briefing with Ministerial Councils.*

The DoW is developing a new Indigenous employment strategy to train and employ local Indigenous people at regional level to be involved in water resource management. It is proposed to commence with four trainees in July 2007 and recruit another four in January 2008. The DoW proposes to increase the number of Indigenous people within the agency to 3% over three years.²⁴⁰

The Committee notes recent reports concerning a Department of Water research paper which identified that toxic compounds such as uranium, arsenic and heavy metals have exceeded drinking water standards in a number of Aboriginal communities and that more than half of these communities "...still lack formal monitoring of their drinking water".²⁴¹ This situation is unsatisfactory, but the Committee notes that the Department is now filling the role it previously identified as vacant - a specific agency to 'champion' the issue of potable water supply to discrete Indigenous communities.

(b) Housing

Recent data on the level of housing provided for discrete Indigenous communities in WA is difficult to locate. According to the ABS, in 2001 12.6 per cent of all Indigenous households in WA were overcrowded, the second highest rate in the country. In Indigenous or mainstream community housing in discrete Aboriginal communities, the rate of overcrowding was almost 40 per cent. In addition, more than 14 per cent of permanent dwellings in these communities in WA required replacement and another 20 per cent required major repairs.²⁴²

In 2004, the Western Australian Environmental Health Needs Survey (EHNS) of discrete Indigenous communities showed that there were 20 'priority' communities with populations of more than 100 which had population density ratios of between 7.5 and 40 persons per permanent dwelling.²⁴³ There were 45 communities of less than 100, with population density ratios of between eight and 50 per dwelling. The need for major repairs was the main cause for dwellings

²⁴⁰ Submission No. 10 from Department of Water, 8 August 2007, p 2.

²⁴¹ Ryan, S. 2008, 'Polluted water supplies put communities at risk', *The Australian*, 15 January 2008, p 2.

²⁴² ABS. 2005, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples, Cat. No. 4704.0*, Australian Bureau of Statistics, Canberra, pp 39- 42.

²⁴³ Defined as the community population divided by the number of permanent dwellings with connections to water, electricity and sewerage.

remaining unoccupied in these communities.²⁴⁴ As highlighted in Chapter 2.5, there is data which indicates that housing in outstations may be better in some respects than in these larger Aboriginal communities.

In late 2006 this Committee sought feedback on housing issues from large remote Aboriginal communities (with populations of 50 and above) and from other stakeholders. A range of serious concerns were highlighted including:

- the difficulty in engaging service providers and contractors to undertake work in remote communities;
- a lack of coordination with reference to ensuring adequate power and water infrastructure to support new buildings;
- non-participation by community members in training and employment opportunities because of contractors' obligations to deliver within restricted timeframes and lack of cultural awareness;
- reluctance by contractors to train community members given time constraints and expense;
- the ineffectiveness of contractual obligations to train/employ community members when it was more efficient for contractors to simply pay CDEP workers 'top up' with no expectation that they will participate;
- high administrative burdens on acquitting and reporting on housing grants;
- lack of clear allocation of responsibilities between various government departments;
- poor quality of construction requiring expensive and extensive maintenance and repair;
- the 'vagaries' of government policy and community governance relating to CDEP;
- the absence of any financial or other assistance in the maintenance of community housing over the past 25 years;
- severe overcrowding; and
- the 'disenfranchisement' of community members by the increasing adoption of a 'service-delivery' model, often via outside contractors, to remote communities.

Other than the one stakeholder, all other respondents to this survey represented communities of at least 150 residents. The Director General of the Department of Housing and Works responded to these concerns (in italics), as follows²⁴⁵:

²⁴⁴ Environmental Health Needs Coordinating Committee. 2005, *Environmental Health Needs of Indigenous Communities in Western Australia: The 2004 Survey and its Findings*, Environmental Health Needs Coordinating Committee, Perth, p 47 and pp 50-52.

- the difficulty in engaging service providers and contractors to undertake work in remote communities;

This is acknowledged, particularly in the current housing environment and requires appropriate responses to address.

- a lack of coordination with reference to ensuring adequate power and water infrastructure to support new buildings;

Coordinated approaches to “community planning” and development should form part of all future “works projects”. This will involve a number of stakeholders as part of the assessment process. This has been somewhat problematic in the past with essential service capital and housing capital being delivered through different agencies and private sector businesses. This is now coordinated through AHI policy and planning and should not present a problem in the future.

- non-participation by community members in training and employment opportunities because of contractors’ obligations to deliver within restricted time frames and lack of cultural awareness;

These are issues that can be further discussed with the appropriate parties. This is an unfortunate consequence of mixed messages being given to the housing delivery area, that is, that houses must be built/upgraded quickly irrespective of training and employment opportunities and requirements. An alternate message to focus on training and employment has been conveyed to the housing delivery area, which should see an improvement in their approach to this matter in future. In practice we endeavour to achieve both, for example, at Ardyaloon we are upgrading five houses through the community work team, and building fifteen by contract.

- reluctance by contractors to train community members given time constraints and expense;

Agreed as noted above. Note this is primarily in relation to new construction and not ex MSP [Management Support Program²⁴⁶] projects.

- the ineffectiveness of contractual obligations on contractors to train/employ community members when it is more efficient to simply pay CDEP workers ‘top up’ with no expectation that they will participate;

Again, these issues require further discussion between all parties and direction to the capital works program in respect to priority of building houses versus a training program.

²⁴⁵ Letter from Mr Bob Mitchell, Director General, Department of Housing and Works, 4 May 2007.

²⁴⁶ A program previously run by the Department of Housing and Works, described as helping ‘Aboriginal communities meet their responsibilities to deal with issues of aging housing stock and attrition through damage by setting up training in building maintenance and housing management’ (Homeswest, Annual Report 1998/9, p 55).

There has been considerable pressure over the last couple of years to increase output at the expense of training and employment.

- high administrative burdens on acquitting and reporting on housing grants;

The tender waiver policy and procedure that enables communities to submit a single tender to undertake the works be it housing upgrade or new construction removes the requirement for grant acquittals.

- lack of clear allocation of responsibilities between various government departments;

It is unclear as to what you are referring to by this statement. However it would appear this can be addressed through improved communication between all parties. Any specific instances should be documented and referred directly to the Department or agencies concerned.

- poor quality of construction requiring expensive and extensive maintenance and repair;

This is strongly disputed. The standard of new construction has improved significantly over the past five years and any defects may be addressed through the provisions contained in each contract. It is difficult to respond to this type of sweeping generalisation and specific instances should be documented and referred to the Department for investigation.

- the ‘vagaries’ of government policy and community governance relating to CDEP;

Agreed. When the Department contracts the community to undertake the works we now ask that this is priced on a commercial basis and not rely, such as, on CDEP as this has a negative impact for a variety of reasons.

- the absence of any financial or other assistance in the maintenance of community housing over the past 25 years;

Agreed. The maintenance subsidy program was introduced at the same time as the suspension of the MSP to address this shortcoming. The MSP was never intended to undertake day-to-day maintenance, however, many did and adjusted their financial reporting which resulted in this practice going unnoticed for sometime. Additional procedures have now been put in place to ensure this practice doesn't occur in future.

- severe overcrowding; and
- the ‘disenfranchisement’ of community members by the increasing adoption of a ‘service-delivery’ model, often via outside contractors, to remote communities.

The above comments are noted and I can assure you, the Department is committed to working closely with Remote Communities through “whole of government” and non-

government agencies. It is a principle objective of our Department to improve outcomes for Aboriginal people, across all programs and services.

Specifically, where communities have the capacity they will be encouraged to participate in contractual processes. However, on other occasions this may mean external service providers are engaged. Overall, mechanisms and methods that provide best practice, improved governance, sustainability and accountability will be supported. The Department is also bound by its obligations to the Commonwealth under the Indigenous Housing Agreement to implement strategies and changes to deliver improved outcomes for Remote Communities and other stakeholders.

Finding 7

Under present State arrangements, the housing requirements of Indigenous communities are subject to contractual obligations with private contractors, and the administrative requirements and coordination of power and water service providers. Additionally, training schemes for Indigenous community members are limited by the willingness of contractors to incorporate them within the budget constraints of their contract.

Recommendation 5

That consideration be given by the Government to including economic incentives as a condition of the contract commitments of private service providers as a means to encourage them to undertake training schemes for Indigenous community members.

3.4 Outcomes for Indigenous people

(a) Key indicators

(i) Overcoming Indigenous Disadvantage

Despite an increased acceptance by all governments of the need to improve the outcomes for Indigenous Australians, recent government policies such as mainstreaming of Indigenous programs (including CDEP) have been criticised for not being evidence-based.²⁴⁷ There is an

²⁴⁷ For example, the Indigenous Governance Capacity Project found that:

There is currently little public data available on which to evaluate the impacts of CDEP changes on the ground... Government needs to commission independent evaluations, publicly report and address these effects, including local impacts on the viability and effectiveness of community governance arrangements (Hunt, J. and Smith, D. 2007, Indigenous Community Governance Project: Two Year Research Findings, CAEPR Working Paper No. 36/2007, Australian National University, Canberra, p xxii).

absence of data that differentiates between the outcomes achieved by Aboriginal people living in smaller outstations and in the larger remote communities.²⁴⁸

Two of the agencies responding to the Committee's Discussion Paper, the Department of Indigenous Affairs and the Department of Treasury and Finance, suggested that reference be made to the Overcoming Indigenous Disadvantage (OID) Framework. The OID Framework has been endorsed by COAG as a means of addressing the root causes of Indigenous disadvantage and measuring the impact of governments' services and programs over time. The Department of Treasury and Finance stated that the Productivity Commission's report *Overcoming Indigenous Disadvantage Key Indicators*:

*...highlights current outcome gaps between Indigenous and non-Indigenous Australians... the report [also] highlights programs and initiatives that have worked in recent years to improve outcomes for Indigenous Australians.*²⁴⁹

The Department of Indigenous Affairs stated:

*...the OID indicator framework describes the major determinants of Indigenous disadvantage and also provides an ongoing evidence base of the extent to which Governments are achieving progress against key indicators.*²⁵⁰

OID was initiated by COAG in April 2002 and the Steering Committee was commissioned to produce a regular report against key indicators of Indigenous disadvantage. The Productivity Commission says:

*This report has an important long-term objective. It is to inform Australian governments about whether policy programs and interventions are achieving positive outcomes for Indigenous people. This will help guide where further work is needed. The latest edition of the report, *Overcoming Indigenous Disadvantage: Key Indicators 2007*, was released on 1 June 2007. Previous editions were published in 2003 and 2005.*²⁵¹

Given criticisms of a lack of evidence-based policy formulation in relation to Indigenous communities, this series of reports is very significant. However, the primary function of this process, according to the Department of Treasury and Finance, is to track "...current outcome gaps between Indigenous and non-Indigenous Australians" and data is compiled to monitor those gaps. While there are some outcomes for Indigenous people that are also reported according to remoteness, the outcomes are not distinguished according to whether the Indigenous individuals

²⁴⁸ For example, the National Aboriginal and Torres Strait Islander Social Survey categories are 'remote' and 'non-remote'.

²⁴⁹ Submission No. 12 from Mr Timothy Marney, Under Treasurer, Department of Treasury and Finance, 22 August 2007, p 2.

²⁵⁰ Submission No. 14 from DIA, 31 August 2007, p 4. The DIA's *Overcoming Indigenous Disadvantage in Western Australia Report - Key Indicators 2005* has been cited previously, in Chapter 2.7.

²⁵¹ www.pc.gov.au/gsp/indigenous, accessed 15 January 2008.

are members of discrete communities, nor according to the size of those communities. This limits the usefulness of the data for the purposes of this Report.

Nevertheless, those key indicators where remoteness factors are taken into account (eg. the 2006 Census indicated that 41 per cent of Indigenous Western Australians lived in remote areas, second only to the proportion of Indigenous people living in remote areas in the NT)²⁵² show that:

- Over 56 per cent of Indigenous people in remote areas reported one or more long term health conditions compared to 67 per cent in non-remote areas.
- In 2004-05, Indigenous people living in remote areas reported significantly higher rates of diabetes/high sugar levels (9 per cent), heart and circulatory diseases (14 per cent), and kidney disease (3 per cent) than Indigenous people living in non-remote areas.
- Indigenous people living in non-remote areas were more likely to report arthritis, asthma, back problems and eye/sight problems than Indigenous people living in remote areas.
- CDEP participation increased with geographic remoteness, ranging from 2 per cent of the Indigenous population in major cities to 35 per cent in very remote areas.
- Non-CDEP employment declined with increasing remoteness, from 51 per cent in major cities to 16 per cent in very remote areas.
- There was little variation in the labour force participation rate for Indigenous people across remoteness areas.
- In remote and very remote areas, 13 per cent and 35 per cent, respectively, of Indigenous people in the labour force participated in CDEP.
- In 2004-05, Indigenous people in inner and outer regional areas were significantly more likely to be unemployed than those in very remote areas. However, in very remote areas, 35 per cent of Indigenous people in the labour force participated in CDEP and were classified as employed.
- In 2004-05, the proportion of Indigenous people aged 18 years and over living in home owner/purchaser households was much lower in remote (17 per cent) and very remote (3 per cent) areas than in major cities (29 per cent) and inner and outer regional areas (39 and 32 per cent, respectively).
- Between 2002 and 2004-05, there were no significant changes over time in the proportions of Indigenous people aged 18 years and over living in home owner/purchaser households, nationally or by remoteness status.

²⁵²

ABS. 2007, *Population Distribution, Aboriginal and Torres Strait Islander Australians, 2006, Cat. No. 4705.0*, Australian Bureau of Statistics, Canberra, p 6.

- From 1999-2000 to 2004-05, a higher rate of Indigenous homicides occurred in remote, outer regional and very remote areas (13–17 per 100,000) compared with major cities and inner regional areas (4–5 per 100,000).
- Indigenous homicide rates were higher than non-Indigenous rates in all remoteness areas.
- In remote areas, Indigenous homicides occurred at ten times the rate of non-Indigenous homicides.²⁵³

These outcomes are not distinguished according to whether Indigenous people are members of discrete communities, nor by the size of those communities, thus limiting the relevance of the data for the purposes of this Report. Of more relevance to this Report is the identification of ‘effective environmental health systems’ as one of the ‘strategic areas’ in the OID report. The Department of Indigenous Affairs advised that this is “...one of seven areas for action identified as a determinant of Indigenous disadvantage”²⁵⁴ and are further examined below.

(b) Environmental health outcomes

Environmental health indicators are of most relevance to the issues of infrastructure and housing in remote communities that is covered by this Report. However, the Committee notes the comments made by the Department of Treasury and Finance (DTF) in response to its Discussion Paper:

*The DTF recognises that there is a lack of quality data and that this is especially true in gathering information about remote Indigenous communities. There are also inherent difficulties in measuring improvements to indigenous outcomes. In particular, it is difficult to determine how much each individual initiative contributes to the achievement of long-term outcomes. For example, the construction of houses in a remote community may reduce the immediate overcrowding problem, but it is not necessarily certain that this will improve outcomes relating to education, employment, health and economic participation.*²⁵⁵

²⁵³ Steering Committee for the Review of Government Service Provision. 2007, *Overcoming Indigenous Disadvantage - Key Indicators 2007*, Canberra, chps 3.2, 3.5, 3.7, 3.10.

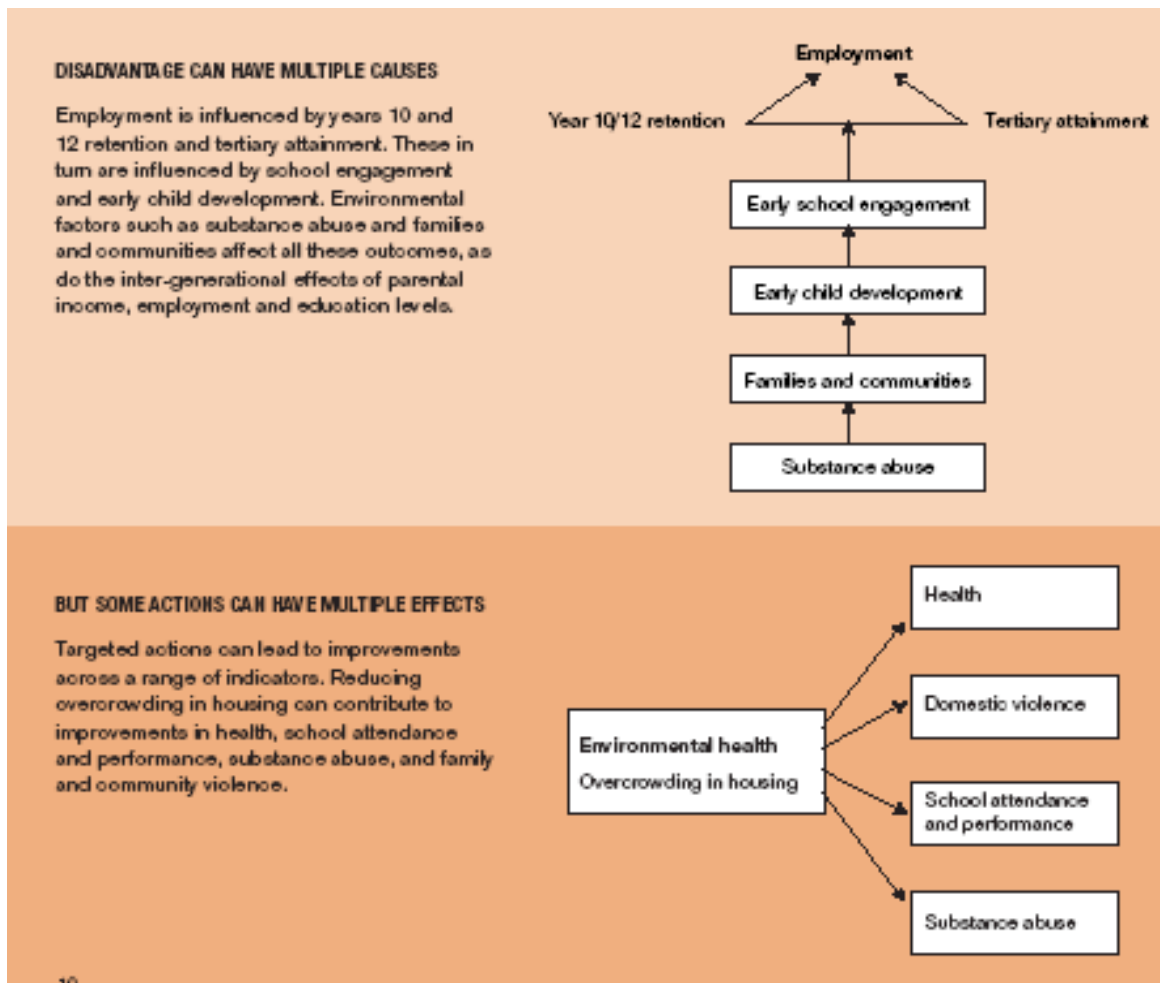
²⁵⁴ *ibid.*, 4.1.

²⁵⁵ Submission No. 12 from Mr Timothy Marney, Under Treasurer, Department of Treasury and Finance, 22 August 2007, p 1. The Committee’s Discussion Paper was also criticised by Mr Rasjad Moore in his submission for the issue of housing being ‘over emphasised’:

I am dismayed at the heavy emphasis in the paper on Indigenous housing in remote communities. This is important, to be sure, but not as significant I believe, as initiatives in health, education, employment (Submission No. 3 from Mr Rasjad Moore, 24 May 2007, pp 2, 7).

Although it is not ‘necessarily certain’ to DTF, the *Overcoming Indigenous Disadvantage - Key Indicators 2007* did identify reducing over-crowding as ‘a single well-targeted action’ which ‘can lead to improvements in many indicators’.²⁵⁶

Figure 3.1- Causes of Indigenous disadvantage



In 2005, DIA reported on the strategic area of environmental health outcomes:

Rates of diseases associated with poor environmental health

Indigenous people were hospitalised at six times the rate of non-Indigenous people for Influenza and pneumonia, and Intestinal infections; and four and a half times the rate for Upper respiratory tract infections.

Access to clean water and functional sewerage

²⁵⁶ Steering Committee for the Review of Government Service Provision. 2007, *Overcoming Indigenous Disadvantage - Key Indicators 2007*, Canberra, Overview.

There has been an increase in the proportion of discrete Indigenous communities with monthly testing and treatment of water supplies from 1997 to 2004, however there has not been a similar improvement found in the proportion of individual dwellings in these discrete communities with connection to sewerage disposal systems.

Sustainable positive environmental health outcomes are linked to, and require investment in, human capital, governance and economic development initiatives in discrete Indigenous communities.

Overcrowding in housing

Overcrowding affects nearly one-quarter of people living in Indigenous households in Western Australia. Overcrowding is most prevalent in Very remote regions of Western Australia, affecting 52% of people living in Indigenous households.²⁵⁷

Tables 3.2, 3.3, and 3.4, below, provide information relating to discrete Aboriginal communities in Western Australia, and also distinguish between community population sizes. These Tables summarise the EHNS survey outcomes relating to core indicators of environmental health and the provision of community services.²⁵⁸ They indicate that, consistent with the State’s historical imperative to meet the needs of larger population facilities, core environmental health and community services are considerably better in the larger communities than those available in the smaller communities.

Table 3.2

Core Indicators of Environmental Health	Communities with population <20		Communities with population >20		Percentage of remote Indigenous population affected
	No.	% of total No. communities <20	No.	% of total No. communities <20	
Inadequate Water Source	17	17	8	5	6%
No disinfection of drinking water	84	87	48	36	17%
No monthly testing of water supply	82	88	41	33	16%
Unsatisfactory water supply	45	47	53	32	26%
No source of electricity	12	12	1	1	-

²⁵⁷ DIA. 2005, *Overcoming Indigenous Disadvantage in Western Australia Report - Key Indicators 2005*, Department of Indigenous Affairs, Perth, p 40.

²⁵⁸ EHNCC. 2005, *Environmental Health Needs of Indigenous Communities in Western Australia: The 2004 Survey and its Findings*, EHNCC, Perth.

Core Indicators of Environmental Health	Communities with population <20		Communities with population >20		Percentage of remote Indigenous population affected
	No.	% of total No. communities <20	No.	% of total No. communities <20	
Electricity supply regularly interrupted	50	60	62	53	39%
Unsatisfactory electricity supply	48	53	52	32	25%
Rubbish not collected sometimes	23	23.7	49	29.2	28.9%
Inappropriate rubbish tip	6	5.8	13	7.7	6.3%
Dumping area not well fenced	70	86.4	91	63.6	N/A
Rubbish tip capacity less than 12 months	43	58.1	50	38.2	N/A
High litter levels	3	3.1	24	14.7	N/A
No adequate sewerage treatment/disposal system	30	30.9	23	13.7	8.2%
No access to septic tank or leach drain equipment	39	60.9	47	43.5	N/A
High or excessive dust levels	45	43.7	109	64	61%
No dust suppression or revegetation program	86	85	130	77	67%
Unsealed roads	99	97	125	74	53%
No dog program	22	41	30	20	12%
No. of dwellings with dogs inhabiting them	86	60	1393	77	N/A

Core Indicators of Environmental Health	Communities with population <20		Communities with population >20		Percentage of remote Indigenous population affected
	No.	% of total No. communities <20	No.	% of total No. communities >20	
Prone to bushfire with no fire-fighting equipment	80	89.9	79	76	67.1%
Prone to cyclones with no evacuation plan	42	84	48	76.2	55.7%

Table 3.3- EHNS survey results of the availability of community services

Provision of community services	Communities with population <20		Communities with population >20		Percentage of remote Indigenous population affected
	No.	% of total No. communities <20	No.	% of total No. communities >20	
No onsite or visiting Environmental Health Officer	49	49	31	19	N/A
No onsite or visiting Essential Services Officers/Operators	65	68	59	42	N/A
Inadequate health clinic	101	98	112	66	N/A
No onsite or visiting health professional	48	48	31	18	N/A
No onsite or visiting dentist	91	97	127	85	N/A
No regular access to fresh fruit and vegetables	24	24	22	13	N/A
Community store without a nutrition based policy	5	83	22	46	N/A

These Tables clearly show that the physical facilities and community services available to meet the environmental health needs of small communities are substantially poorer than those available

to larger communities. Surprisingly, Table 3.4 shows that the health outcomes for different sized communities are not correlated to remoteness status.²⁵⁹

Table 3.4- Major health concerns of Indigenous communities

Reports of major health concerns	Communities with population <20		Communities with population >20		Percentage of remote Indigenous population affected
	No.	% of total No. communities <20	No.	% of total No. communities >20	
Diabetes	10	11	61	38	N/A
Hearing or eyesight problems	5	6	36	22	N/A
Water/mosquito problems	18	21	20	12	N/A
Substance abuse	2	2	32	20	N/A
Skin conditions	3	3	17	11	N/A
Renal/kidney problems	4	5	15	9	N/A
Asthma and respiratory problems	2	2	14	10	N/A
Poor nutrition	0	0	16	10	N/A
Gastro/diarrhoea	2	2	13	8	N/A
Flu	4	5	8	5	N/A

²⁵⁹ DIA cautions that in interpreting the figures reported in the various tables, care needs to be taken as these relate to the number of communities per issue as a proportion of the total number of communities. By reporting the 'number of communities' rather than the 'usual population' in the Discussion Paper, DIA stated that:

...it appears as if the issue that is being reported affects the majority of the population. However, the total population of these communities is often small.

An example is the reporting of 'no disinfection of drinking water' whereby the number of communities is relatively large (58%). However, these are generally the smallest communities not serviced by the Remote Areas Essential Services Program (RAESP). The actual population affected is some 17% of the indigenous population in remote communities (Submission No. 14 from DIA, 31 August 2007, pp 3, 4).

The Committee agrees with DIA's concern about the interpretation of the reported data, and has reported the percentage of the population affected, where that figure has been made available by the Environmental Health Needs Coordinating Committee (now renamed the Indigenous Environmental Health Coordinating Committee).

Reports of major health concerns	Communities with population <20		Communities with population >20		Percentage of remote Indigenous population affected
	No.	% of total No. communities <20	No.	% of total No. communities >20	
Inadequate health services or infrastructure	5	6	5	3	N/A

The Tables above indicate that there may be significantly better health outcomes for the residents of the smaller communities, particularly given concerns relating to diabetes, substance abuse and nutrition, although there is reason to exercise some caution. While the Western Australian EHNS data available for housing does not distinguish outcomes for smaller (less than 20) and larger communities, other data does. This data indicate that, while housing in outstations is far from ideal, it appears significantly less overcrowded than in other communities.²⁶⁰ Overcrowding is acknowledged by the Equal Opportunity Commission as a significant factor contributing to a number of health and social issues, including family violence and abuse:

Overcrowding is often associated with the risk of infectious disease. Some of these are thought of as third world diseases that had been eradicated from contemporary western countries, as well as respiratory conditions and intestinal worms, and rheumatic heart disease. Overcrowding also exacerbates other health conditions. For example, diabetes, which is already a significant health issue for Aboriginal people. It has also been associated with family breakdown caused by cramped living conditions; with crime; family violence and property damage leading to debt, eviction and child abuse.²⁶¹

Therefore, any better social and health outcomes for smaller communities may well be in part attributable to less overcrowding in housing in these communities. There is also likely to be an element of ‘self-selection’ contributing to these outcomes. For example, very ill people are less likely to move away from the better resourced larger communities and will affect the reported health outcomes for that community. It would be wrong, too, to ignore the often symbiotic relationship between the smaller and the larger communities, with the larger communities acting as a service centre for people in smaller communities, and smaller communities providing useful opportunities to get away from the pressure of the larger and often less cohesive larger groupings

²⁶⁰ Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra, pp 8-10.

²⁶¹ Equal Opportunity Commission. 2004, *Finding a Place, An Inquiry into The Existence of Discriminatory Practices in Relation to the Provision of Public Housing and Related Services to Aboriginal People in Western Australia*, Equal Opportunity Commission, [Perth], p 107. See also the comments of the Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage - Key Indicators 2007*, Overview, referred to previously.

which are the result of historical practices of forcible removal and segregation of a number of disconnected groups or families.²⁶²

Nonetheless, there are other data which support the notion that the opportunity to reside in outstations, despite the relatively poor resourcing, may positively contribute to better health outcomes. Professor Altman highlights that, consistent with the 1987 Homelands Report, access to traditional lands and foods and the opportunities to engage more fully with cultural activities and obligations, are likely to continue to be significant for Aboriginal people.²⁶³ This is also consistent with the research conducted by Mr Kevin Rowley, from the University of Melbourne, which found that the 1,000 residents of Utopia (who live in 16 small outstations in the central Australian desert) had mortality rates 40 per cent lower than the rest of the Northern Territory. They also had less heart disease, lower smoking rates and almost no obesity.²⁶⁴

The evaluation of the effectiveness of the Indigenous Protected Areas (IPA) Program also appears significant with respect to the potential for the sustainability of smaller remote communities.²⁶⁵ It found the program to be remarkably successful in addressing contemporary environmental issues through the re-establishment of land management traditions in a cost effective way, and also considerable social and cultural positive outcomes:

... the IPA Programme is a suitable vehicle for facilitating the transfer of traditional knowledge and engaging young people in positive educational experiences centred on the exchange of western science and traditional knowledge....

Gainful employment through the IPA Programme also contributes to social cohesion within communities by providing for an increased sense of worth and the framework for members of the community to work together.

The following statistics, generated from internal reporting, support the argument that IPAs deliver improved social outcomes:

- *95% of IPA communities report economic participation and development benefits from involvement with the Programme;*
- *60% of IPA communities report positive outcomes for early childhood development from their IPA activities;*
- *85% of IPA communities report that IPA activities improve early school engagement;*

²⁶² See for example, *Counterpoint*, 'What is the future of Aboriginal Homelands?', 28 August 2006, www.abc.net.au/rn/counterpoint/stories/2006/172438.htm, accessed 10 January 2007.

²⁶³ Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra.

²⁶⁴ ABC News, 'Researchers find Indigenous Health Utopia', 11 October 2006, www.abc.net.au/news/newsitems/200610/s1760241.htm, accessed 11 October 2006; ABC News, 'NT community bucks Indigenous health trend', *AM*, 11 October 2006, www.abc.net.au/news/newsitems/200610/s176024.htm, accessed 11 October 2006.

²⁶⁵ See Chapter 4.8 (a) for a further description of the IPA programme.

- 74% of IPA communities report that their IPA management activities make a positive contribution to the reduction of substance abuse; and
- 74% of IPA communities report that their participation in IPA work contributes to more functional families by restoring relationships and reinforcing family and community structures.²⁶⁶

In its submission, the Kimberley Aboriginal Law and Culture Centre (KALACC) said it ‘fully concurs’ with this assessment of the IPA program and noted the announcement in August 2007 by the former Commonwealth Minister for the Environment and Water Resources of a \$7 million expansion of the program.²⁶⁷

These positive reports on the effectiveness of the IPA program, particularly for smaller remote communities, are at odds with comments in the Price Waterhouse Coopers review of the Community Housing and Infrastructure Program:

*No Government can justify keeping on building houses in the middle of nowhere where there is no school, no healthcare, no law and order, unreliable power and water, no jobs... and no hope for another generation of our young people.*²⁶⁸

However, the apparent benefits of retaining outstations for Aboriginal people, particularly in relation to better health outcomes and less substance abuse, need to be weighed in context of economic considerations made by commentators such as Dr Gary Johns, former Minister and current President of the conservative Bennelong Society, who said that many of these communities have no economic base and that the ‘...children who are performing worst in education in Australia are Aboriginal children in remote communities, and ... “Children who leave school early, die early.”’²⁶⁹ There is data that contradicts the notion that remoteness is necessarily correlated to poorer health outcomes for Aboriginal people, but there is evidence of both poorer western educational outcomes in outstations,²⁷⁰ and greater reliance upon CDEP, rather than participation in the ‘real economy’, in all discrete Aboriginal communities.²⁷¹

²⁶⁶ Gilligan, B. 2006, *The Indigenous Protected Areas Program - 2006 Evaluation*, Department of Environment and Heritage, Canberra, pp 3-4.

²⁶⁷ Submission No. 11(a) from KALACC, 15 August 2007, p 6. KALACC also noted that it was having difficulties securing funding for the Indigenous Ranger Group that it managed, and for the Kimberley Fire Project that KALACC had auspiced and managed until 30 June 2006.

²⁶⁸ Price Waterhouse Coopers. 2007, *Living in the Sunburnt Country*, Sydney, p 2.

²⁶⁹ ABC. 2006, ‘What is the future of Aboriginal Homelands?’, *Counterpoint*, 28 August, www.abc.net.au/rn/counterpoint/stories/2006/172438.htm, accessed 10 January 2007.

²⁷⁰ Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra, p 11.

²⁷¹ The EHNS indicated that 96.7 per cent of communities participated in CDEP (EHNCC. 2005, *Environmental Health Needs of Indigenous Communities in Western Australia: The 2004 Survey and its Findings*, EHNCC, Perth, p167).

3.5 Viable communities

(a) General government approach

Given the relatively recent change of government at the Commonwealth level, future directions in Indigenous affairs understandably still remain unclear at the time of this Report. It appears likely however, that the State, consistent with views expressed over the past 20 years,²⁷² will primarily direct its resources to housing and infrastructure for larger Aboriginal communities. The State Government argues that the funding of outstations should not take precedence over the identified needs of larger, permanent communities,²⁷³ and with 82 per cent of Aboriginals living in the larger communities in Western Australia, this is a difficult position to challenge.

In 2006, the Department of Water reported:

...a view within State government agencies that many of the small remote communities are unsustainable, a view that has recently been supported by statements from the Commonwealth Government and a recent moratorium on new communities (eg CHIP).²⁷⁴

The DoW also noted that, despite the difficulties in servicing these communities, the termination of services without consideration of regional governance models was likely to have negative social repercussions. In responding to this issue in the Committee's Discussion Paper, the Department of Education and Training also noted:

There will potentially be contentious issues arising from any decision by government to close communities based on viability if the decisions are not supported by communities.

... the definition of viability would need to be clear. It is recommended that population size alone is not a broad enough definition. The number of people, current infrastructure, employment in and around the community, governance, role of local government in service provision, health and cultural benefits, links with traditional lands and the social context are possible indicators. The potential for opportunities for tourism, enterprise, pastoral leases, mining, local government/community management, local industries and other employment opportunities could also warrant consideration.

The definition of viability and any judgments following this about community viability will be linked to what is considered most important. The notion of being viable based on the economics of providing and maintaining services for these communities should not be considered separately from the priority placed by Aboriginal people on cultural identity and connection with traditional lands. The right of Aboriginal people to live in an area which is culturally significant should not be excluded from any discussions about viability. There may be unintended consequences (social, health, housing, incarceration and crime)

²⁷² See Chapter 2.4 of this Report.

²⁷³ 'Western Australia's Comments on the Commonwealth Grants Commission's Indigenous Funding Inquiry Draft Report', 2000.

²⁷⁴ Department of Water. 2006, *Report for the Minister for Water Resources on Water Services in Discrete Indigenous Communities - Final Report*, Department of Water, Perth, p 23.

which will be detrimental to many families if a narrow view of social policy is taken and economics are considered rather than the whole picture. There is the potential for attendance rates to drop with relocation and therefore for performance gaps for Aboriginal students to increase.

It is critical that there is clarity about what is to be reviewed, whether it is:

- *the viability of providing services in the communities;*
- *the viability of the communities themselves; or*
- *the viability of providing essential services to support the establishment of new communities in the future.²⁷⁵*

It remains important not to ignore the lessons of past Indigenous policy approaches. The House of Representatives noted in 1987 that:

The tendency by both State and Territory governments has been to give priority to the larger established communities despite a number of indicators which suggest that the support for these communities in the longer term does not enhance the lives of Aboriginal people, particularly in the area of economic independence.²⁷⁶

According to Professor Altman at the ANU, there appears at both State and Commonwealth level:

... a real danger that in seeking imagined economic independence... new government policy will reinvent the extreme dependence that many of today's outstation residents experienced at townships ... in the 1960s and chose to leave in the 1970s.²⁷⁷

The Committee notes that the little data that is available, and discussed in Chapter 3.3 above, supports these concerns about any move to close the smaller outstations. The critical significance of participation by, and consultation with, those communities being affected by policy changes is returned to in Chapter 5. The KALACC submission reiterates that the costs, including economic costs, of the various alternatives for Aboriginal communities may be more complex than it appears to those living outside of them:

Remote communities are accused of being economically unsustainable. However KALACC feels a closer examination of this economic modelling needs to be undertaken. In short-hand this can be illustrated through the Yiriman Youth program²⁷⁸. Most of the youth that Yiriman works with are town-based youth who are unemployed; have a range of

²⁷⁵ Submission No. 5 from the Department of Education and Training, 9 July 2007, p 6.

²⁷⁶ House of Representatives, Standing Committee on Aboriginal Affairs. 1987, *Return to Country: The Aboriginal Homelands Movement in Australia*, Canberra, p 111.

²⁷⁷ Altman, J. 2006, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra, p 14.

²⁷⁸ The Yiriman Youth Program is a youth diversionary scheme which 'operates through a culturally appropriate and culturally driven model of intergenerational exchange' (Submission No. 11(a) from KALACC, 15 August 2007, Attachment 1). Also see Chapter 4.4 of this Report.

*health issues ranging from drug and alcohol use through to mental health issues; and have contact with the Justice system. The Yiriman project works by providing employment and training options; providing health benefits and minimizing contact with the Justice system. A comparison of re-centralized and larger communities compared with smaller, remote communities needs to be a fair and true comparison which accounts for the full cost of health and related issues.*²⁷⁹

In his first quarterly report after being appointed the Special Adviser on Indigenous Affairs in Western Australia, Lieutenant General (Retd) John Sanderson,²⁸⁰ reported:

... I have covered significant distances and had the opportunity to see the conditions and to discuss the future with leaders ranging from those small remote communities to those in settlements on the verge of major regional centres.

*As an initial observation, it does not seem to be the size of the community that determines its viability, some very small communities on traditional lands having greater social viability and cohesion than much larger settlements that are comprised of people dislocated by European intervention. There are serious implications in this for any policy that is simply based on limiting support and development to those larger communities displaying aberrant behaviour, which seems to be the focus of Bilateral activity. The likely consequence of this imbalance is the social collapse of what are otherwise sound communities and the eventual transfer of these social problems to regional towns. There are a number of places already showing signs of being affected in this way. Even where there are legitimate concerns about the long-term economic cost of supporting such communities, and the limited opportunities available to young Aboriginals from them, these have to be offset against the social costs of destabilisation of other centres, including the commensurate need for expansion of the justice and corrective services.*²⁸¹

In a later report the Special Adviser reiterated that:

*Indigenous participation in the Justice and Corrective systems ... now absorb approximately half of the total State expenditure on Indigenous Affairs.*²⁸²

²⁷⁹ *ibid.*, pp 15-16.

²⁸⁰ Former Governor of Western Australia.

²⁸¹ Sanderson, J. 2006, *Special Adviser on Indigenous Affairs Quarterly Report to the Premier and the Minister for Indigenous Affairs 1st Quarter: 1 September 2006 - 30 November 2006*, p 3.

²⁸² Sanderson, J. 2007, *Special Adviser on Indigenous Affairs, Letter to the Premier*, 19 June 2007.

Finding 8

The measure of the ‘viability’ of a small remote community must incorporate more than just what is deemed an ‘economic population size’. Social factors such as cultural benefits, health benefits, connection to traditional lands, caring for country, as well as future economic opportunities contribute to the viability of communities as well as a positive outcome to these communities, and to Western Australia overall.

(b) Fuel and energy- a current challenge to community viability

The Shire of Ngaanyatjarraku in its submission (page 16) highlighted the significant impact of rising fuel prices. Their submission stated that “Increases in the cost of fuel in the last four years has put substantial pressure on Community members’ incomes.” Nearly all small remote Indigenous communities in WA such as this Shire use diesel fuel for power supply, as well as transport. Electricity generated by diesel fuel is almost universal and the electricity powers water bore pumps, household and workplace appliances and other equipment, including refrigeration for food and medical supplies. All food and other freight for these communities travels long distances via road transport, which is already a major factor of the higher prices of goods in remote community stores.

As an example of the real impact on these Western Desert communities managed by the Shire of Ngaanyatjarra, Dr David Worth reports their annual 2005 municipal grant from the Federal Government for diesel purchase was based on the figure of \$1.10 per litre, and they ‘ran out’ of funds in July 2005, half way through their grant period as diesel prices were significantly higher than the budgeted figure.²⁸³ The Ngaanyatjarra Council subsequently agreed to enter into a Regional Partnership Agreement (RPA) with the State and Australian Governments with a Shared Responsibility Agreement (SRA) providing additional funds to reimburse the Council for the impact of higher diesel prices on their annual municipal grant.²⁸⁴ In exchange for additional powerhouse funds, families and individuals from the Ngaanyatjarra Community were required under their SRA mutual obligations to²⁸⁵:

- take steps to minimise power consumption;
- pay power bills when presented;
- enter into arrangements to settle any outstanding debts; and
- not pressure staff or others to provide power services free of charge.

²⁸³ Worth, D. 2007, “Some Impacts of the Rising World Oil Prices on Australian Desert Communities”, *Journal of Aboriginal Economic Development*, Vol 5, No. 2, pp 56-71.

²⁸⁴ www.indigenous.gov.au/rpa/wa/warpanov0501.pdf, accessed 27 March 2008.

²⁸⁵ Commonwealth of Australia 2005, *Shared Responsibility Agreement*, Commonwealth of Australia, State Government of WA, Shire of Ngaanyatjarraku and the Ngaanyatjarra Council, p7.

The Ngaanyatjarra Council itself was required to undertake initiatives such as:

- set a benchmark collection rate of 100% for all electricity consumers;
- ensure each community maximises its powerhouse fuel rebates available through the Energy Grant Credit Scheme;
- ensure communities run an education program aimed at saving power and minimising fuel costs; and
- implement the collection of tariffs in accordance with the rates set under the FaCS Electricity Guidelines.

A study by John Taylor from the Australian National University highlighted that the physical separation of remote Indigenous communities from government services also generates substantial population mobility.²⁸⁶ Urban centres such as Broome and Port Hedland are critical to the lives of remote Aboriginal communities. Taylor reports that as much as 10 per cent of Indigenous populations present in regional centres at any one time are temporary residents from smaller remote communities and they undertake lengthy trips to access government services. Recent data from the ABS 2006 Census underlines the importance of transport for members of these communities to obtain government services. Any significant further price increase for transport fuels could undermine the sustainability of these communities, particularly in being able to access government services and to manage their land.

Recommendation 6

The recent major increased costs of fuel and transport is having a disproportionate impact on remote Indigenous communities and should be both recognised, and factored into, the calculations of government funding for the provision of normal essential services to these communities, ideally through the mainstream essential service providers (Horizon Power and the Water Corporation).

ABS data shows that Indigenous communities suffer in their ability to overcome distance by using modern IT telecommunication services such as broadband. The ABS reports that 83% of Indigenous communities in very remote areas of WA don't have an Internet connection compared to 29% of other households in these regions.²⁸⁷ By comparison, only 64% of Indigenous

²⁸⁶ Taylor, J. 1998, "Measuring Short-term Population Mobility Among Indigenous Australians: Options and Implications", *Australian Geographer*, 29 (1), pp 125-137.

²⁸⁷

[www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/6E516505A930CF12CA257418000E6F56/\\$File/47130do005_2006.xls](http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/6E516505A930CF12CA257418000E6F56/$File/47130do005_2006.xls), Table 35 Type of Internet Connection, Occupied private dwellings, accessed 27 March 2008.

households throughout WA don't have an Internet connection compared to 34% of other West Australian households.

The West Australian Government has recently announced new projects to overcome this disadvantage in some regions. For example, the Minister for Industry and Enterprise announced on 24 April 2008 that the provision of high-speed broadband and improved telecommunications in six remote communities had been completed and that the second stage of the Ngaanyatjarra Lands Telecommunications project would see another six communities connected.²⁸⁸ The Ngaanyatjarra Lands Telecommunications project is jointly funded by the WA Government, the Federal Government and the Shire of Ngaanyatjaraku and on its completion would ensure the entire 160,000sq.km of the Ngaanyatjarra Lands would have upgraded telecommunications infrastructure.

This announcement follows an earlier one on the commencement of a project to provide wireless broadband to the whole Kimberley region. The Kimberley Broadband Solutions Project was jointly funded by the Federal and State Governments and leading communications firm, NewSat Ltd.²⁸⁹ The Kimberley Broadband Solutions Project was designed and is managed by the Department of Industry and Resources, with the support of the Commonwealth's Co-ordinated Communications Infrastructure Fund, Department of Housing and Works, Kimberley Development Commission, Department of Environment and Conservation, WA Police, Department of Local Government and Regional Development and the State Library of WA. The project will see Broome and Derby connected and the remote communities at Ardyaloon, Bidyadanga, Djarindjin, Lombadina Fitzroy Crossing, Halls Creek, Kununurra, Wyndham, Yiyili, Oombulgurri, Warmun, Wirrimanu, Yungngora, Looma and Cambalin and Kalumburu.

Recommendation 7

The Committee recommends that, consistent with the newly elected Federal Government's commitment to extend Internet connections Australia wide, the WA Government ask that the Commonwealth pays particular attention to the needs of Indigenous remote communities.

Many remote Indigenous communities in WA are not connected to grid power or have intermittent grid power. A 1999 study by the ABS of environmental health needs across Australia in 210 Aboriginal communities found that about 5 per cent have no electricity supply (see Table 3.5).

²⁸⁸

<http://www.mediastatements.wa.gov.au/Pages/CurrentMinistersSearch.aspx?ItemId=130053&minister=Logan&admin=Carpenter>, *Aboriginal communities get connected*, accessed 7 May 2008

²⁸⁹

<http://www.mediastatements.wa.gov.au/Pages/Results.aspx?ItemID=130028>, *The Kimberley gets connected!*, accessed 7 May 2008

Among communities that do have electricity, about 40 per cent have regular interruptions to its supply.²⁹⁰

Table 3.5- Indigenous discrete communities – main source of electricity supply

Main Source of Electricity Supply, by Community Size – All Communities							
Type of electricity supply	Less than 20 people	20-49 people	50-99 people	100-199 people	More than 200 people	Total No. of Communities	Reported Population
State grid	44	61	50	60	66	281	4,408
Community generators	85	70	30	33	81	299	50,990
Domestic generators	241	89	12	-	-	342	5,615
Solar	83	43	4	1	-	131	2,321
Solar hybrid	62	21	5	1	2	91	1,994
Other source	2	2	-	1	-	5	212
<i>All communities with an electricity supply</i>	<i>517</i>	<i>286</i>	<i>101</i>	<i>96</i>	<i>149</i>	<i>1,149</i>	<i>108,540</i>
No electricity supply	118	13	1	1	-	133	1,378
All communities²⁹¹	644	299	102	97	149	1,291	109,994

Those communities with a population of less than 50 (nearly 75%) mainly use domestic generators whilst the remaining larger communities are most likely to be supplied with power, mostly from the large community generators, but in some cases through the state owned electricity suppliers (eg Horizon Energy). Similarly, a study in WA by DIA indicated that 75% of Indigenous communities rely on power-driven bores for their water supplies, 20% have their water delivered by truck and only 5% are connected to a town supply.²⁹² It is clear from these figures that most Indigenous communities are reliant to a much greater extent than elsewhere in Western Australia

²⁹⁰ ABS. 1999, *Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities, Australia; Cat. No. 4710.0*, Australian Bureau of Statistics: Canberra, pp 16-17.

²⁹¹ includes 'not stated'.

²⁹² DIA. 2005, *Environmental Health Needs of Indigenous Communities in WA: The 2004 Survey and its Findings*, Department for Indigenous Affairs, Perth, p 33.

on diesel to generate electricity for essential services such as their water supply. This reliance significantly increases their vulnerability to future cost rises, as well as fluctuations in fuel availability. For example, it was reported in June 2007 that the towns of Tom Price and Paraburdoo were without diesel supplies for a period of a week, other than small amounts of biodiesel provided by the local Aboriginal cooperative.²⁹³

Recommendation 8

The Committee recommends that the existing power and water supply policy arrangements for remote Indigenous communities of under 100 people, that are not otherwise scheduled for being provided by the mainstream essential service providers, be reviewed urgently with a view to ensuring access to a program of essential service provision that includes utilising new available technologies aimed at ensuring these communities become less reliant on diesel fuel.

High fuel prices also impact on Indigenous health. The ABS reports that 895 (69%) of Australia’s 1,291 discrete Indigenous communities are located 100 km or more away from the nearest hospital, with only 53% of these communities having access to emergency air medical services. For example, nearly 50% of people in Indigenous communities in WA have to travel over 25km to access their nearest health centre (see Table 3.6 below).²⁹⁴

Table 3.6

10.3 DISTANCE TO NEAREST HOSPITAL AND COMMUNITY HEALTH CENTRE—2001							
		NSW	Qld	SA	WA	NT	Australia
Discrete communities located less than 10km from nearest hospital	no.	33	22	11	27	34	127
Discrete communities located 10km or more from nearest hospital							
Distance to nearest community health centre							
Less than 25km	no.	17	48	43	117	254	481
25km or more	no.	10	72	42	139	342	606
Total	no.	27	120	85	256	596	1 087
Total number of communities(a)	no.	60	142	96	283	632	1 216
Total population(a)	no.	7 771	30 981	5 226	16 558	47 233	108 085
Proportion 10km or more from nearest hospital and 25km or more from nearest community health centre							
Communities	%	16.7	50.7	43.8	49.1	54.1	49.8
Population	%	9.9	3.0	14.7	17.4	12.7	10.7

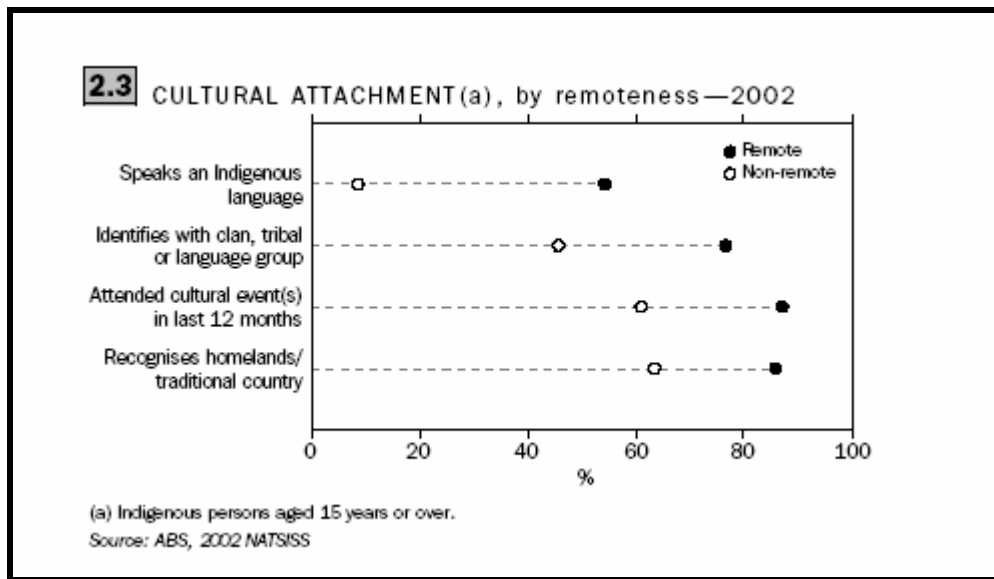
(a) There are no discrete Indigenous communities in the ACT. Source: ABS, 2001 CHINS
Tasmania and Victoria are included in the total.

²⁹³ www.abc.net.au/news/stories/2007/06/14/1951174.htm, accessed 27 March 2008.

²⁹⁴ ABS, 2005, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples, Catalogue No. 4704.0*. Australian Bureau of Statistics, Canberra, p 182.

Further, there is clear evidence that the maintenance of these small Indigenous communities in remote areas is the key to the long-term sustainability of Aboriginal heritage and culture in WA. The Figure below from the ABS data clearly shows the importance of traditional lifestyle and living on traditional (remote) lands to the retention and use of their Indigenous languages, for example. Data from the ABS 2006 Census shows that "...of those Indigenous people who speak an Indigenous language at home, almost three-quarters (74%) live in very remote Australia, with 14% living in remote Australia."²⁹⁵

Figure 3.2- Cultural attachment by remoteness of community



Finally, liquid fuels such as diesel, will form the core economic input for many future economic ventures being considered by Indigenous organisations in remote regions of WA. The viability of many of these communities may rest with their ability to provide increased employment opportunities for the growing number of Aboriginal youth entering employment ages. John Taylor used data from the ABS to project that over the next 10 years the Indigenous population in the remote Australian desert will grow by about 10,000 people, to nearly 45,000.²⁹⁶ Half of this increase will be in the prime employment age groups (ie 24-65) where population numbers will increase by 35% over this period. Taylor also suggests that high fertility rates will lead to sustained and rapid population growth and a high proportion of infants and children in these Indigenous communities.

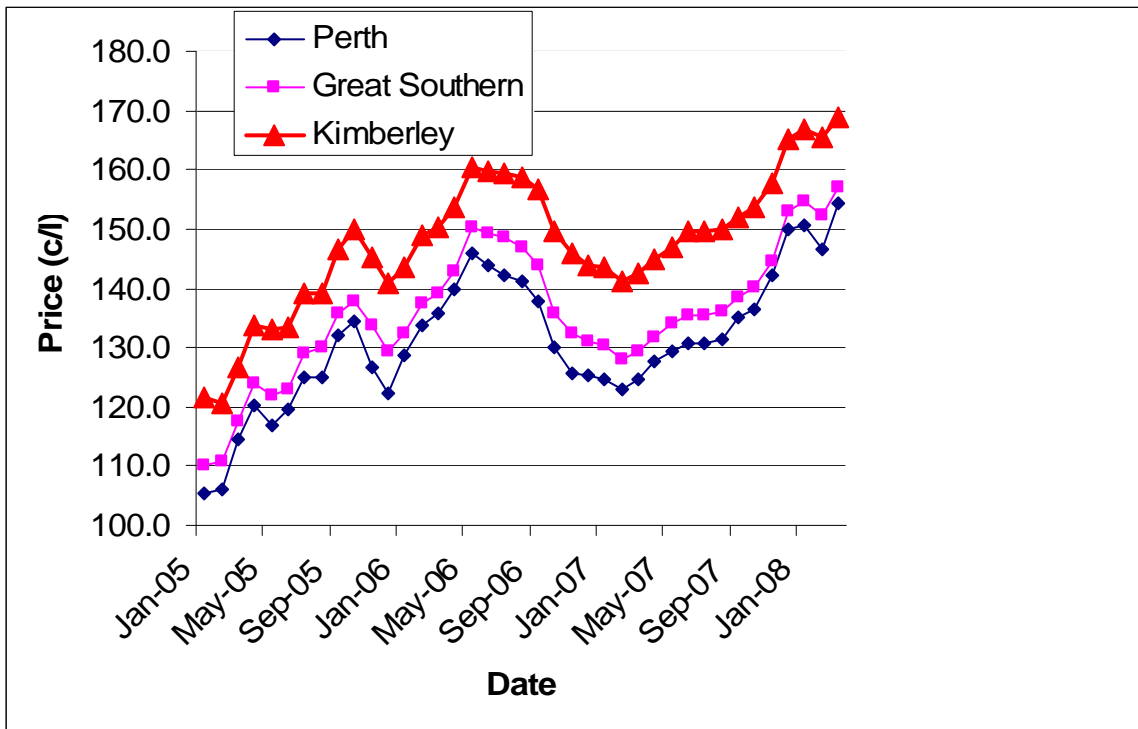
To give an example of the interaction between future economic development and fuel prices, the Kimberley Natural Resource Management plan recommends that the Kimberley Land Council

²⁹⁵ www.abs.gov.au/ausstats/abs@.nsf/mf/4713.0.55.001?OpenDocument, accessed 27 March 2008.

²⁹⁶ ABS. 2001, *Community Housing and Infrastructure Needs Surveys, Cat. No. 4710.0*, Australian Bureau of Statistics, Canberra, p13.

further explore the possibilities of tourism in the desert country.²⁹⁷ The success of such ventures would be heavily dependent on affordable fuel inputs so that tourist experiences can be priced at competitive prices compared to those regions closer to Perth or overseas destinations.²⁹⁸ However, recent data from the WA Fuelwatch program (as shown in Figure 3 below) indicates that diesel prices in the Kimberley are increasing at a faster rate than those for motorists in Perth or the Great Southern region. This is a factor likely to limit the tourism potential of the Kimberley compared to locations closer to Perth.²⁹⁹

Figure 3.3- Diesel price by location in WA: 2005-08



²⁹⁷ Rangelands NRM Coordinating Group. 2004, *Draft for Comment- Kimberley Natural Resource Management Plan*, Rangelands NRM Coordinating Group, Kununurra, p 93.

²⁹⁸ Roarty, M. & Barber, S. 2004, *Petrol Pricing in Australia: Issues and Trends- Current Issues Brief No. 10*, Department of Parliamentary Services, Parliamentary Library, Canberra, p 3, list the following reasons why country petrol prices are higher than metropolitan prices: “A country service station typically sells less than half the amount of fuel of a metropolitan service station. Hence there is less opportunity to reduce the operating margin on fuel sales taking into consideration the overall viability of the business. Additionally there is higher distribution costs associated with country retail outlets. Furthermore, there are generally lower sales of higher profit non-fuel items in the country.”

²⁹⁹ www.fuelwatch.wa.gov.au/prices/dsp_hist_avg.cfm, accessed 20 March 2008.

Fuel and energy prices for remote communities in WA are likely to increase further. During the time the Committee was undertaking this study and completing this Report, world oil prices doubled from about US\$60 per barrel to nearly US\$120. Some analysts are projecting the price of oil to increase further to over US\$150-\$200, perhaps within the next 1-2 years. Dr Worth suggests that one major factor in this price increase is that the US Department of Energy data indicates that world crude oil production seems to have reached a maximum output of 74.3 million barrels a day in May 2005 and has declined since.³⁰⁰ An increase in oil prices to a level of US\$150-200 per barrel would take the price of diesel to nearly \$2.50 per litre in rural WA, and place severe limitations on the budgets and activities of remote Indigenous communities and their ability to develop sustainable economic ventures to employ their growing population.

Recommendation 9

The Committee recommends that an assessment be undertaken of the future road maintenance budget needs of remote communities and that the Department of Planning and Infrastructure, in conjunction with Main Roads and with local government, develop a land access strategy for these communities in light of likely future higher fuel prices.

Recommendation 10

The Committee recommends that when regional Term Network Contracts for road maintenance are being re-let by Main Roads WA, and new road works are undertaken, that tenders include an evaluation item on the amount of new Aboriginal training and employment opportunities generated in the contract.

³⁰⁰ http://tonto.eia.doe.gov/merquery/mer_data.asp?table=T11.01b, accessed 20 March 2008.

CHAPTER 4 SOME SUCCESSFUL INITIATIVES

4.1 The measure of success

The preceding chapter dealt with what, for some, might be the unexpected successes of small remote Aboriginal communities, ‘outstations’, to deliver comparatively good social and health outcomes for their residents. The Committee undertook this Inquiry to highlight such successes at a time when there is a focus on the negative and dysfunctional aspects of some communities. This chapter includes some of the successful initiatives identified in submissions and other correspondence.

In order to appreciate a measure for successful initiatives in remote Aboriginal communities, the Committee initially devoted its efforts to gaining an understanding of the broader context in which they operate. Some submissions queried the relevance of earlier background reports to the Inquiry’s terms of reference. For example, in response to the Discussion Paper, Mr Rasjad Moore declared:

I believe the report does not reflect the original purpose of the inquiry - i.e. to report on successful initiatives in remote Aboriginal communities. ...

*The historical background does little to explain what Indigenous communities are doing today. It continues a negative, bureaucratic, patronizing attitude towards Indigenous affairs ... Well might we ask, where are the successful initiatives in the report? What communities are creating and pursuing them? How are the negative stereotypes we see so often in the West Australian media being overcome through grass-roots efforts by communities in the vast, remote parts of this State?*³⁰¹

Mr Moore suggested that there are a vast number of successful initiatives in remote Aboriginal communities of Western Australia. Just a small number of his suggestions include:

Health. *For years this has been the highest priority for remote communities. Among the many initiatives is training and support of Aboriginal health workers; building of bush clinics; improved access by air and road to communities with health issues; highly successful programs to address eyesight problems and diabetes; improved birthing and infant health; and programs to address substance abuse and malnutrition.*

Infrastructure/Services. *As pointed out in your paper, ‘remoteness’ seems to be a relative thing. Yet many unreported successful initiatives have focused not only on ways to technologically tame the ‘tyranny of distance’ but also to preserve the isolation - the privacy- that is vital to Aboriginal culture and lifestyle. Among such initiatives are remarkable improvements in telephonic and internet communications, bringing remote communities themselves closer together and opening new windows to information and commerce. Modern, reliable electrical power has come to many remote communities and has given access to refrigeration (and thus to food important to health). Alternative forms*

³⁰¹

Submission No. 3 from Mr Rasjad Moore, 24 May 2007, pp 1, 7, 8.

of energy (e.g. solar, wind) are also being explored and applied. Other initiatives of great importance to health and amenity are sewerage and drainage works and related issues of rubbish disposal and sanitation...

Local governments are now working with communities to extend road works into areas previously isolated owing to poor maintenance and engineering neglect.

Remote communities in eastern WA... have also established a trucking company to transport the large volume of supplies. By taking advantage of economies of scale, they have leased a warehouse to centralise procurement of groceries and supplies for transport to member communities...

Employment/Enterprise. *It should be noted that many of the successful initiatives suggested above have provided jobs and skills to Aboriginal workers in remote communities. In recent years more Indigenous workers have found jobs in the mining and pastoral industries. For example, remote communities ... around Yalgoo are now benefiting from job opportunities in the booming Orica Mines. Employment in primary industry remains a mainstay of long established remote communities, some of which manage their own enterprises. Consider, for example, the Indigenous sandalwood gatherers of Coanana/Cundalee...*

Education. *...If the purpose of the discussion paper is to identify initiatives in remote Indigenous communities, there are many examples of success to be found in the Western Desert and The Kimberley. Of the 15 independent schools dedicated to Aboriginal education in Western Australia, the Committee could point to Parnngurr Community School in the heart of the Great Sandy Desert (how could a school be more isolated!) Parnngurr features several programs that focus on children from primary to secondary [school], delivering innovative teaching strategies.³⁰²*

The Committee acknowledges that, if read alone, background Reports No. 6 and No. 10 in particular do not reflect the efforts of those referred to by Mr Moore as the ‘people who are really making a difference’ in remote Indigenous communities.³⁰³ The Committee has incorporated suggestions made by Mr Moore and others by way of submissions responding to the Discussion Paper of the successful initiatives in remote Aboriginal communities. Those who read this Report in isolation from the earlier Reports of this Inquiry will find acknowledgement of some of the diverse and significant improvements that are occurring in contemporary remote communities.

The Committee remains satisfied that documenting the broader context in which remote Aboriginal communities operate is a useful exercise for those who have not had the opportunity to work first-hand in such communities, or have had an extensive knowledge of these communities. It appears to the Committee that it is only in this broader context that what might appear mundane matters to others, such as finding employment, adequate sewerage and drainage works, or ensuring school attendance, can be appreciated as ‘successful initiatives’ for remote communities.

³⁰² Submission No. 3 from Mr Rasjad Moore, 24 May 2007, pp 2-4, 6, 7.

³⁰³ *ibid.*, p 8.

4.2 Alcohol management

Reduced substance abuse was one of the important environmental health outcomes identified for residents of smaller communities in the Committee's Discussion Paper. In relation to this issue, the Minister for Local Government and Racing and Gaming, Hon Ljiljana Ravlich MLC, advised:

I do note that the [Discussion Paper] touches on communities reporting major health concerns of which substance abuse is identified. While substance abuse is not defined, it is reasonable to assume that liquor would be a contributing factor.

In this regard, the recent liquor reforms that came into operation on 7 May 2007 inserted a new provision into the Liquor Control Act 1988 (WA) to enable the Governor to make regulations to restrict the supply, possession and consumption of liquor in communities, including aboriginal communities.

Furthermore, the Director of Liquor Licensing is committed to implementing harm minimisation policies relating to the supply of liquor in areas where harm or ill health is caused to people, or any group of people, due to the use of liquor. In this regard, a number of inquiries have been undertaken in northwest towns such as Port Hedland, Halls Creek and Derby. While these townships are not remote aboriginal communities, they do contain large aboriginal populations and restrictions on the sale of liquor have been implemented in an effort to reduce the incidents of harm caused by liquor consumption.³⁰⁴

Subsequent to the Minister's submission, alcohol restrictions were implemented in the remote Aboriginal community of Fitzroy Crossing. Initial reports indicated that the initiative was highly successful in reducing the incidents of harm associated with alcohol use, as well as other anti-social behaviour.³⁰⁵ In March 2008, an evaluation *Fitzroy Valley Liquor Restriction Report* published by the University of Notre Dame Australia on behalf of the Drug and Alcohol Office of Western Australia was released.³⁰⁶ This report provides qualitative data for the period January to

³⁰⁴ Submission No. 6 from Hon Ljiljana Ravlich MLC, Minister for Local Government, Racing and Gaming, 13 July 2007, p 1.

³⁰⁵ Strutt, J. 2008, 'Alcohol ban hailed success in Fitzroy', *The West Australian*, 5 January 2008, p 2. The Committee notes, however, that there were reported claims of adverse consequences for other townships and regional centres, with reports of "...up to one quarter of the population of remote Fitzroy Crossing [flooding] into nearby towns in search of alcohol" (Taylor, P. 2007, 'Drink ban town's neighbours have Crossing to bear', *The Australian*, 30 October 2007, p 8). In the Committee's opinion these reported claims need to be assessed against detailed base line study and analysis and any negative consequences highlight the need for such positive initiatives to be developed and implemented on a regional basis (as recommended in the Committee's Report No. 11, *A Successful Initiative - Family Income Management*).

³⁰⁶ Henderson-Yates, L., Wagner, S., Parker, H., & Yates, D. 2008, *Fitzroy Valley Liquor Restriction Report: An evaluation of the effects of a six month restriction on take-away alcohol relating to measurable health and social benefits and community perceptions and behaviours*, www.dao.health.wa.gov.au/Publications/tabid/99/DMXModule/427/Default.aspx?EntryId=1016&Command=Core.Download, accessed 31 March 2008, pp 9-13.

February 2008, and quantitative data from October 2007 to February 2008 and the main research findings are (emphasis added):

1. The intake figures at the Fitzroy Women's Refuge have been reported to have reduced since the introduction of the restriction. However, there was an increase over Christmas and the New Year but with a drop in severe injuries. It has been observed by refuge staff, that women are now self-referring much sooner after the occurrence of domestic incidences and are expressing their concerns and need for support in a more confident manner.

There has been a 28% reduction in the total amount of domestic violence tasks reported to the Fitzroy Crossing police for the period of October 2007 to February 2008 in comparison to the same period in October 2006 to February 2007. This corresponds to a 27% reduction in alcohol related reported domestic violence tasks for the same periods.

2. The hospital has reported a significant decrease in unconscious persons brought to the hospital for treatment and a significant reduction in persons displaying aggressive behaviour attending hospital for treatment.

There has been a 48% reduction in the number of Fitzroy residents presenting to the Fitzroy Emergency Department with alcohol related presentations for the period of October 2007 to February 2008 when compared to the same period in 2006/2007.

3. Senior medical officers at hospitals in Broome, Derby and Halls Creek report no significant increase in demand for emergency services from Fitzroy visitors.

There has been no significant increase in Fitzroy Crossing residents presenting at hospital emergency departments in the adjacent towns of Broome, Derby and Halls Creek.

4. Respondents have reported on the benefits of the restriction for school children. Since the introduction of the restriction, children are reported as being better supervised and not wandering the streets at night. They are also sleeping better and attending school more regularly.

The statistics provided for school attendances by the Fitzroy Crossing District High School show increases in school attendances. This is apparent when comparing figures for October 2006 to February 2007 with figures from October 2007 to February 2008. There were overall increases from 4.2% to 14.4%.

5. Staff at both Halls Creek and Derby Sobering-Up Centres have indicated that there has been no impact on their services from Fitzroy residents. Staff at the Broome Sobering-Up Centre indicated that between December 2007 and January 2008, 62 Fitzroy residents had used the services of the centre, representing 16% of total residents. This is having some impact on the service, as it was felt that the Fitzroy people are taking a bed that local people may require.

There is no statistical evidence provided by the Sobering-Up Centres in Derby and Halls Creek to indicate there has been an increase in the number of Fitzroy Valley residents at their centres.

6. Respondents report that the town is no longer littered with large amounts of empty beer cans and that there are no groups of intoxicated people drinking in public throughout the day. Adjacent communities, close to the town of Fitzroy Crossing, are reported as quiet with no major disturbances or drunken behaviour.

The act of 'sly grogging' (travelling to other local towns to purchase alcohol and selling at inflated prices) has been reported by many respondents as having developed since the introduction of the restriction. One respondent suggested that there is an estimated "half to one million dollars" being lost to the town per week as a result of residents travelling to other towns to purchase alcohol and other goods.

The local taxi service (which, as part of its regular services, transports individuals to the Fitzroy Crossing Inn to purchase alcohol), reported a 50% reduction in business.

There has been an 88% reduction in the amount of pure alcohol being purchased in packaged form from the Fitzroy Crossing Inn (8,541 litres in July 2007 to September 2007 and 949.25 litres in October 2007 to December 2007). In total, (after factoring in increased alcohol sales over the bar) there has been a 77% reduction in the amount of pure alcohol being purchased from the Fitzroy Crossing Inn.

7. Since the introduction of the restriction, the Fitzroy Crossing Inn has experienced much larger numbers of Aboriginal people drinking on the premises every day and has indicated that over the counter sales have increased ten fold. There has been a need to upgrade security and employ additional staff at a cost of \$1000 per week.

In addition, the Fitzroy River Lodge reported large numbers of Aboriginal patrons drinking at their bar. These increased numbers were difficult to control and extra security was needed at additional cost to the Lodge. These difficulties lasted for several months. Aboriginal patrons are now attending the bar in significantly smaller numbers.

It has been reported that people drinking at home are consuming alcohol more rapidly to avoid sharing their limited stocks. This often results in arguments and acrimony within families.

There has been a 44% increase in the amount of pure alcohol being purchased for consumption on premises at the Fitzroy Crossing Inn (819 litres from July 2007 to September 2007 and 1180 litres from October 2007 to December 2007).

There has been a 45% increase in the volume of pure alcohol purchased for consumption on premises at the Fitzroy River Lodge (544 litres in 2006 to 789 litres in 2007). The greatest proportion of the increase has been attributed to full strength beer.

8. Several respondents reported that individuals and families are travelling to other local towns and purchasing food and other goods whilst there.

There was a decrease of 0.35% in total sales when comparing the sum of the monthly totals for the period of October 2006 – December 2006 to October 2007 – December 2007 for the general store (Tarunda Supermarket) in Fitzroy Crossing.

9. The Derby Shire (Fitzroy Office) reported that since the commencement of the restriction, Greyhound Bus Service ticket sales from Fitzroy Crossing are predominantly one way ticket sales and for one or two persons rather than whole families. Respondents in the surrounding towns of Derby and Halls Creek have reported an influx of Aboriginal people from Fitzroy Crossing and Fitzroy Valley communities in numbers which do not create major problems.

Note: the ticket sales data does not report on the ethnic status of the purchaser(s) or the reason for travel.

Total Greyhound bus ticket sales from the Visitors Centre increased 11% (117 in 2005 to 135 in 2007). Halls Creek showed the greatest increase in ticket sales as a destination, up from 42 in 2005 to 77 (45%) in 2007.

In summary, with two exceptions, the qualitative data responses from the service providers and businesses in Broome, Derby and Halls Creek have indicated no significant adverse impact resulting from the liquor restriction at Fitzroy Crossing. One Derby hotel has reported a significant impact for the first two months after the restriction commenced. One of three Derby liquor outlets reported regular significant adverse impact related to the depletion of alcohol stocks (Appendix I and II).

The report concludes by noting:

There are clear indications that the current alcohol restriction has resulted in major benefits for the people of Fitzroy Crossing and Fitzroy Valley communities. However, alongside these benefits are concerns raised by some respondents about the perceived adverse effects of the restriction on people and businesses.

The statistics clearly demonstrates significant improvements in health and social outcomes. Indicators of reported alcohol-related violence and hospital attendances for alcohol-related complications are significantly reduced. In addition, as a direct result of the restriction, there has been a highly significant reduction in the sale of take-away alcohol for private consumption. The effect of this is clearly observable within Fitzroy Crossing. Public intoxication is now at a minimum, the town is tidier due to the absence of large quantities of beer cans and noise level is at a minimum.

Respondents have reported significant improvements in the health and welfare of children. They are now better supervised by their parents, do not wander around the town late at night and are attending school regularly as indicated by the education statistics provided by the education department. In contrast, several private businesses have reported financial losses which they attribute to the introduction of the restriction. However, other businesses report no adverse effect, with one stating that business had improved. It has been reported that there was an adverse impact on the two licensed premises in Fitzroy Crossing.

The restriction has clearly brought about significant benefits and changes for Fitzroy Crossing and Fitzroy Valley communities. The challenge now for all residents, agencies and businesses, is how best to manage these changes.

The success of this initiative has been supported by WA's Health Minister, Hon Jim McGinty MLA, who:

...has made a submission to the Director of Liquor Licensing, asking for the six-month ban on the sale of full and mid-strength takeaway beer in Fitzroy Crossing, which began last October, to be extended until the end of 2010.the success of the Fitzroy ban meant he would look at implementing similar bans in other communities where alcohol was a problem.³⁰⁷

It is evident from this report that substantial improvements in environmental, social, health and educative benefits are achievable where substance abuse is identified as a key factor impacting upon Indigenous communities.

Finding 9

The alcohol restrictions put in place on a trial basis in Fitzroy Crossing have been an obvious success, as measured by various social and economic factors. A key to this success was that the alcohol restrictions came in response to a call from the Indigenous leadership of the Fitzroy Valley, without whose voice these restrictions were unlikely to have had any real prospect of successful enforcement.

Recommendation 11

The Committee believes that the moratorium on the sale of full-strength and mid-strength take away alcohol in Fitzroy Crossing be continued. The Committee believes that opportunities to expand strategies for alcohol management plans to other towns and communities will be greatly enhanced by securing real opportunities for Indigenous representatives to give voice and input to the policy formulation that guides further implementation.

4.3 The Gordon Inquiry

In their joint submission, the Ngaanyatjarra Council and Ngaanyatjarraku Shire indicated that the Gordon Inquiry³⁰⁸ recommendations in relation to police services had been "...very successful in the Ngaanyatjarra Communities" and that:

³⁰⁷ Spagnolo, J. 2008, *The Sunday Times*, News Limited, 30 March, p22.

³⁰⁸ www.premier.wa.gov.au/feature_stories/gordoninquiryreport.pdf, accessed 3 April 2008

It has laid a solid foundation for long term improvement of community safety and child protection. As a result of the Gordon Inquiry implementation, there is now a multi-functional police facility in Warburton, with 4 resident police officers and 2 child protection staff. A multi-functional facility has also been built at Warrakurna, staffed by WA and NT police officers. The Ngaanyatjarra Communities were recently advised that a third police station, likely to be built at Blackstone community, will also be built.³⁰⁹

Recommendation 12

A review of the impact of the implementation of the Gordon Inquiry recommendations in remote Indigenous communities be undertaken as part of the Government's Monitoring and Evaluation Framework of measurable outcomes and indicators to the Gordon Inquiry Report.

4.4 The Yiriman Project

In its submission, KALACC highlighted the success of its Yiriman project and referred to the comments of the:

Commonwealth Secretaries Group on Indigenous Affairs in its Annual Report 2005—2006:

'Yiriman provides Walmajarri Law and Culture Bosses with opportunities to involve youth in projects on their country. This unique and proactive projects provides opportunities in youth leadership, land management and community development.'³¹⁰ (See further comments at Chapter 4.5.)

Dr David Palmer, Senior Lecturer and Program Chair of the Community Development Program at Murdoch University, also provided a detailed submission on the Yiriman Project in response to the Committee's Discussion Paper. Dr Palmer advised:

What is the Yiriman Project?

The Yiriman Project started out because Aboriginal elders in the West Kimberley were worrying for their young people. In particular, they were concerned about young people who were harming themselves with drugs and 'grog' and getting in trouble with the law. Following long established traditions, they set up an organisation that would help take young people, elders and other members of the community on trips to country.

³⁰⁹ Submission No. 8 from Ngaanyatjarra Council and Ngaanyatjarraku Shire, 17 July 2007, p 15.

³¹⁰ Submission No. 11(a) from Kimberley Aboriginal Law and Culture Centre, 15 August 2007, Appendix 1, p 2. In its submission KALACC also noted that:

KALACC currently has a number of significant funding requests for Yiriman under consideration by the Commonwealth agencies. However, our endeavours to attract significant funding from the state have to date been unsuccessful (ibid., p 18).

Initially, the project was operating from Jalmadangah, a community some 100 kilometres south east of Derby. After three years, staff moved to Derby to expand its operations and make available Yiriman trips to a greater number of communities. So far, Yiriman has been working with the Karajarri, Nyikina, Mangala and Walmajarri people, who comprise four Indigenous Australian language groups or cultural blocks in the west Kimberley region. Occasionally they also support similar projects in the north and west Kimberley.

Yiriman's work mostly involves hosting what local people call "back-to-country trips." In so doing the organization brings together the young, elders, other community members and a range of other people such as land care workers, educationalists, health practitioners, researchers and government officials. Not only is the Yiriman model used as a means to have young people "participate" more fully in the life and experience of community, but it also leads to a range of other events including people's involvement in:

- *land care*
- *cultural education*
- *fire management*
- *science and economic development*
- *health care and education*
- *tourism*
- *training for employment*
- *language regeneration.*

In many ways, the idea for the Yiriman Project was not particularly new for those involved. Indeed, the practice of removing troubled youth for periods of time, hunting and collecting food, meeting others, going on country with their elders, taking care of country and walking as a means of learning stories, becoming healthy, building their skills and respecting the old people has long been a critical part of life and cultural practice for the Nyikina, Mangala, Karajarri and Walmajarri.

What happens on a Yiriman trip?

Typically a Yiriman trip begins when elders and Yiriman workers meet to start planning because they think young people and/or a community need a 'back to country' trip. The destination and major activities planned are the product of a complex set of decisions depending on: who is available to travel, weather conditions, the needs of young people being chosen to participate, local community events, when a place was last visited, the needs of country (e.g. fire management and burning needs) and whether there are opportunities to travel with other groups. Of critical importance at this stage are the direction of the senior people or 'bosses' who identify where and when to travel, who should go and the activities to be undertaken. For example, at the beginning of one fire walk that involved twenty young men traveling a distance of over sixty kilometres, the Yiriman team met with senior custodians to consider where and when they should carry out the trip. Discussions started with elders who passed on their direct knowledge of which areas had not been burnt by Aboriginal fire management for over thirty years.

Yiriman trips can last between a couple of days to a couple of weeks, depending on the area being traveled to, the work being undertaken and the time of the year. Anywhere from between a dozen to almost a hundred people participate in the trips. Recently a group of young men participated in a trip organised by Yiriman in conjunction with the Australian Quarantine Service to carry out tests on feral pigs living along the Fitzroy River. At other times senior people like John and Harry Watson have led long treks with camel teams to carry out fire control work in places like the edge of the Great Sandy Desert. At other times, whole communities with up to one hundred people, from the very youngest to the oldest, walked for a whole week through parts of their country not routinely accessed.

'Back to country' trips for young people

In some ways the Yiriman approach may appear to be quite simple. It involves taking young people 'back to country' to walk with elders and others. However, the most striking feature of Yiriman's work is that it has many dimensions and is able to achieve a diverse range of things.

Walking and other forms of physical activity have long been a means by which workers with young people have attempted to "engage" their charges. Indeed, since at least the 1880s, a great deal of work with young people has involved them doing this kind of physical activity. For example, the Scout and Guides groups, the international Outward Bound movement, groups like the YMCA, Try Excelsior and the National Fitness Council and an assortment of different sporting codes have all sought to incorporate recreation, sport and adventures in rough and dangerous country in an attempt to deal with all manner of youth problems and perceived deficiencies.

However, to see Yiriman walks as simply a reproduction of conventional Outward Bound work is to misinterpret its breadth and complexity. Walking on country with young people is quite different. Walking works as an important device for Yiriman in part because of the significance of country in traditional lore and custom and because those involved do it in a way that extends their contact with other generations and groups.

Important here is the shared experience of country with elders and others, so that Yiriman trips involves following in the footsteps of those who go before. As a senior Walmajarri man, Ned Cox, says of the importance of the Yiriman walks, "Kids gotta know their country, gotta walk the same way as us."

What do they achieve?

The experience of walking on country is important here but not in a simple or one-dimensional way. Indeed, walking achieves many things and has a range of functions for Yiriman. It is one means by which young people can be taken out of town and exposed to a very different environment to reconnect with their elders, Aboriginal culture and the land of their family. It is also one way of diverting young people's attention from drugs and alcohol, anti-social activities and general unhealthy life or what many in the Kimberley call 'humbug'.

For those involved in Yiriman trips, the physical demands of the walk are often arduous. Often young people walk between fifteen and twenty kilometres a day, regularly combining

travel with other physically demanding tasks such as digging, hunting and collecting firewood. Another important outcome for Yiriman is that young people's health and fitness is being cared for.

Another strength of the "back-to-country" trips for Yiriman is the important part they play in land care. On every trip young people get involved in one or a number of activities that involves looking after or 'freshening up' country. Indeed as a consequence of Yiriman work young people have formed a number of fire teams (in conjunction with the Kimberley Fire Project), established a Ranger team and worked for the Australian Quarantine Service, carried out fisheries research and supported various native title bodies.

Yiriman walks also work to encourage more involvement of young people in the lives of their families and communities. Indeed, one of the greatest successes of the Yiriman story is the extent to which it has been led by elders, involves young people being given direct and intimate time with others in their community and has resulted in young people taking on leadership.

No more important on a Yiriman trip is the rich education young people receive in traditional law and custom. While on trips, young people accompany adults, particularly elders, on hunting expeditions; are taught language by the old people; sit around the camp hearing stories of the past; look after those who are less physically able by setting up camp and collecting firewood; take care of younger children and work on other practical projects with members of their community while learning about and maintaining culture.

Many of the trips are planned to build in training and education opportunities. For example, traveling together with trainers young people get to learn how to burn country using traditional and modern burning techniques, take bloods and carry out postmortems for quarantine testing, use machinery for various land care purposes, operate digital technology to record research, build their literacy and numeracy levels, learn about health management and first aid, make films and other production work and create project reports using multimedia and public presentation software.

Yiriman also helps young people build connections and work with others. Indeed, one of the features of a Yiriman trip is that it rarely occurs without the involvement of outsiders. Typically arrangements are made so that the following groups 'piggy back' and join in on a Yiriman trip:

- *Kimberley Fire Project*
- *CALM*
- *Kimberley Land Council Land and Sea Unit*
- *Derby Aboriginal Health Service*
- *Australian Quarantine Service*
- *Murdoch University Fisheries Research Centre*
- *Various native title bodies*
- *Derby Youth Centre*
- *Kimberley Language Resource Centre*

- *Shire of Derby West Kimberley*
- *Northern Australian Indigenous Land and Sea Management Alliance*
- *Indigenous Coordination Centres.*

Through Yiriman trips, young people also get a first hand experience of alternatives to their town-based ways of living. For the duration of the trips they eat healthy food, are free of alcohol and other drugs, live without violence, enjoy themselves, get to spend time with knowledgeable and respected members of their community and take on new and exciting roles.

How does it work so well?

There are a number of features of the Yiriman model that have impressed me. Yiriman is a programme that was established by ‘cultural bosses’ and has continued to operate under the clear direction of senior people. There are a number of conventions and processes that allows this to happen. For example, Project Officers are constantly taking direction from the ‘bosses’ of the four cultural blocks involved in its management. Each trip begins under the direction of local bosses and many join Yiriman trips. Yiriman is auspiced by the Kimberley Aboriginal Law and Culture Centre, the region’s principal organisation for the maintenance of customary law and life.

Yiriman has also developed some novel devices for ensuring information moves back and forth between ‘cultural bosses’, young people, project officers and others in the community. For example, ‘picture book reports’ are regularly produced to show, through the use of digital images, language, direct quotes and limited text, what has happened during various trips and activities. These ‘picture books’ are also used as a way of reporting to other groups on the activities of Yiriman. The books are produced in A3 size and laminated so that they can travel well. They are often used at the beginning of a meeting to draw people into discussion about the business of Yiriman. They also provide evocative evidence of the many achievements and impacts on young people.

I have studied a number of examples of the use of digital technology in community work. In my judgment Yiriman’s simple but effective use of digital cameras already proves it is leading the way in combining digital technology with community planning. As a planning and reporting tool it provides a leading example to others. Indeed, with their permission I have been adapting the process they use and teaching undergraduate and postgraduate students how to increase their skills and repertoire.

Another important feature of the Yiriman model that makes it work is that it involves a multitude of things happening across cultural domains with a range of different organizations and age groups literally and symbolically ‘going along together’. In contrast to many other community-based programmes involving young people Yiriman’s work involves considerable intergenerational contact amongst children, young people, parents and senior people. It also routinely brings people together from different cultural backgrounds. For example, on many trips people from two or more ‘cultural blocks’ join forces with non-Aboriginal people from different organizations. Those present are exposed to at least four linguistic modes, one of the four languages, Kriol, Aboriginal English and Standard Australian English. As outlined earlier, the effects produced are often multilayered so that the same organisation is involved in firework, fisheries research,

quarantine work, diversion from offending, 'community' government and education. Metaphorically then Yiriman allows many other things to 'piggy back' their work.

According to those who established Yiriman, it works in large measure because it is driven by the desire of senior Aboriginal people to pass on their stories to young people. I rarely hear the word 'dialogue', a term popular in government and community services circles, used by people involved in Yiriman. However, 'back to country' trips are first and foremost designed to 'bring out stories' in young people. Yiriman trips helps seniors pass on a sense of history to young people. It helps in the passing on of important knowledge about 'country', law and culture.³¹¹

Finding 10

The Yiriman Project is a successful project in the west Kimberley region and has brought together various state and local government as well as academic and Indigenous organisations. It has provided a unique mix of positive social and economic outcomes.

Recommendation 13

The Yiriman Project should be supported by government and used as a model for similar projects in Indigenous communities in other remote regions of Western Australia.

4.5 Two community models for success

In its submission, KALACC also identified two communities which:

...represent two very distinct models of how remote communities can be successful and sustainable.

The Jarlmadangah model is that of a small, self contained community of approximately 100 persons. Key aspects of Jarlmadangah's success include;

- *Extremely strong governance and commitment towards a culturally-based lifestyle;*
- *Education: 2007 Awarded best remote, indigenous school in Australia;*
- *Diversified Economy: Jarlmadangah has been moving away from a reliance on CDEP for some years.*

³¹¹

Submission No. 4 from Dr David Palmer, 22 May 2007, pp 1-7.

Aspects of the economy include a number of small-scale tourism ventures; indigenous ranger group; pastoral industry and its own community store and community cultural centre.

- *Health: Jarlmadangah has its own community clinic staffed by community members and visited once a week by visiting Health Department staff;*
- *Youth Diversion: Jarlmadangah is also a strong base for the Yiriman Youth program. ...*

The model for Ngumpan is very different from that at Jarlmadangah. Ngumpan is a very small community of fewer than 40 persons. It is located just off the Great Northern Highway, 100 Kilometres east of Fitzroy Crossing. Surrounding Ngumpan are up to 10 equally small communities and the larger community of Wangkatjunga. From 2006 through to the present, the community of Ngumpan has been working with the Department of Planning and Infrastructure, KALACC and the Fitzroy Futures Forum on the development of a pre-feasibility study for a development at Ngumpan which includes the following elements:

- *Education: building a new school at Ngumpan – the school providing Education to children from each of the surrounding communities and circumventing the problems associated with Christmas Creek flooding each wet season;*
- *Roadhouse: the Roadhouse would provide employment and economic income, including a small art centre, and would also negate the need for community members to drive the 100 km to Fitzroy Crossing just to fill up their vehicles;*
- *Tourism: there are economic and employment opportunities associated with the nearby Ngumpan cliffs and the nearby Mimbi Caves.*

The basis to the Ngumpan model is a spoke and wheel approach. This model takes as its basis the fact that there are significant economic challenges associated with the sustainability of very small, discrete communities and outstations. But the model then poses the question about whether these communities could be regarded as sustainable if rather than being totally discrete and separate, they had a service hub which united them.³¹²

4.6 Education initiatives

The Committee received submissions relating to a range of initiatives in the provision of education and training services for remote Aboriginal communities.

(a) Department of Education and Training

The Department of Education and Training advised:

³¹² Submission No. 11(a) from KALACC, 15 August 2007, pp 15, 16.

Under the School Education Act 1999, the Department is obliged to provide an educational program for students across the state of Western Australia. The ongoing pattern since the mid 1970s of Aboriginal people moving as small family units to remote outstations to maintain cultural identity and links with traditional lands, as well as to avoid socially destructive, stressful and overcrowded regional and urban environments, has resulted in an increasing number of requests for schools in very remote locations.

The Department believes that opportunities to access education should not be limited by the tyranny of distance. The Department continues to implement a wide range of supplementary, targeted initiatives to meet the challenges of remote area education. There has been an ongoing commitment to provide facilities, use innovative technology and to develop appropriate curricula and programs. Attracting and retaining staff in these locations is a challenge we continue to address through the Remote Teaching Service.

Establishing a school in a remote location is far more costly than in metropolitan locations. This is a particularly important issue for Western Australia (the discussion paper outlines the particularly high number of Aboriginal communities in this State relative to other states and territories). The homeland movement has resulted in increased numbers of schools being built in remote locations.

The Department of Education and Training now has 43 remote Aboriginal community schools, of which 11 are in outstations. It is not possible to establish schools in all communities requesting a school. New schools are very expensive and are only approved if there is an established community with community infrastructure and facilities in addition to other selected criteria.

Where establishment of a school is not considered viable, options include:

- *family relocation;*
- *boarding school (costs can be prohibitive for Aboriginal families in particular and many students feel homesick and/or alienated);*
- *travelling to other communities or regional centres by bus where the journey is within the required time and distance guidelines;*
- *creating an annex school, which is a separate school facility with fewer student enrolments linked to a larger facility at an adjoining community or regional centre. Some staff and administrative resources are shared, including the principal and registrar; and*
- *enrolment in the School of Isolated and Distance Education which delivers of primary and secondary school education in remote and isolated communities where there is no school. Usually an existing building in the community is used as a 'school room' and a suitably qualified person is required to act as the supervisor or mentor. Access to distance education requires fibre optic/satellite network a suitable power source and computer technology.*

All of these options have their own inherent difficulties. For example, traveling daily takes a toll on students and distance education can be more difficult for students with limited

literacy skills. Aboriginal families from remote locations who relocate may experience poor or limited housing choices and a lack of community support. The children may experience social alienation and homesickness, especially where appropriate measures and support are not included in their placements.

The Department is increasingly involved in collaborative planning with other agencies when establishing new schools in remote communities. This increased collaboration between the government agencies and the communities assists in the construction of facilities that reduce duplication, ensure efficiency and are appropriate in meeting community needs. For example, in Fitzroy Crossing, a new school replacing the existing facility will be built in conjunction with a new health campus. In Wiluna, a replacement school will be built adjacent to the existing community facilities. In the proposed Kurungul Remote Community School, an arrangement has been brokered between agencies which will reduce the potential for competition between communities for resources and infrastructure provided by different government agencies.

Some incremental progress has been achieved in narrowing overall performance gaps between Aboriginal and non-Aboriginal students...

Substantial effort has been made through increased funding for Aboriginal education and the development of many new programs that have demonstrated improved outcomes for Aboriginal students. Key strategies for improvement are focussing on quality leadership, increasing the involvement of Aboriginal parents, developing measures to foster and share best practice in remote area teaching, identifying gaps in effective service delivery and promoting opportunities for training and employment in the local area.

The Department has a range of initiatives in place to support the education of Aboriginal students in remote areas. Three key elements are:

- *Two way education*

English is a second or third language or dialect for many adults and children living in remote communities and this is a significant factor affecting the outcomes achieved by students. Appropriate recognition of a child's home language is a vital starting point in their education. The teaching of Standard Australian English supports student learning in all curriculum areas. There are very few teachers who speak an Aboriginal language or are fully conversant with Aboriginal English. The Department is implementing the ABC of Two-Way Literacy and Learning training to enable teachers to understand the particular literacy needs of Aboriginal students who do not speak standard Australian English. The program encourages educators to reflect upon the culture and value systems implicit in mainstream schools. Strategies are discussed to modify all aspects of school life towards two-way processes: the learning and teaching routines; management procedures; selection of resources and collaboration with parents, caregivers and community members.

- *Targeted literacy support*

The ESL/ILSS [English as a second language/Indigenous Language Speaking Students] Program is an initiative that has been developed for Aboriginal students who commence compulsory schooling speaking an Aboriginal language. A once only per capita grant is

made for each eligible student. The objective is to facilitate the entry of Aboriginal students into education by providing intensive English language tuition to each eligible student.

The Aboriginal Literacy Strategy is a successful structured literacy program designed to improve outcomes for Aboriginal students attending schools in remote communities. It is a compulsory program for all remote community school teachers who are trained to deliver a consistent and sustained literacy program, regardless of staff turnover or changing school priorities. This program supports transient students by ensuring a consistency of approach in the literacy program when students move to other remote communities. Tracking of students between communities to provide a continuous schooling program can be an issue. This program supports transient students by ensuring a consistency of approach in the literacy program when students move to other remote communities.

Aboriginal Education Specialist Teachers are appointed to schools to provide support in numeracy and literacy for Aboriginal students. These teachers work with Year 3-7 teachers and students in a culturally inclusive and collaborative program.

- *Support for teachers and principals*

Significant improvements have been made to conditions and remuneration provided through the Remote Teaching Service to make it more attractive to principals and teachers to enhance their careers through longer postings with benefits for themselves and the communities they serve. Support for staff has been boosted through the introduction of orientation workshops held annually in January for principals and teachers joining the Remote Teaching Service, prior to the commencement of the school year. These workshops have ensured that vital information is shared by more experienced principals and assists in networking. There has also been strong commitment to providing ongoing professional development opportunities to staff in remote localities, including fostering and sharing best practice in remote area teaching and identifying areas of need.³¹³

In earlier correspondence with the Committee, the Department of Education and Training had provided the following information of what it considered to be effective initiatives to address attendance, literacy and numeracy deficits in remote Aboriginal community schools:

The Department of Education and Training believes that the key to success for students in remote communities lies in early intervention in literacy, numeracy and attendance. The Department is disappointed with results that students in remote localities achieve and to date have only noticed incremental improvements. In the main, results for these students are well below state benchmarks.

Notwithstanding the results to date, a number of initiatives have recently been implemented and early results are suggesting potential for significant improvement. The Department would assess these strategies as effective....

³¹³

Submission No. 5 from Ms Sharyn O'Neill, Director General, Department of Education and Training, 11 July 2007, pp 1-4.

LITERACY & NUMERACY STRATEGIES

The Aboriginal Literacy Strategy

The Aboriginal Literacy Strategy (ALS) aims to improve the English Language and Literacy Outcomes of Aboriginal Students through the implementation of a two hour literacy session, specifically the acquisition of Standard Australian English, which is delivered daily in the classroom in Western Australian remote community public schools.

The strategy is led by the school principals and coordinated centrally by Aboriginal and non-Aboriginal educators who work collaboratively as members of a team. Specifically, it involves 43 Remote Community Schools, approximately 450 staff (principals, teachers and Aboriginal and Islander Education Officers). This ensures both Aboriginal and non-Aboriginal perspectives are taken into account and ownership is shared between non-Aboriginal and Aboriginal educators and community members. The ALS has just entered its third year of implementation and its first year of full operation.

Training and support is provided to schools by the English Language and Literacy Consultants (ELLCs). The ELLCs, who are intensively trained, work with three to four schools. They support schools to systematically collect, analyse and utilise fine-grained English Language and literacy progress data to inform schools planning and professional learning. In addition the school staff undertakes 6 days of professional development throughout each school year.

Anecdotal evidence from teachers shows that the Aboriginal Literacy Strategy is having positive effects on student retention, participation and outcomes. The introduction of the two-hour literacy session has led to students being more settled. The routine introduced by the Strategy is enabling students to be more focused and leads to increased student skills development and retention of knowledge. There has been an increase in the volume of student-generated writing and reading.

The strategy also has the additional benefit of providing students with a common set of skills across school sites as well as a familiar structure for the school day. This means that the transient student is familiar with the curriculum, no matter where they attend school and their teachers have ready access to the student's achievement data and can implement an effective educational program with a short time lag.

Warakurna School

A good example of the effectiveness of the Aboriginal Literacy Strategy (ALS) at classroom level was demonstrated in 2006 in the early childhood classroom at Warakurna School. The whole school timetable was adjusted so that a two hour Literacy block could be implemented on a daily basis. The school had been implementing the strategy since the beginning of 2005.

The effectiveness of the ALS literacy block in this classroom was evidenced by a number of observations throughout the year.

- *The classroom teacher had a focus for literacy planning*

- *The classroom teacher felt supported by the structure of the ALS*
- *The students were engaged in the routine that the Literacy Strategy provided*
- *The assistance given by the English Language Literacy Consultant (ELLC) was used effectively to enhance and support the ALS being implemented in the classroom*
- *The students engaged in literacy activities over the two hour period.*
- *Student participation and attendance at school appeared to be more consistent over the year.*
- *The classroom teacher was able to participate in six days of professional development to enhance understanding of literacy learning with particular relevance to the cohort of student she was teaching.*

Yintarri Remote Community School

In 2006, Yintarri Remote Community School received the highly commended award in the Premier's Reading School of the Year Award. This award is open to all public schools in Western Australia. The school received the award based on their work in improving reading standards in the school. The award recognises and promotes best practice in meeting students' literacy needs. Yintarri was recognised due to innovations such as book boxes and parent reading nights.

The ABC of Two-Way Literacy and Learning

The ABC of Two-Way Literacy and Learning has been the mainstay of the Department's effort to improve literacy outcomes among Aboriginal students since 1998. It is based on ground-breaking, nationally recognised research conducted collaboratively with key linguistic, socio-linguistic and cultural-cognitive linguistic specialists on Aboriginal English, bi-dialectal and ESL [English as a second language] education. Its prime focus is on improving literacy outcomes for Aboriginal students whose first language or dialect is not Standard Australian English. Through this program the cultural and linguistic skills and understandings that students bring to school are used as a basis for the explicit teaching of Standard Australian English (SAE).

Since its inception, the ABC of Two-Way Literacy and Learning has instigated a major change in attitude towards the value of the home dialect in the classroom and, by extension, has also enhanced the role of Aboriginal Islander Education Officers within the school system.

Getting it Right Literacy and Numeracy Strategy

The State governments Getting it Right Literacy and Numeracy Strategy (GiRLNS) deploys trained, specialist teachers in selected schools including several in remote locations. The strategy has a particular focus on improving the literacy and numeracy achievement of Aboriginal students.

Specialist teachers work alongside classroom teachers assisting them to determine why individual or groups of students may be having difficulty learning them to read, write or do mathematics. The specialist teacher plans with the classroom teacher to address the specific areas of difficulty identified through the analysis of students' work.

ATTENDANCE STRATEGIES

The Attendance Strategy

In May 2006 The Minister for Education and Training launched an Attendance Strategy with the focus on strengthening attendance processes. The Strategy involved: the distribution of an attendance improvement resource to all schools in Western Australia; the issuing of a brochure to all parent/carers outlining their responsibilities in supporting regular attendance; posters targeting parental responsibility to schools and the local community; an emphasis on collaborative interagency and community support to encourage regular attendance; support for prosecution as a last resort and the introduction of the Attendance Audit.

The Attendance Audit Strategy

The Attendance Audit was conducted across all of Western Australia's public schools providing a 'snapshot' of attendance and lending support to the targeting of resources and strategies to students at risk of disengaging. The Attendance Audit is an ongoing key component of the Attendance Strategy. The Audit has allowed for the provision of accurate data about individual student attendance at a school district and system level. The Audit data also provides a break down of year levels, gender, Aboriginality and authorised versus unauthorised absences. Audit data allows for informed planning at school level.

FAMILY LINKS INITIATIVE (SCHOOL BASED COMMUNITY LIAISON OFFICERS)

A key component of the Family Links initiative is the employment of school-based community liaison officers (SBCLOs). During 2006/2007 120 primary schools have access to a SBCLO.

Schools in the Kimberley and Pilbara education districts have a total of 15 SBCLOs which complement other school support services operating across the districts including remote community schools. These SBCLOs have been very successful in providing the crucial links between the school, home and the community. Strategies used include "a cuppa and yarn under the mango tree" which have resulted in significant improvement in student attendance and a significant increase in parental and community involvement in the school.

STATEWIDE SPECIALIST SERVICES

Centre for Inclusive Schooling

Deployment of 32 FTE Visiting Teachers (VTs) from West Perth to Service Area level to provide services closer to schools. Specifically, the positioning of VTs (Inclusive Education) into country districts of Geraldton and Goldfields to provide direct access to visiting teacher services in rural and remote schools.

- *Autism Intervention Team*

Autism Intervention Team assisted Jigalong Remote Community School with a low functioning student with Autism Spectrum Disorder on language and communication skills based on referral from District Inclusive Education Team.

- *Assistive Technology Team*

The Assistive Team has provided successful interventions to Yulga Jinna Remote Community School. Software and hardware was provided to students with intellectual and physical disabilities. Training on the use of software and classroom application provided to teachers and education assistants.

- *Vision Education Service*

The Vision Education Service has supported a young student with severe vision impairment in the Jameson Community since mid 2005. The Visiting Teacher has spent three days each term working with a student's extended family and the Community to assist with early literacy and numeracy and to help prepare the school for the student's enrolment in 2007.

The local Community have been involved with making tactile books using the language and stories from their own people. The Visiting Teacher has taken the student to the school for short periods of time to allow a structured transition from home to school; team taught in the classroom to allow the teacher the opportunity of working with the student and provided the teacher and Principal with programming and management advice.

- *Statewide Speech and Language Service*

The services provided by the Department's Statewide Speech and Language Services have been central to the support provided to schools to facilitate the education of students with speech and language needs.

Four Consultant Principals Speech and Language (4 FTE) have responsibility for providing strategic coordination, consultation and leadership in relation to services for students with speech and language needs across the state. The positions are responsible for coordinating and making links across central and district teams in relation to systemic policy and initiatives.

Support Officers (10 FTE) from the Centre for Inclusive Schooling Speech and Language Outreach Team work collaboratively with other teams located within the district office to deliver professional learning to school communities across the state in relation to [Kindergarten] to 12 students with speech and language needs.³¹⁴

³¹⁴

Letter from Mr Keith Newton, Acting Deputy Director General Schools, 27 February 2007.

(b) Association of Independent Schools of Western Australia (Inc)

The Association of Independent Schools of Western Australia (Inc) (AISWA) provided the following information of what it considered to be effective initiatives to address attendance, literacy and numeracy deficits in remote Aboriginal community schools:

AISWA hosts and supports the Aboriginal Independent Community Schools Support Unit, (AICS), which works with 15 schools of which 11 are 'remote'. The Department of Education, Science and Training, DEST), funded National Accelerated Literacy Program [NALP] has been running successfully in 14 out of 15 of these schools for several years.

This longevity has allowed the positive effects of the program to make themselves felt outside of the immediate confines of individual schools. Students from remote locations can now access post compulsory schooling in other AICS more effectively than ever before. They are arriving with higher reading levels than was formerly the case and are familiar with the classroom routines that characterise the NALP classroom. Less time and effort is spent on settling in, and retention and return rates are improving.

This year, for the first time, a text written by a student in one of the AICS remote schools has been suggested as a junior primary text worthy of study. The Cowboy Frog was originally written as an entry for the Multicultural Book Competition and was later published by Magabala Books. It has now been added as recommended reading on the NALP booklist. Recognition of student authored books as teaching texts, is an indication of the impact that the NALP has had on literacy development of students in the Aboriginal Independent Community Schools of Western Australia.

The programme is conducted in partnership with Charles Darwin University and further information can be obtained from the NALP website at <http://www.narp.cdu.edu.au/>

In respect to Numeracy the Working as a Mathematician programme has been initiated. This programme is funded through the Numeracy strand of the Australian Government Targeted Programmes allocation.

This project is founded on the premise that to create a place of academic learning a shift in current practices in classrooms is necessary, and because this involves a change in pedagogy, program and lesson structure, physical organisation of the classroom, attitudes and engagement of the learner, it has been called a cultural change.

This project is now in its second year and the feedback from teachers involved during 2006 has been extremely encouraging with regards to improving teachers' confidence to engage in pedagogical practices that have proven successful with indigenous students.

While the Association does not currently support specific programmes to improve attendance there is evidence to support the view that success in the classroom particularly in a programme relevant to students needs results in improved attendance. Both of the programmes described are achieving this goal.³¹⁵

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Letter from Mrs Audrey Jackson, Executive Director, AISWA, 13 February 2007.

(c) Catholic Education Office of WA

The Catholic Education Office of Western Australia provided the following information in response of what it considered to be effective initiatives to address attendance, literacy and numeracy deficits in remote Aboriginal community schools:

- *Reading Recovery teacher training program is being run in the Kimberley to support struggling readers in year 2. This is the second year and all schools, except those in the Tjurabalan region are being supported (this program is currently being funded by Kimberley schools). [??Tom to check current status??]*
- *Catholic Education Aboriginal Kimberley Committee and the awards of excellence*
- *National Accelerated Literacy Program in Tjurabalan school and the introduction of literacy dedicated time in all Kimberley schools.*
- *Appointment of school based Literacy coordinators 4x2 day literacy leadership workshops per year and introduction of professional learning meetings once a week in all schools, focusing on literacy.*
- *Scholarships and training of Aboriginal Teaching Assistants (ATAs) to become teachers and community teachers in Kimberley schools.*
- *Professional development of ATAs.*
- *Better recruitment of teachers through Kimberley Calling.*
- *4 day curriculum induction, held in January providing intensive preparation of teachers before they are placed in a Kimberley school. Ensuring that all new teachers are familiar with expectations for Kimberley schools.*
- *Connecting with Culture package.*
- *Induction and ongoing professional development of all teachers.*
- *Religious Education Kimberley Companion.*
- *Language and culture celebrated and taught in a number of community schools.*
- *The introduction and further professional development in first steps literacy and numeracy.*
- *In servicing of teachers and support by consultants.*
- *Kimberley Literacy Program focussing on improved outcomes for students in the early years.*
- *ATAs and support teachers who work with students in the classroom and one to one assisting with blocks and helping students “catch up”.*

- *Introduction of the Bluearth program in all Kimberley schools and training of facilitator at the Catholic Education Office Broome.*
- *Diabetes education program initiated by Ernie Bridge. Having dieticians visit to educate re good food and exercise as ways of preventing diabetes. This is supported with ongoing reinforcement from the teachers.*
- *Grants for healthy food to supplement existing programs.*
- *Attendance: Incentive rewards both short-term and long-term, local and interstate.*
- *Swimming programs in a number of Kimberley schools.*
- *Conductive hearing loss programs in place through the Breathe Blow Cough programs in all schools and Sound field amplification units in most classrooms.*
- *Healthy eating –Canning Stock Route challenge implemented in many schools.*
- *Halls Creek Shire “no school, no pool” initiative, supported by Warlawurru Catholic School.*
- *Whole-school daily fitness & health session.*³¹⁶

Finding 11

A number of successful education initiatives within remote Indigenous communities have been undertaken by the Department of Education, the Catholic Education Office and the Association of Independent Schools but the Committee has been provided with no evidence of a coordinated approach by these three systems, nor of an adequate effort to share educational resources (particularly to primary schools).

Recommendation 14

The Department of Education should bring together the three educational systems offering educational programs in remote Indigenous communities to coordinate a 5-yearly program of the successful initiatives that can be offered to all children living in remote communities.

³¹⁶

Email from Mr Ron Dullard, Director, Catholic Education Office of WA, 21 February 2007.

4.7 Native title settlements

In its submission, the Department of Treasury and Finance pointed out that the original Discussion Paper did:

...not mention the State's approach to Native Title. It is recommended that discussion of future directions should include reference to the substantial amount of money that has been earmarked from native title settlement packages for improving economic and other outcomes for Indigenous people (e.g. Burrup. Ord Stages 1 and 2).³¹⁷

The Committee agrees that there do appear to be significant opportunities for some Aboriginal communities arising out of the Native Title settlements, even beyond the monetary component referred to by the Department of Treasury and Finance.³¹⁸

For example, the 2003 Burrup and Maitland Agreement included an \$3.5 million upfront payment for expenditure for the purposes of culture, education, housing, health, sport, child and aged care, community and social infrastructure, and business development. An additional total of \$10.5 million over five years is payable by the State to the Native Title parties for the joint management of a conservation reserve and for the construction of buildings and infrastructure, including a visitors and cultural centre, on the Burrup non-industrial land. There are additional payments for an employment service provider and administration, and Aboriginal employment obligation on development proponents.

The more recent Ord Final Agreement also provides for substantial monetary compensation, including \$24 million over 10 years for purposes such as establishing an Economic Development Unit and an investment Trust. It also includes non-financial opportunities, such as options for the Native Title parties to purchase equity in agricultural projects, an aquaculture licence and conversion of State lands to conditional freehold for 20 Aboriginal communities. Both

³¹⁷ Submission No. 12 from Mr Timothy Marney, Under Treasurer, Department of Treasury and Finance, 22 August 2007, p 4.

³¹⁸ The Committee also notes, however, the concerns expressed in the submission on behalf of the Ngaanyatjarra communities that:

Bureaucracies known as native title 'representative bodies' and 'service providers' have come to control the distribution of all funding that relates to the Indigenous relationship to land. Funding is allowed to be provided only for particular functions specified under the Native Title Act. It is not able to be used for any of the other related projects or programs that might be developed by title holders, arising from their cultural relationship to the land. These projects that could help to maintain and enhance indigenous well-being, develop economic partnerships, and build partnerships to promote development and stability. Such constraints and limitations did not exist in the era prior to the Native Title Act (Submission No. 8 from Ngaanyatjarra Council and Ngaanyatjarraku Shire, 17 July 2007, p 9).

agreements include provisions for on-going monetary or land allocations should future acquisitions be required.³¹⁹

With the increased needs of the resource industry for land access for various projects, more and more Native Title agreements will be reached with Indigenous groups that will have significant social and economic prospects and impacts on their communities. There will be a need for governments to find some way of monitoring these arrangements and securing a framework inside which they can more confidently provide a positive impact for the affected communities.

Finding 12

Native Title and non-native title agreements (such as the recent MOU for the south west of WA) provide an important opportunity for the State and Indigenous organisations to improve the social and economic outcomes for remote communities.

4.8 Natural resource management programs

A recent paper from the Centre of Aboriginal Economic Policy Research (CAEPR) at ANU noted that Indigenous communities are often under-resourced to carry out many of the land care and rehabilitation programs necessary, not only for the commercial use of their lands, but to carry out programs which can benefit the conservation of biodiversity.³²⁰ For example, Fourmile suggests that many of the properties purchased primarily through ATSIC schemes are seriously environmentally degraded and therefore are in need of secure funding in order for rehabilitation programs to be effective.³²¹ While there are a number of government natural resource management funding programs available, most are based on a “one-off” short-term grant system and are unsuitable for longer term projects (eg the Department of Environment and Heritage’s Envirofund). Indigenous communities managing their lands need core-funding that allows both natural resource management and cultural issues to be managed over longer time periods.

The importance of long-term capacity-building funding for Indigenous communities should also be seen in enhancing their ability to educate younger generations in traditional knowledge and hence maintain their ‘connection to country’. An example of this type of approach is provided by the Ngaanyatjarra community in the Western Desert. Natural Heritage Trust (NHT) Envirofund

³¹⁹ *Burrup and Maitland Industrial Estates Agreement, Implementation Deed*, 2003, www.nativetitle.wa.gov.au/agreements_BurrupMaitland.aspx, accessed 16 January 2008; *Ord Final Agreement*, 2005, www.nativetitle.wa.gov.au/agreements_OrdFinal.aspx, accessed 16 January 2008. The assistance of Mr Gary Hamley, Executive Director, Office of Native Title, in identifying key aspects of these agreements is acknowledged.

³²⁰ www.anu.edu.au/caepr/Publications/DP/2007_DP286.pdf, accessed 26 March 2008.

³²¹ Fourmile, H. 1996, *Making Things Work: Aboriginal And Torres Strait Islander Involvement In Bioregional Planning*, Bukal Consultancy Services Pty Ltd: Gordonvale, QLD, p 10.

funding of \$17,200 was obtained to protect a water hole from further damage from feral camels.³²² However, the opportunity was also taken to use the funds to involve young people in the natural resource management repair activities and at the same time develop their knowledge of the importance of the water hole in cultural terms.³²³ Chester and Last report that “Aboriginal people do not necessarily perceive a difference between social, environmental or cultural outcomes. Cleaning rock-holes, or rehabilitating burial sites have social, cultural and environmental outcomes, but for Aboriginal communities, this is a single outcome, not three.”³²⁴

The focus of Indigenous communities on managing their lands, from both a natural resource management and cultural approach, has given rise to a number of very interesting alliances and partnerships of Indigenous communities working across traditional state or regional boundaries. An example of such a cross-state organisation is the North Australian Indigenous Land and Sea Management Alliance (NAILSMA).³²⁵ NAILSMA links the Kimberley Land Council in Western Australia with other Indigenous organisations in other jurisdictions across northern Australia. It utilises the research services of universities associated with the Desert Knowledge CRC (eg Curtin University in WA) to research issues such as natural resource management, governance and economic development in Indigenous communities.

(a) The Indigenous Protected Area (IPA) program

The IPA program is a very small natural resource management program in terms of the Department of Environment and Heritage’s (DEH) annual budget, but since its launch in 1997 it has been very successful. The concept of IPAs was first discussed at a national working group of Indigenous stakeholders in Alice Springs in mid-1995 where it was given provisional support. Penny Figgis reports that Indigenous delegates at this workshop made a strong statement on the importance of economic development of their lands and that “Any conservation partnership must be based on the premise that indigenous cultural objectives of a conservation program have priority over environmental issues.”³²⁶

The importance of the IPA program in overcoming any reticence by Indigenous groups to become involved in natural resource management programs, and in linking Indigenous people’s desires to protect their land with wider government policies, was acknowledged by O’May in an earlier review of the IPA program’s outcomes during the first phase of the NHT³²⁷:

³²² http://parlinfoweb.aph.gov.au/piweb/view_document.aspx?id=2541705&table=HANSARDR, accessed 26 March 2008.

³²³ Worth, D. 2005, *The Natural Heritage Trust and Indigenous Engagement in Natural Resource Management*, National Native Title Tribunal: Perth.

³²⁴ www.ccsa.asn.au/index.php?option=content&task=view&id=114, accessed 27 March 2008.

³²⁵ For more information on NAILSMA, see www.nailsma.org.au.

³²⁶ Figgis, P. 2004, ‘The Changing Face of Nature Conservation: Reflections on the Australian Experience’, in Adams, W. & Mulligan, M. (eds), *Decolonizing Nature: Strategies for Conservation in a Post-colonial Era*, pp 197-219, Earthscan, London.

³²⁷ O’May, J. 1999, *Mid-Term Review of the Natural Heritage Trust: Indigenous Protected Areas Program*, Centre for Environmental Management, University of Ballarat, Ballarat, p 3.

The IPA, in terms of NHT objectives has clearly achieved substantial outcomes for complementary environmental protection and natural resource management and has provided an important and previously unavailable framework for cooperative partnerships between [Indigenous] communities and government.

Szabo and Smyth place the average funding for each of the declared IPAs at around \$100,000, with an annual program total to DEH of about \$2 million.³²⁸ The program has been able to obtain the agreement of traditional owners to voluntarily set aside about 14 million hectares of land across Australia to be managed by Indigenous communities. In a similar fashion, the review in 2003 of the Indigenous Land Management Facilitator (ILMF) program by Hassall & Associates suggests that “Indigenous engagement with natural resource management and the NHT is ineffective unless it is linked to development of 'cultural capital'”.

An interesting development in 2002 was the completion of a MOU between DEH and the Indigenous Land Corporation to develop further IPAs on properties purchased by the ILC.³²⁹ Finally, the IPA program is seen as of the highest priority by Professor Jon Altman, both in terms of natural resource management and in terms of the very survival of these remote communities:

In relation to natural resource management on the Indigenous estate, the outcome is potentially disastrous. I think you could see an emptying of the Indigenous estate of people. I think that in relation to the Indigenous estate—and this also applies to IPAs because they are also dotted with outstation communities—if you had any policy shift to close down outstations or not provide them with support, what you would basically see is no land management activities in those places. I think that, again, we have got to keep in mind that we are talking about enormous tracks [sic] of land where the dominant population is Indigenous.³³⁰

(i) IPAs in WA- A Case Study of the Ngaanyatjarra IPA

The Ngaanyatjarra Council was established in 1981 and set up a Land Management Unit in 1997.³³¹ Its staff have worked with Conservation and Land Management (CALM) staff on natural resource management issues in the Gibson Desert Nature Reserve (GDNR) since the late 1980s. The joint activities in the GDNR, such as field trips to burn the country and collect seeds, have resulted in a strong relationship with CALM. The declaration of the vast 9.8 million hectare area of its lands as an IPA occurred on 21 August 2002. The process was initiated in 1998 when the Ngaanyatjarra Council received a grant from the NHT to investigate the establishment of an IPA

³²⁸ Szabo, S. & Smyth, D. 2003, 'Indigenous Protected Area in Australia', in H. Jaireth & D. Smyth (eds) *Innovative Governance: Indigenous Peoples, Local Communities and Protected Areas*, pp146-164, Ane Books, New Delhi, p 157.

³²⁹ ILC. 2002, 'Indigenous Protected Areas', *Land Matters*, 15, Winter/Spring: 7.

³³⁰ Professor Jon Altman (2006: 84),???

³³¹ Ngaanyatjarra Council. 2004, *Ngaanyatjarra Council Submission on Indigenous Ownership and Joint Management of Conservation Lands in WA*, Submission in response to CALM Consultation Paper, Ngaanyatjarra Council, Perth, pp 8-11.

on their land.³³² There are about 2,000 Yarnangu people living on the Ngaanyatjarra Lands in 11 autonomous incorporated communities. Ngaanyatjarra Council represents them all, and coordinates IPA activities across the Lands.

A large part of the 4-year period between the initial funding and the declaration was spent convincing members of the Indigenous communities at Ngaanyatjarra that the IPA program wouldn't change the tenure over any land declared as an IPA, and wouldn't interfere with their Native Title claims. The original process was initiated to look at ways in developing and funding the co-management of the adjoining GDRN, but this proposal wasn't proceeded with as Native Title had been extinguished in the Reserve by the Ward decision. CALM has worked closely with the Ngaanyatjarra Council to establish State legislation that would need to be amended to allow activities associated with Native Title rights, such as hunting, to occur within the GDNR.³³³

The Ngaanyatjarra IPA is the largest area in Australia declared as an IPA and the remote location precludes many land management activities considered 'normal' elsewhere in Australia.³³⁴ The application for the IPA proposed that the majority of the natural resource management activities would occur in the GDNR and the Central Ranges, north-east of Warburton, as other areas within the proposed IPA were vacant Crown land at the time of the IPA application.

The Ngaanyatjarra Council received an initial payment in January 2003 of \$214,500 from the DEH for the management of the IPA.³³⁵ This figure was higher than many IPA annual payments, but similar to that made to Anangu Pitjantjatjara Lands for their large Wattaru and Walakarra and Anangu Pitjantjatjara IPAs. The Ngaanyatjarra IPA payment in May 2004 was \$210,000,³³⁶ and \$235,950 was provided in November 2005.³³⁷

At least five endangered or vulnerable animal species are known to exist within the Ngaanyatjarra IPA.³³⁸ The importance of the IPA from a natural resource management or biodiversity viewpoint is shown by the western IPA boundary being contiguous with the GDNR, while to the south lay the Yeo Lake and Neale Junction Nature Reserves. Two smaller reserves, De La Poer Range and the Mangkili Claypan Nature Reserves, lay further to the west of the IPA.³³⁹ Penny Figgis reports

³³² Ngaanyatjarra Council. 2000, *Draft Report- Ngaanyatjarra Council Indigenous Protected Area Project 1999-2000*, Ngaanyatjarra Council Land Management Unit, Alice Springs. An ABC interview about the declaration of the IPA with Ian 'Ribs' Ward, a senior Ngaanyatjarra man, can be heard at www.abc.net.au/goldfields/stories/m479257.ram.

³³³ Ngaanyatjarra Council. 2001, *Ngaanyatjarra Lands Indigenous Protected Area Project: Interim Report Phase II*, Ngaanyatjarra Council Land Management Unit: Alice Springs, p 4.

³³⁴ www.deh.gov.au/indigenous/ipa/declared/ngaanyatjarra.html, accessed 27 March 2008.

³³⁵ www.deh.gov.au/about/contracts/pubs/2003calendaryear.pdf#search=%22Ngaanyatjarra%20IPA%22, accessed 27 March 2008.

³³⁶ www.deh.gov.au/about/contracts/pubs/03-04financialyear-listing.pdf, accessed 27 March 2008.

³³⁷ www.deh.gov.au/about/contracts/pubs/05-06financialyear-senate-order-list.pdf, accessed 27 March 2008.

³³⁸ www.atns.net.au/biogs/A002033b.htm, accessed 27 March 2008.

³³⁹ www.calm.wa.gov.au/science/bio_audit/pdf_files/gibson_desert01_p314-320.pdf#search=%22Mangkili%20Claypan%20Nature%20Reserve%22, accessed 27 March 2008.

that “Prior to [the Ngaanyatjarra] IPA declaration, this region was one of only two of Australia's 80 bio-geographic regions with no conservation reserves”.³⁴⁰

The success of this Western Australian IPA can be measured in other ways, and not just in terms of the critical natural resource management outcomes. An interim report on the Ngaanyatjarra IPA project highlights requests from both the Central Land Council and the Kimberley Land Council for their Traditional Owners to visit the Ngaanyatjarra IPA to see what ideas could be transferred to their own regions. The DEH reports in their evaluation of the IPA program that “The Ngaanyatjarra IPA is seen as having provided a useful trigger for interactions with other land management agencies at a Commonwealth and State level as well as with managers of adjoining land management units.”³⁴¹

The IPA funding has also helped the Ngaanyatjarra Council obtain funding support for natural resource management activities from other sources, such as the Myer Foundation, the ILC and State departments such as DIA.³⁴² The success of the Ngaanyatjarra IPA led CALM to develop a proposal in 2004 for State-funded IPAs based on the national model used by DEH, but this has not proceeded.

Recommendation 15

The Committee recommends that an evaluation be conducted into the value to remote Indigenous communities of a state-based protected area program, similar to the IPA, including the potential to enter arrangements with the Commonwealth to attract further funding support for such a program.

³⁴⁰ Figgis, P. 2004, *Conservation on Private Lands: An Australian Experience*, IUCN, Cambridge, p 9.

³⁴¹ www.environment.gov.au/indigenous/publications/pubs/ipap-evaluation-chapters4-6.pdf, p 29, accessed 27 March 2008.

³⁴² Ngaanyatjarra Council. 2000, *ibid*, pages 5-6.

CHAPTER 5 FUTURE DIRECTIONS

5.1 Where to?

Some comment should be made about the opportunities presented to the State in relation to remote Aboriginal communities given the future directions in Commonwealth/State relations concerning Indigenous affairs.

It is evident from the material presented in this Report that the Commonwealth has since the late 1960's been the primary contributor to funding for housing and infrastructure in remote Aboriginal communities. In more recent times, however, with the closure of ATSIC, and the former Commonwealth government's policy direction, the State has been expected to assume an increasing responsibility for the provision and maintenance of housing and infrastructure for remote Aboriginal communities.

5.2 The State

(a) Bilateral arrangements

Significantly, the current Commonwealth/Western Australian Bilateral Agreement on Indigenous Affairs requires that:

*The Governments agree to work towards achieving one level of service delivery for the provision of housing, infrastructure, essential and municipal services to all Indigenous communities in Western Australia by 30 June 2008. This should be the Western Australian Government and local governments respectively for services they would normally provide to comparable non-Indigenous communities.*³⁴³

The COAG National Framework of Principles for the Delivery of Services to Indigenous Australians required that Bilateral Agreements:

*provide for one level of government having primary responsibility for particular service delivery or, where jurisdictions continue to have overlapping responsibilities, for services to be delivered in accordance with an agreed, coherent approach.*³⁴⁴

Specific Western Australian obligations that are included in the Bilateral Agreement for the provision of housing, infrastructure and essential services for Indigenous People are to:

- assume 'full responsibility for housing and essential services' for town-based Indigenous communities from July 2007;

³⁴³ The Commonwealth of Australia and The State of Western Australia, *Bilateral Agreement on Indigenous Affairs*, 2006-2010, p 7.

³⁴⁴ *ibid.*, p 20.

- ‘*progressively assume increased responsibility for all aspects of essential services delivery*’ to large Indigenous communities (over 50);
- develop joint funding with the Commonwealth for housing services and infrastructure for smaller communities; and
- enter into an agreement with the Commonwealth to transfer responsibility for activities undertaken with Commonwealth Municipal Services funding to State and local government.³⁴⁵

These arrangements have significant implications for the State. The Minister for Housing and Works expressed concerns to the Committee that the Bilateral Agreement will result in:

- the attempt to shift responsibility for municipal services solely to the State;
- potential Commonwealth funding gaps for town-based Aboriginal communities;
- potential Commonwealth funding gaps for small communities, especially those with a population of under 50; and
- the possible withdrawal by the Commonwealth from all responsibility for Aboriginal Housing and Infrastructure from 1 July 2008, when the current Bilateral expires.³⁴⁶

Other state governments, local councils and remote communities have also expressed concerns about these new arrangements.³⁴⁷

(b) Funding

This State already receives substantial Commonwealth funding to address Aboriginal disadvantage under the distribution of Goods and Services Tax (GST) revenue.

For example, in 2005/06, in addition to Indigenous specific grants, the State’s allocation from the Commonwealth in untied funding included an amount equivalent to an additional \$97.70 per capita as a result of ‘*Indigenous influences*’. This recognises the higher costs of provision of service to Indigenous people in Western Australia as a result of the large proportion who live in

³⁴⁵ The Australian Government and the Western Australian Government, *An Agreement for the provision of Housing, Infrastructure and Essential Services for Indigenous People in Western Australia, November 2005 - June 2008*, pp 13, 14, 16.

³⁴⁶ Letter from the Minister for Housing and Works, 19 September 2007, p 2.

³⁴⁷ See, for example, Premier and Ministers South Australia, ‘News: Aboriginal Affairs Minister seeks Federal commitment on services to remote communities’, Available at: www.ministers.sa.gov.au/news.php?id=645 Accessed on 7 March 2007; ABC. 2007, ‘Ceduna council criticises Federal Govt Indigenous plan’, 2 March 2007, www.abc.net.au/news/newsitems/200703/s1861136.htm, accessed on 2 March 2007.

remote areas and their very poor health and other demographic outcomes.³⁴⁸ This totalled some \$195 million for the financial year - almost three percent of Commonwealth funding to the State and over one percent of the State's budget.³⁴⁹

In its submission the Department of Treasury and Finance noted, however, that this '*funding is not exclusively for Indigenous programs, as it covers the additional usage of mainstream services (e.g. the relatively high admission rates of Indigenous persons into Western Australian hospitals)*'.³⁵⁰ Comparative data indicates, for example, that Western Australia does have a high per capita expenditure on Aboriginal health.³⁵¹

However, the specific appropriation from State Treasury for the infrastructure and housing needs for all Aboriginal people throughout this State in 2005/06 was \$18.5 million,³⁵² or 0.1 per cent of the State's Budget. Although the Department of Treasury and Finance quite rightly noted in its submission that this was not necessarily indicative of the total State expenditure on Aboriginal housing, it is nevertheless significant that the State's per capita expenditure on housing in Western Australia was the third lowest of all States and Territories, with a recovery of more than two-thirds of this as '*user charges*'.³⁵³

(c) Accountability

While expenditure by local government is examined closely in Chapter 5.3, the issue of State Government accountability for the expenditure of funds allocated by the Commonwealth on the basis of Aboriginal population, remoteness and disadvantage has not been canvassed in the same detail. States such as Victoria and New South Wales, however, are reported as querying the current formula for the distribution of GST funds by the Commonwealth Grant Commission, based on '*horizontal fiscal equalisation*'. Those States claim that funds granted on the basis of

³⁴⁸ Commonwealth Grants Commission, *Relative Fiscal Capabilities of the States 2006*, Commonwealth Grants Commission, Canberra, 2006, pp 24, 151. This allocation is in addition to the calculation of State expenses which allow for the increased cost of regional and remote services.

³⁴⁹ *Budget 2006-07 Building for the Boom Fact Sheet*, 'The Budget - Where the money comes from and how it is spent', p 1.

³⁵⁰ Submission No. 12 from Mr Timothy Marney, Under Treasurer, Department of Treasury and Finance, 22 August 2007, p 3.

³⁵¹ WA's average per capita expenditure was \$3,850 per Indigenous person, second only to the NT. This is, at least, in part, attributable to the large proportion of Indigenous people living in remote areas (AIHW, *Expenditures on Health for Aboriginal and Torres Strait Islander Peoples, 2001-02*, AIHW, Canberra, 2005, p 35).

³⁵² Government of Western Australia, *2006-07 Budget - Budget Papers*, Vol. 2 2006, p 603. Increasing to \$24 million in 2006/07.

³⁵³ Western Australia's average per capita expenditure on housing was \$155.65 per person with \$104.62 recovered as '*user charges*' (AIHW, *Expenditures on Health for Aboriginal and Torres Strait Islander peoples, 2001-02*, AIHW, Canberra, 2005, p 141).

Indigenous ‘disabilities’ are not spent by State and Territory Governments such as Western Australia, South Australia and the Northern Territory to address those needs.³⁵⁴

Countering this claim, the Department of Treasury and Finance submitted:

The Western Australian Government has estimated that it spends around \$1.2 billion per annum on Indigenous service delivery. Relating this expenditure to the CGC [Commonwealth Grants Commission] allocation would be a complex exercise. However, a simple indicative calculation suggests that Western Australia’s spending on Indigenous persons is roughly in line with the CGC [estimation of national average expenditure on Indigenous persons].³⁵⁵

The Department of Treasury and Finance also makes the significant point that these CGC allocations are based on existing levels of expenditure and not on need:

Furthermore, the CGC process does not address the level of spending on Indigenous services that should be committed. The process is based on the current average level of service to Indigenous communities across all the States and Territories. Western Australia receives ‘additional’ funding largely because this State has an above average share of the remote Indigenous population. Western Australia could be spending more or less than the Australian average on particular areas of Indigenous disadvantage, however, there is nothing to say that the Australian average level of service is the benchmark that the State should be aiming for in its level of expenditure.³⁵⁶

5.3 Local Government

(a) Bilateral arrangements

The Bilateral arrangements also have significant implications for those local governments which include discrete Aboriginal communities within their jurisdiction. It is of note that such local governments were not a party to the Agreement, and nor were the communities affected.³⁵⁷

WALGA submitted as an ‘interim response’:

The Bilateral Agreement on Indigenous Affairs was signed by the State of Western Australia and the Commonwealth of Australia in July 2006. Local Government was not a

³⁵⁴ Salusinszky, I. 2006, ‘Overhaul proposed for black funding’, *The Australian*, 31 July, p 3.

³⁵⁵ Submission No. 12 from Mr Timothy Marney, Under Treasurer, Department of Treasury and Finance, 22 August 2007, p 3. The Department later clarified that the major areas of expenditure were:

health (\$319 million or 27%), education and training (\$246 million or 21%) and police (\$241 million or 20%). Recent information provided by the WA Department of Health indicates that approximately \$380 million was spent on health services to Indigenous people in 2006-07 (Email from Department of Treasury and Finance, 16 January 2008).

³⁵⁶ *ibid.*

³⁵⁷ Mitchell, B, ‘Failure to consult puts Indigenous services at risk’, (Advertisement), *The West Australian*, 18 December 2007, p 4.

signatory. The Agreement establishes an agreed framework and priorities for intergovernmental cooperation and effort in Indigenous Affairs...

Local Government, despite ongoing requests, was not party to the Western Australian Bi-lateral negotiations. The State Department of Local Government and Regional Development represented Local Government at all discussions. The Association continues to protest at the lack of Local Government representation and consultation with Local Government.

The Bi-lateral Agreement will not impact all Local Governments in Western Australia, only those Local Governments that contain remote and town based Aboriginal communities. Due to the location of the communities the impact will be greatest on Councils in the Kimberley, Pilbara, Gascoyne, Midwest and Goldfields-Esperance region of the State.

The Bi-lateral states that Local Government should be responsible for services to Aboriginal communities that they would normally provide to comparable non-Indigenous communities. This has implications across all functional areas of Local Government.³⁵⁸

(b) Funding

In its 'interim response' to the Committee's Discussion Paper, WALGA also submitted:

Current Commonwealth funding for municipal services, which includes power, water and sewerage operation and maintenance, waste disposal, road and aerodrome maintenance and environmental health activities, landscaping and dog control, along with housing, infrastructure and essential services, is pooled with the State funds through the Agreement for the Provision of Housing, Infrastructure and Essential Services for Indigenous People in Western Australia. This agreement, based on agreed planning, funding arrangements and reporting, expires in June 2008. It is anticipated that new arrangements framed by the bi-lateral will replace this.

The Bi-lateral has acknowledged that the increased involvement of Local Governments will require the development of mechanisms to augment the revenue of Local Government. It articulates that the proposed transfer will involve the development and trialing of new models and approaches to service delivery. The Shire of Halls Creek has been identified as the trial site with parties commencing work on the possible transfer of municipal services funding to the Shire for the Aboriginal communities of Balgo, Ringers Soak, Billiluna and Mulan. However the trial is not expected for completion for another 18 months, which does not align with Bilateral Agreement expectations.

The Association continues to express concern at the time frame for the development and implementation of a new service delivery model/arrangement by June 2008, given the required financial modelling and the potential financial and human resource implications on Local Government.³⁵⁹

³⁵⁸ Submission No. 14 from WALGA, 5 September 2007, pp 9, 10.

³⁵⁹ Submission No. 14 from WALGA, 5 September 2007, p 10.

As indicated in Chapter 2, both CDEP and Commonwealth municipal services funding have been substantially reformed. It is the Committee's view that the previous ATSIC subsidy of municipal services, quite apart from the subsidy by members of those remote communities who undertake skilled work at CDEP and 'top up' rates, to a large part masked the extent to which the provision of municipal services to Indigenous community members was inadequate. The subsidy of municipal services by ATSIC and CDEP has also masked the current inequities of the Commonwealth distribution of municipal funds under the *Local Government (Financial Assistance) Act 1995 (Cth)*.

A major concern raised in the joint submission from the Ngaanyatjarra Council and Ngaanyatjarraku Shire highlighted how these Bilateral arrangements place the operations of community offices (ORAs) at risk, in particular because the allocation of municipal services funds towards their essential function has been overlooked under new funding arrangements:

Communities cannot run without any form of support to their resident population. In small mainstream communities in regional areas, support comes from a range of different government and non-government organisations. This includes the local Shire council office, various government agencies (such as Centrelink and police), community associations and volunteers. In remote discrete Aboriginal communities, those services and support are either unavailable, inaccessible or variously impractical.

Into this void steps the community office. The office serves many of the functions of government and non-government agencies in mainstream small regional communities. It assists people with their banking, financial difficulties, contacting relatives, obtaining and storing necessary identity and other personal documentation, emergency financial assistance, liaising with justice or other government agencies, and community governance. It also provides the central location for the many government parties seeking to consult with community members.

Arguments have been made recently, in the current era of 'shared responsibility', that remote Aboriginal community members should take greater responsibility for their interactions with external agencies and businesses on their personal matters. This is essentially impractical and naive.

Remote Aboriginal community members do not speak English as a first language. They have limited exposure to, interest in and understanding of government and business systems. Conducting complex transactions, remotely, in a different language, and by public telephone, without any form of external support will mean that people will choose to engage less. This will lead to further difficulties in building capacity within communities. It also effectively abandons disadvantaged people, instead of providing the necessary support to achieve access and equity in service provision. This is the right and entitlement of all Australian citizens, and is no less pressing because the challenges of remoteness make it difficult to achieve.

In the current funding environment, however, there is a clear and immediate threat to the ongoing existence of community offices. The main way through which office support is funded (ie the salaries for community staff and on-costs for office administration) is the Australian Government's Municipal Services Program. While there was implicit

recognition by ATSIC that the municipal program funded more than strictly defined municipal services (in recognition of the critical role that the program played in sustaining communities), this was effectively overlooked by program managers. Since the program has been mainstreamed to the Department of Families and Communities and Indigenous Affairs (FACSIA), the department has not had the same benevolent approach to the whole-of-government outcomes served by its municipal program.

Consistent with the bilateral agreement, the Australian Government is looking to transfer its municipal program to the State on 1 July 2008. However, it has determined that only half of funding (the amount that in fact relates only to the delivery of municipal, and not community administration services) will be transferred.

Ngaanyatjarra Council currently receives the grant for Municipal Services for the twelve communities in its region. As a result, it has been advised that transitional funding for only half of those office positions will be available only until 30 June 2008. After this date, there is no certainty, nor apparent attempts to clarify matters, about ongoing support to community management and administration. Without this critical underpinning community service, all levels of government, non-government organisations and community members will be in a confused state, as they each try to communicate with each other in an uncoordinated and chaotic way.³⁶⁰

The issue raised by WALGA of augmenting the revenue of local government is therefore a critical one. Before addressing that issue, however, it is important to grasp something of the complex funding arrangements for local government that are currently in place.

A recent discussion paper on the implications of the Bilateral arrangements for local government by the Sustainable Environmental Health and Infrastructure Senior Officer Group, including Commonwealth and State officers and a representative of local government, provided the following background on these funding arrangements:

Local governments already receive some funding towards provision of services to Indigenous residents and communities. Although constitutional responsibility for local government rests with the States, the Commonwealth provides significant general purpose funding to local government. This supplements the principal sources of funding for local government, being property rates and user fees and charges, (other) grants and loans. For some local governments, particularly many of those in remote areas with indigenous communities, the un-tied grants can be the largest revenue component, and there is limited ability to influence the amount of funds received.

Local government is also entitled to levy a user charge for services such as rubbish collection. At least one local government is receiving ex-gratia rates from its Indigenous communities (to the value of about \$40,000, relating to approximately 400 dwellings). There may be the potential for other local governments to obtain some further revenue from Indigenous communities through ex-gratia rates as well as possibly user charges (for services such as rubbish collection).

³⁶⁰ Submission No. 8 from Ngaanyatjarra Council and Ngaanyatjarraku Shire, 17 July 2007, pp 9, 10.

The Commonwealth payments to local government consist of:

- *Specific Purpose Payments (such as the Roads to Recovery program) and*
- *Financial Assistance Grants (FAGs), which are divided into two pools (General Purpose and Local Roads funds). Both of these are untied and together comprise over 80% of total Commonwealth payments to local governments.*

The latter are passed to local government through the State and allocated by the WA Local Government Grants Commission (see below).

The State also provides funding towards municipal type services in remote Indigenous communities. For example, the WA Department of Health provides supplementary funding to local governments and to Aboriginal organisations for a network of Environmental Health Officers (EHOs), Aboriginal Environmental Field Support Officers and Aboriginal Environmental Health Workers. These positions provide core environmental health services and surveillance in Indigenous communities....

The WA Local Government Grants Commission (WALGGC) currently takes into account the needs of Indigenous people in its methodology in a number of ways (using the example of an unspecified Shire):

- *Indigenous residents are included in the resident population used in the calculation of many of the expenditure assessments (their dwellings are included also). (For example, Indigenous represent 24% of the population of the unspecified Shire);*
- *Where the Indigenous population in a local government is greater than the State average, an Indigenous factor is recognised in the Governance assessment (generating a \$71,000 allowance for the unspecified Shire).*
- *Indigenous communities are recognised in the 'population dispersion' factor, which takes account of the above average costs of local governments in servicing additional dispersed towns and communities. (eg factor of 1.12 generates a \$432,000 allowance);*
- *The 'socio-economic disadvantage' disability factor is derived from ABS Census information, including percentage indigenous and other data highly correlated with indigenous disadvantage. (eg factor of 1.05 generates a \$149,000 allowance);*
- *The 'aboriginal environmental health allowance' recognises the additional costs incurred by local governments in providing environmental health services to remote communities. (eg \$64,000 allowance for the unspecified Shire);*
- *Indigenous are also factored in on the revenue side, such as in the population used to generate the recreation and culture charges assessment.*

In addition, the Commission allocates special project funding (approximately \$1.84M in 2006-07) for improvements to access roads to remote indigenous communities (eg \$154,000 for an access Road in the unspecified Shire). The access roads are also included

in the calculation of ‘asset preservation need’ used as the basis for the allocation of the road grant component (contributing approximately \$75,000 to the unspecified Shire’s road grant). They are also included in the calculation of transport needs made for the equalisation component, contributing an estimated \$150,000 to this grant for the unspecified Shire. Overall, it was estimated that the Indigenous population (representing about 24% of the Shire population) generated about 44% of the grant funding received by the Shire.

Clearly, many councils are already receiving significant general purpose funding in recognition of their need to service an Indigenous population. However, it is also recognised that the overall funding available for distribution to councils is less than what is required and financial constraints mean that councils frequently have to provide services in a manner that is available to the entire community rather than in specific communities.³⁶¹

Current allocations of Commonwealth funding to support local government are made under the *Local Government (Financial Assistance) Act 1995* (Cth) which specifies that national allocation of the general purpose component of a grant is to be divided amongst the States on a per capita basis.³⁶² Once the grants are received by the States, however, these have to be distributed according to a number of factors, one being so as to achieve ‘*Horizontal Equalisation*’.³⁶³ Recently criticisms have been levelled at the Commonwealth for this ‘*discriminatory*’ allocation of funds for local government:

The Commonwealth (in partial response to its financial dominance in the federal system) provides around a billion dollars in Specific Purpose Grants to the states and territories for support to local government. However, these funds are allocated on a per capita basis to each state and territory (along with a requirement that each jurisdiction establish a local government grants commission to ensure the available funds are distributed equitably within each jurisdiction). The bizarre result is that jurisdictions like the NT with one sixth of the Australian landmass receive less in local government financial assistance than is notionally allocated for the population of Geelong. The states with large urban

³⁶¹ Sustainable Environmental Health Infrastructure Senior Officer Group, *The Bilateral Agreement on Indigenous Affairs Issues for Local Government: Discussion Paper*, September 2007, pp 6, 7.

³⁶² DOTARS. 2006, *Local Government National Report - 2004-05 Report on the Operation of the Local Government (Financial Assistance) Act 1995*, Department of Transport and Regional Services, Canberra, p 40.

³⁶³ Horizontal equalisation is defined under section 6(3) of the *Local Government (Financial Assistance) Act 1995* (Cth) as being the allocation of funds that:

- (a) ensures each local governing body in the State is able to function, by reasonable effort, at a standard not lower than the average standard of other local governing bodies in the State; and
- (b) takes account of differences in the expenditure required to be incurred by local governing bodies in the performance of their functions and in their capacity to raise revenue (Department of Transport and Regional Services, *Local Government National Report - 2004-05 Report on the Operation of the Local Government (Financial Assistance) Act 1995*, Department of Transport and Regional Services, Canberra, 2006, p 43).

populations receive much larger allocations, which are then, through the local government grants commission process, allocated to non-urban councils within that state. ...

The Federal Government provides some indigenous specific funding for municipal services, but again, at a far lesser level than would flow if the mainstream local government funds were allocated equitably on a national basis.³⁶⁴

The criticism was that if ‘*Horizontal Equalisation*’ was applied to these national allocations, the distribution would be very different, resembling the weightings given in the distribution of Commonwealth GST funds, where the additional costs for services in large and remote areas, and to disadvantaged groups such as Indigenous people, are acknowledged.

In its response to the Discussion Paper, however, the Department of Treasury and Finance, described this argument as ‘*a significant misconception*’, at least in its application to Western Australia. The Department indicated that there is a Commonwealth requirement that:

...the fiscal equalisation distribution of local government FAGs within States [also] be subject to a 30% per capita minimum (i.e. no local government may receive less than 30% of its population share of FAGs).

All Perth metropolitan local governments receive the 30% minimum. Fully implementing fiscal equalisation between Western Australian local governments would significantly increase funding for most non-metropolitan local governments, and would require negative grants for some of the wealthy metropolitan councils. The 30% minimum almost certainly would have a greater impact on rural and remote Western Australian local governments than the equal per capita distribution between the States.

It is important to note that a fiscal equalisation distribution between States may not result in increased funding for Western Australia.³⁶⁵

Once again, the submission from the Department of Treasury and Finance demonstrates how these allocations are not based an assessment of need.

The Sustainable Environmental Health Infrastructure Senior Officer Group found that:

While the distribution of FAGs among local governments by the WALGGC is based on formulas which recognise Indigenous disadvantage in several ways, ‘horizontal equalisation’ is not fully achievable because of the legislative requirement that each local government receive a minimum grant regardless of revenue capacity. This situation leads to considerable inequity in the distribution of FAGs within WA, and ultimately impacts on the capacity of local governments servicing communities in remote regions of the State. The abolition of the ‘minimum grant’ principle, or a reduction in the minimum grant

³⁶⁴ Westbury, N. & Dillon, M. 2006, ‘The Institutional Determinants of Government Failure in Indigenous Affairs’, *Australian Financial Review*, 13 December 2006, pp 11-12.

³⁶⁵ Submission No. 12 from Mr Timothy Marney, Under Treasurer, Department of Treasury and Finance, 22 August 2007, p 3.

requirement, would generate some additional funds for the least affluent local governments. Some changes in the WALGGC's formulas might also be beneficial.³⁶⁶

(c) Accountability

Gaps in the existing framework for local government financial accountability for Commonwealth and State funding were identified in the Public Accounts Committee's Report, *Local Government Accountability in Western Australia*.³⁶⁷ More specific reference was made to the lack of expenditure by local governments on remote Aboriginal communities in the Western Australian Law Reform Commission's *Aboriginal Customary Laws: Final Report*, and it is useful to include a lengthy reference to its conclusions:

Much of the entrenched disadvantage experienced by Western Australian Aboriginal communities stems from a lack of infrastructure and essential government services. Part of the reason for problems of service provision to Aboriginal communities lies in the complicated nature of relationships between the three levels of government responsible for the delivery of services. ... the Commission ... found that the rhetoric of self-determination has, in the past, allowed governments to abdicate their responsibilities to provide services that are an entitlement of citizenship and which non-Aboriginal Australians take for granted...

A study undertaken by the Department of Indigenous Affairs in 1999 identified a number of factors contributing to the inequality of local government service provision to Aboriginal communities including the difficulty of providing and maintaining infrastructure in remote areas; issues with tenure of land and capacity to levy council rates; the 'private' nature of Aboriginal communities (resulting in the perception of inability to access land for the purposes of service provision or infrastructure maintenance); the fact that because some Aboriginal communities are located on Aboriginal Lands Trust or Crown land, provisions of the Health Act 1911 (WA) and Local Government Act 1995 (WA) are not applicable and cannot be enforced by local government authorities; and the history of federal and state agencies circumventing local government approvals and involvement.

These factors are typically raised by local government to explain the lack of local government service provision to Aboriginal communities. However, a more accurate explanation can perhaps be found in the fact that the lack of rate income generated by Aboriginal communities has fostered a view that Aboriginal people are not genuine constituents of local government and are therefore not seen to be a priority.

... local governments receive state and federal funding according to a formula that specifically recognises Aboriginal population, remoteness and disadvantage factors. However, because this funding is 'untied' (that is, the funding authority cannot dictate the way in which the money is spent), there is no direct accountability of local governments to ensure that Aboriginal-specific funding reaches Aboriginal communities. The Commission

³⁶⁶ Sustainable Environmental Health Infrastructure Senior Officer Group, *The Bilateral Agreement on Indigenous Affairs Issues for Local Government: Discussion Paper*, September 2007, p 8.

³⁶⁷ Public Accounts Committee, *Report No. 4, Local Government Accountability in Western Australia*, State Law Publisher, Perth, 2006.

therefore proposed that the Western Australian government should investigate ways of improving the accountability of local governments for funding provided for the benefit of Aboriginal people in each local government area...

This is not a new issue. It was recognised as far back as 1991 by the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) which made two recommendations aimed at improving local government accountability for funding designated for Aboriginal people. At that time the Western Australian Grants Commission (now the Western Australian Local Government Grants Commission) admitted that much inequity was occurring in local government areas in the distribution of funds between Aboriginal and non-Aboriginal people. The Grants Commission reported to the RCIADIC that it had introduced a means of withholding funds from the local government authority where the authority could not demonstrate that funds were being spent in an equitable manner. The Commission is not aware whether the Local Government Grants Commission currently has a means of ensuring accountability of local governments for equitable distribution of funds to Aboriginal people; however, it is clear that whatever processes may currently be in place, they are not working adequately to protect the interests of Aboriginal people in remote communities.

As recently as June 2006 the Minister for Local Government and Regional Development stated in Parliament that he receives constant 'complaints from remote communities that they are not receiving a fair deal out of local government'. The Commission is concerned about this reality and therefore confirms its recommendation for improved accountability of local governments for funding received for the benefit of Aboriginal people.³⁶⁸

The Australian National Audit Office (ANAO) raised this same issue in 2000 when it found that:

If local governing bodies do not actually use FAG [Financial Assistance Grants] funding to provide services in accordance with the Act and the National Principles, that is, to improve the provision of services to Aboriginal and Torres Strait Islander communities, there is nothing in the current statutory arrangements that requires them to do so.³⁶⁹

The ANAO emphasised the degree to which ATSIC, through its municipal services funding and CDEP, was making a substantial contribution which enabled residents in remote Indigenous communities to enjoy some of the municipal services available to other citizens. The contribution of those who provided such services, such as CDEP workers, without the benefit of recognised pay rates and conditions should also be acknowledged.

The submission of the Ngaanyatjarra Council and the Ngaanyatjarraku Shire, however, places the difficulties local governments have had in meeting the requirements of remote Aboriginal communities in a different context:

³⁶⁸ LRCWA. 2006, Aboriginal Customary Laws Final Report, Law Reform Commission of Western Australia, Perth, pp 352-354.

³⁶⁹ ANAO, *Municipal Services for Indigenous Communities: Aboriginal and Torres Strait Islander Commission*, Australian National Audit Office, Canberra, 2001, p 97.

The relationship between remote Aboriginal communities and Local Government in WA was bound up in a complex of tradition, anomaly and change. Fees, rates and charges were almost the sole basis of Local Government revenues until 1975. At this time, the Australian Government introduced the Commonwealth Financial Assistance Grants for Equalisation of Access to Local Government Services. Notwithstanding this, provision and payment for Local Government services had been inextricably linked. Most remote Aboriginal Communities were on Crown Land reserved for the 'Use and Benefit of Aborigines'. This land was considered non-rateable and outside the prevailing Local Government rate-paying and therefore servicing arrangements.

The introduction of universal franchise in Local Government elections was legislated in WA in 1984. The removal of rate paying and property qualifications opened the way for broad enrolment and participation in Local Government.

It is also useful to remember that until the introduction of the new Local Government Act 1995 (WA), spending Local Government funds on land not under the control of the relevant Local Government authority (ie Aboriginal reserves) required the approval of the Minister for Local Government. This legal and administrative requirement was undeniably a significant impediment for Local Government to engage with any enthusiasm with Aboriginal communities in its area.

As a result, the above three elements (introduction of Financial Assistance Grants in 1975, universal suffrage in 1984, and the new Act in 1995) combined to reposition Local Government in relation to Aboriginal people living in remote communities in WA.

Notwithstanding that Local Government now is better positioned and supported to respond to its Aboriginal citizens, the lengthy and protracted negotiations between the Australian Government and State Government to consolidate their respective responsibilities limits their effectiveness. Exclusion from the negotiating table also does little to promote effective coordination and collaboration in a complex area.³⁷⁰

5.4 Ways Forward

In 2007, when considering what made initiatives successful in overcoming Indigenous disadvantage, the Steering Committee for the Review of Government Service Provision stated:

Analysis of the 'things that work', together with wide consultation with governments and Indigenous people, identified the following 'success factors':

- *cooperative approaches between Indigenous people and government (and the private sector);*
- *community involvement in program design and decision-making — a 'bottomup' rather than 'top-down' approach;*
- *good governance;*

³⁷⁰

Submission No. 8 from Ngaanyatjarra Council and Ngaanyatjarraku Shire, 17 July 2007, pp 17-19.

- *on-going government support (including human, financial and physical resources).*

Many of those consulted felt that the lack of these factors often contributed to program failures.

Where possible, broader programs demonstrating sustained success have been reported. However, programs that are successful in individual communities or for short periods are frequently only funded as pilot projects. Even when evaluated as successful, such programs are not always continued or expanded. The need for greater sustainability of successful programs was a common theme in consultations.³⁷¹

These findings resonate with the recurrent issues raised in this Report as hindering success in remote Aboriginal communities.

(a) Consultation

In the Discussion Paper, the Committee stated that the future responsibility of the State for remote Aboriginal communities provides an opportunity to make serious inroads into Aboriginal disadvantage. To do so, however, the Committee stated that the State needed to engage in a debate about the future of outstations, and other remote communities, that was informed by 'outstation people themselves' and had 'reference to local and regional knowledge'.³⁷²

In responding to those comments, the Auditor General submitted:

The recent examination Having Your Say: Public Participation in Government Decision-Making (February 2007) looked at the character of public participation conducted by Western Australian government agencies, some of their achievements in involving the public in government decisions, and challenges they need to address.

The examination found that there are pockets of excellent public participation practice in Western Australia but these tended to be isolated examples. Government agencies need to be clearer about why they are involving the public, including the extent of the involvement they want the public to have. Agencies must be accountable for the time and resources spent on involving the public, as well as keeping better records of the costs and benefits of these activities.

The Committee's proposal is also in line with audit's report recommendations, including that government agencies build on good practice examples to consider a wider range of public participation techniques and level of public involvement in decision making and explore strategies for involving people who are typically less likely to involve themselves in public participation forums but who may be affected by a decision.³⁷³

³⁷¹ Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage - Key Indicators 2007*, Overview.

³⁷² Altman, J C, *In Search of an Outstations Policy for Indigenous Australians*, CAEPR Working Paper No. 34/2006, Australian National University, Canberra, 2006, p15.

³⁷³ Submission No. 7 from Mr Colin Murphy, Auditor General, 13 July 2007, p 3.

Other submissions responding to the Discussion Paper also emphasised the importance of consultation, particularly in the context of Indigenous affairs. For example, Mr Peter Evans wrote that:

to gain successful initiatives within remote aboriginal communities, there has to be dialogue, debate and communication, on all levels, within and between, both a western culture and an indigenous aboriginal culture...

... in regards to implementing successful initiatives in remote aboriginal communities, I would have to suggest one option could be for aboriginal communities to be able to have more say/input into how their own communities be developed ...A communal sense of self determination in a sense.³⁷⁴

In another submission, Kapululangu Aboriginal Women's Association provided a report of the Balgo Women's Law Camp held at Blue Hill between 24 and 27 August 2007, *Aboriginal Women Have Answers Themselves*. The Coordinator of the Kapululangu Aboriginal Women's Association, Dr Zohl de Ishtar, advised that the report included

28 strategies identified by over 100 women and girls attending the Law Camp to deal with issues of child sexual abuse and neglect, violence against women and children and many other issues in our community.³⁷⁵

The submission stated that:

For four days they celebrated women's Law ceremonies. It was an opportunity for women elders to 'mend' (revitalise) their Women's Law (Yawulyu) through engaging with the Tjukurrpa (cosmos/Dreaming) and passing their knowledge on to their younger generations.

The women elders and 'middle-aged' women were concerned for the well-being of their younger generations and for all members of their families and community but particularly the children and youth. They were upset about the recent events in their community which had highlighted the issue of child sexual abuse and they wanted to do something to stop it. They felt that the problems were occurring because their younger generations had lost connection with their cultural heritage, with their land and thus with themselves.

From the Kapululangu elders' perspective the only thing that could heal the rift between Tjukurrpa and self was the practice of Women's Law. Custodians of strong Law, the Kapululangu elders are the tjarrtjurra (healers) and nintipuka (teachers) of their communities. The well-being of their families and communities weigh heavily on their shoulders. They wanted to 'grow up' their younger generations: 'strong for Law, strong for Culture'. They would achieve this through ceremony.

³⁷⁴ Submission No. 1 from Mr Peter Evans, 16 April 2007, p 1.

³⁷⁵ Submission No. 15 from Dr Zohl de Ishtar, Coordinator, Kapululangu Aboriginal Women's Association, 17 September 2007, p 1.

The elders also wanted to talk about the problems in their communities, with the aim of identifying strategies of how to eradicate those problems. The Law Camp was a response to recent government — State (Perth) and Federal (Canberra) — interventions in Aboriginal communities in Western Australia and the Northern Territory. The elders wanted to show the governments that “Women have answers themselves”.

As one Kapululangu elder Yintjurru Margaret Anjule Napurrula said, “We have to show this government that we have strong Law here. They can’t rubbish it. We have got strong Law ourselves.”

The Law Camp calls on the governments to support and fund the Kapululangu Aboriginal Women’s Association as a matter of urgency. Kapululangu requires funding for its cultural programs for youth and children, particularly the Circles of Cultural Learning initiative, and the provision of a Safe House in Balgo for women and children in need. Kapululangu has been without funding for six years. It is still waiting on government funding promised for 2005 and 2006. Equally, Kapululangu calls on governments to fund and support Aboriginal women’s initiatives and projects in every community: ‘Local Strategies for Local Problems’.³⁷⁶

(b) Coordination

The issue of the lack of coordination by all levels of government has been raised repeatedly throughout this Report - in the findings of the 2006 audit of ‘red tape’ in dealings between Indigenous communities and government agencies, in the findings of the Auditor General, in the findings of the Indigenous Community Governance Project, and in the submissions from KALACC, Ngaanyatjarra Council and Ngaanyatjarraku Shire on behalf of ‘those who live with the outcomes’ and others.³⁷⁷

The Department of Treasury and Finance also referred to

the lack of coordination and strategic direction between and within the three levels of governments which has clearly contributed to the inability of government to improve Indigenous outcomes. ‘Reform’ of commonwealth funding for essential services to remote communities is mentioned. However, there appears to be a cost shifting exercise from the Commonwealth to the State/Local Government.³⁷⁸

The discussion paper recently published by the Sustainable Environmental Health and Infrastructure Senior Officer Group denies this however, stating:

While a key objective of the reforms is for local governments to take responsibility for the delivery of municipal type services for Indigenous communities, the Commonwealth has

³⁷⁶ Submission No. 15 from Dr Zohl de Ishtar, Coordinator, Kapululangu Aboriginal Women’s Association, 17 September 2007, Attachment 1.

³⁷⁷ For example, Submission No. 5 from Ms Sharyn O’Neill, Director General, Department of Education and Training, 11 July 2007, p 6.

³⁷⁸ Submission No. 12 from Mr Timothy Marney, Under Treasurer, Department of Treasury and Finance, 22 August 2007, p 4.

indicated that the Agreement is not a cost shifting exercise and Commonwealth resources are available to assist local government in taking this role (notionally, part (but not all) of the 2006/07 MUNS [Municipal Services Program] allocation in WA of \$22.9 million). As indicated previously, the Agreement acknowledges the need for further negotiations concerning the adequacy of current funding and the augmentation of local government revenue. It would be desirable for the State and Commonwealth to conduct a comprehensive audit of how local government type services are funded and delivered to discrete communities before any new arrangements are formally concluded.

There is currently significant attention being given to the financial sustainability of local government, including major national and state-wide studies and reviews. In this context, any expectation that local government would take on additional service responsibilities without adequate financial support would only increase the current pressure on financial viability. At present there has been no attempt to assess the cost for a local government to provide these services to communities, as this would have to be done in conjunction with assessing standards of service.³⁷⁹

The establishment of the Sustainable Environmental Health and Infrastructure Senior Officer Group [SEHISOG] itself appears to have potential to address some of these difficulties. WALGA described the work of the group as follows:

[Its] role is essentially to streamline the delivery of housing, essential and municipal services to remote communities. This will include the development of the terms of transfer, funding, timeframes and administrative arrangements. The SEHISOG has developed a Discussion Paper for Local Government and Indigenous Communities consideration.

The paper outlines the Bilateral Agreement and how it impacts on Local Government in Western Australia and discusses the various funding implications, seeking feedback on a range of issues. The feedback from the paper will inform the development of a Cabinet Submission on the State's position regarding the potential transfer of responsibility to the State for the delivery of municipal services to Indigenous communities, and the role of Local Government...³⁸⁰

The discussion paper was followed by a significant conference on discrete Indigenous communities. The Sustainable Environmental Health and Infrastructure Senior Officer Group described the conference as:

Under the auspices of Local Government Managers Australia, a Local Government - Indigenous Communities Conference is being organised in Perth for December 2007. This Conference will bring together the key stakeholders and examine what is happening under the Bilateral Agreement. By focusing on the key issues, there can be a better understanding of roles and responsibilities, and local government will have an information basis to consider their future role in servicing indigenous communities. The Senior Officers Group supports the proposed conference, as it is timely and would inform and assist in

³⁷⁹ Sustainable Environmental Health Infrastructure Senior Officer Group, *The Bilateral Agreement on Indigenous Affairs Issues for Local Government: Discussion Paper*, September 2007, p 5.

³⁸⁰ Submission No. 14 from WALGA, 5 September 2007, p 11.

*progressing the Bilateral. In the meantime, this Discussion Paper has been produced to promote awareness and further discussion.*³⁸¹

Speakers listed included Lieutenant General (Retd) John Sanderson, the Western Australian Special Adviser on Indigenous Affairs, Mr Tom Calma, the Commonwealth Aboriginal and Torres Strait Islander Social Justice Commissioner, a range of representatives of regional and remote local governments and Indigenous communities.³⁸²

It is unfortunate that this level of collaboration and consultation amongst those affected by the Bilateral arrangements only occurred some years after these arrangements were put in place.

5.5 Conclusion: The Context for Substantive Change

The recent election of a new Commonwealth Government, its commitment to continue to support the Northern Territory Intervention in over 70 Indigenous communities (albeit with some minor changes), the joint apology to the Stolen Generations in the Commonwealth Parliament and the commitment to pursue a national bi-partisan approach to addressing Indigenous disadvantage – all point to the fact that Indigenous affairs is well and truly on the national political agenda, and is likely to remain there for the foreseeable future.

Earlier reports in this series have identified some successful initiatives in remote Aboriginal communities in Western Australia and made recommendations in reference to these. Whilst this report does identify some additional successful initiatives, the fact is that these remain isolated examples. The reality is that in the absence of the institutional and structural reforms we have outlined in this report, the situation of most residents in most remote Indigenous communities will remain akin to being constantly in a state of crisis. On current projections this situation is likely to worsen. This fact is underpinned by the reality that the latest demographic trends amongst the Indigenous population point to a continued worsening of the socio-economic position of Indigenous citizens compared to the wider community in WA, and is beginning to manifest itself simultaneously in a number of varied geographical locations.³⁸³

Despite unprecedented economic growth and associated demand for labour in the context of the resources boom, the latest statewide analysis from the 2006 Census³⁸⁴ and detailed regional

³⁸¹ Sustainable Environmental Health Infrastructure Senior Officer Group, *The Bilateral Agreement on Indigenous Affairs Issues for Local Government: Discussion Paper*, September 2007, p 9.

³⁸² Local Government Managers Australia (WA Division Inc), 'Functional Communities - Local Government & Discrete Indigenous Communities Conference 5-7 December 2007'.

³⁸³ Biddle, N and Taylor, J. 2008, *A Regional Analysis of Indigenous participation in the Western Australian Labour Market*. CAEPR Working Paper No. 41/2008, Australian National University, Canberra.

³⁸⁴ *ibid.*

analysis across the State³⁸⁵ confirms that Western Australia has a serious economic problem. Much of its Indigenous population remains overly dependent on welfare, structurally detached from the labour market and ill-equipped to engage within it, while resource companies find it difficult to fill vacant positions in their north-west operations.

The research also highlights that this situation could worsen as a result of Indigenous population growth and the current inadequacy of government resourcing to meet the backlog of disadvantage that has so obviously accumulated in most Indigenous communities in WA.

This analysis has led some experienced commentators to conclude that:

*...the opportunity costs associated with a failure to address these trends is a key consideration, but so are the human costs being inflicted upon current and future generations (especially given the young age disposition of the Indigenous population). The issue of the potential impacts on social cohesion should also not be underestimated.*³⁸⁶

These emerging demographic trends are likely to continue to help guide and drive Commonwealth policy making attention over the next decade at least.³⁸⁷

The most recent Coroners Inquest report into 22 deaths in the Kimberley illustrated in graphic and sobering terms the parlous position of Indigenous people in remote regions in WA. In the Kimberley area alone, Coroner Hope found that there had been a 100 per cent increase in the number of people taking their own lives since 2006. The direct linkages of the circumstances between these tragic deaths and a number of key contributing social factors identified in Coroner Hope's inquest (i.e. low levels of meaningful employment, poor education outcomes, criminal recidivism, substance abuse, poor health and overcrowded housing) are not confined to his report alone.

In the period since the Coroner commenced his Inquiry into the original 22 deaths, a further 11 deaths by suspected suicide have been reported in the Broome region alone.³⁸⁸

³⁸⁵ *ibid.* and Taylor, J. 2008, *Indigenous Labour Supply Constraints in the West Kimberley*, CAEPR Working Paper No 39/2008, Australian National University, Canberra. Taylor, J and Scambary, B. 2005, *Indigenous People and the Pilbara Mining Boom – A Baseline for Regional Participation*, CAEPR Research Monograph No 25 ANU E Press, Canberra.

³⁸⁶ Dillon, M. and Westbury, N. 2007, *Beyond Humbug: Transforming Government Engagement with Indigenous Australia*, Seaview Press, Adelaide.

³⁸⁷ Estimates from the ABS of 2007 regional population figures show that the Kimberley is the fastest growing region in WA. www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/3218.0Main%20Features42006-07?opendocument&tabname=Summary&prodno=3218.0&issue=2006-07&num=&view=, accessed on 1 April 2008.

³⁸⁸ Coroners Court, email to the Committee, 28 March 2008. Note: The number of deaths since the Coroner's Inquest are still subject to deliberation by a coroner as to the circumstances of the death once a Police report has been submitted. The numbers provided in the email are from circumstantial evidence provided by the Police Department to the Coroners Office.

These deaths, in part, reflect the underlying institutional constraints and linkages consistently identified by WA Government Special Adviser Lieutenant General (Retd) John Sanderson, the administrative shortcomings detailed in Dr Dawn Casey's review of the WA Department of Indigenous Affairs, and the previous findings of this Committee.

In recognition of the challenges faced by Indigenous communities, the WA Government has adopted some important initiatives to begin addressing the long term neglect that is so evident in most remote Indigenous communities, including the Government's significant response to the Gordon Inquiry, increased health and education expenditure and the more recent initiatives to boost Indigenous employment and training in the resources industry.

However, as the latest demographic analysis confirms, Indigenous disadvantage is deep-seated, widespread and despite absolute gains, the gap between Indigenous citizens and the wider community is widening. The Committee believes this gap has to be closed with work that is both immediate as well as focussed over the long term and this will require significant reform at a number of levels. Importantly, Western Australia cannot tackle these issues on its own and it will require significant support from the Commonwealth Government.

Given the abovementioned national developments, there is an important opportunity for WA to get on the front foot and begin both anticipating and shaping the inevitable national changes that appear likely to flow through to the State. The alternative 'business as usual' approach is likely to leave the State vulnerable to inevitable Commonwealth intervention with associated damage to the State's reputation and ongoing opportunity costs to the WA economy as a whole.

The Committee sets out the final chapter of this report in two parts. The first outlines the Committee's findings and recommendations which identify the major strategic policy directions and related institutional reforms that it believes need to be adopted in Indigenous affairs. Wherever possible, these build on existing initiatives and institutional structures. The Committee believes the adoption of these reforms will form a necessary pre-requisite for sustainable outcomes in remote Indigenous communities to be achieved over the medium and longer terms.

The second part outlines a series of findings and recommendations detailing a number of specific initiatives which would serve to underpin and support the strategic policy directions identified, and which again, seek to build upon existing initiatives. Both draw heavily on submissions and evidence put to the Committee.

(a) Addressing the underlying institutional issues

The Committee believes there are a number of major underlying institutional issues which are currently preventing substantive progress and which go to the heart of the governance by governments of Indigenous affairs. If these underlying institutional arrangements are not reformed (ideally on a bipartisan basis) and accompanied by a parallel commitment to long-term action, the position of Indigenous people across WA will continue to worsen, with significant implications for the State's identity and reputation, as well as ongoing opportunity costs to the WA economy.

(i) Structural disengagement

I was lucky enough to visit the Ngaanyatjarra Lands a couple of years ago. I met a couple of kids in Wingellina and Patjarr – kids about the same age as my two boys. What has impacted me incredibly is the difference between the life prospects of these Indigenous kids and my two boys. My two, despite the constraint of having me as their Dad, will have almost limitless opportunity in their future. This will be supported by good nutrition, excellent schooling, a safe home and a healthy community environment. The world really is their oyster.

In stark contrast, the kids I kicked a footy with in the ‘lands’ are already facing substantial challenges in their education, partly due to the likely range of health issues challenging their learning ability. This will more than likely impact their future employment prospects, feeling of self worth, potential for substance abuse, interactions with the justice system, poor housing conditions and so the cycle continues. In a State as fortunate as Western Australia, this just isn’t right and in a modern society, it just isn’t fair. For these outcomes, I am deeply sorry. From a human perspective, the current circumstances are intolerable.³⁸⁹

Yet we observe over and over that in the Indigenous domain, governments have, particularly in remote regions, failed to create and maintain the institutional frameworks which establish the foundation of the Australian nation state, and which underpin citizenship rights and responsibilities, and often the operation of markets. These institutional deficits can relate to deficits in legislative arrangements, in enforcement of laws both criminal and civil, in capital investment, recurrent government programs or the mere presence of government officials. In many cases, the deficits are disguised by the existence of non-standard (‘special Indigenous’) arrangements.³⁹⁰

The unacceptable levels of government structural disengagement described above have most recently and graphically been reflected in the findings of Coroner Hope’s inquest into 22 Indigenous deaths in the Kimberley, and the submissions made to him both by Counsel assisting, and the WA Government. The structural disengagement identified throughout the Coroner’s findings has also been a constant theme of the Special Adviser to the Premier on Indigenous Affairs, Lieutenant General (Retd) John Sanderson, who has highlighted that the greatest area of WA Government engagement with its Indigenous citizens is in the State’s justice and correctional systems that ‘now absorbs approximately half of the State’s total expenditure on Indigenous affairs’.³⁹¹

The Committee has found that this general structural government disengagement is especially reflected in the current lack of coherent and effective institutional frameworks at both the local and regional levels. It is therefore of little wonder that this combined lack of coherence,

³⁸⁹ Marney, T. 2007, *Transcript of address to Garma Festival*, unpublished speech.

³⁹⁰ Dillon, M. and Westbury, N. 2007, *Beyond Humbug: Transforming government engagement with Indigenous Australia*, Seaview Press, Adelaide.

³⁹¹ Sanderson, J. 2007, *Brief to the Minister for Indigenous Affairs in Preparation for a Meeting with Special Adviser on Tuesday 13 February 2007*, p 1.

institutional architecture, and presence on the ground, leads to such serious deficits in public and private service provision.

Finding 13

The Committee believes the widening gap between Indigenous people in WA remote communities and the wider community is directly related to an absence of comprehensive economic and social institutions across remote Western Australia; this has arisen from a lack of structured government engagement.

Given the most recent bilateral agreement reached between the Commonwealth and State governments in July 2006, there is an opportunity to examine options to strengthen and streamline current structural and institutional arrangements in selected areas of the WA in close collaboration with local government, local communities and the Commonwealth. The Bilateral Agreement commits the parties to work towards achieving one level of service delivery for the provision of housing, infrastructure, essential and municipal services to all Indigenous communities in Western Australia by 30 June 2008.

This Bilateral Agreement has resulted in the establishment of a specific Inquiry into Local Government Service Delivery to Indigenous Communities, by the Local Government Advisory Board, which will be commencing its work shortly.³⁹²

Meanwhile, local government in Western Australia is engaged in a very useful process of self-review, under the banner of “Shaping the Future of Local Government in Western Australia – The Journey: Sustainability into the Future”. This undertaking of the Western Australian Local Government Association, described as a ‘systemic sustainability study’ has started the process of preparing Local Government in WA for the opportunity to implement and maintain a governance model that integrates effective service delivery on a regional basis, with appropriate political representation on a local basis.³⁹³ On offer through this process is an opportunity for WA local government to pursue, utilising the regional structures available under the WA Local Government Act, new models of service delivery, including municipal services delivery, to the Indigenous communities of regional and remote Western Australia.

³⁹² www.dlgrd.wa.gov.au/localgovt/advisoryboard/currentinquiries.asp#indigenous, accessed 31 March 2008

³⁹³ Draft report released on 28 February 2008, www.systemicsustainabilitystudy.com.au/journey/journey/file/at_download, accessed on 2 April 2008.

Recommendation 16

The current Inquiry by the Local Government Advisory Board into Local Government Service Delivery is encouraged to draw from WALGA's report *The Journey: Sustainability into the Future* and examine options for a collaboration with local, state and federal governments (including Regional Development Commissions and the Regional Development Australia committees³⁹⁴) aimed at strengthening, local government's engagement with Indigenous communities across regions.

There is a need for the Board's Inquiry to identify legislative and administrative changes needed to support strengthening Indigenous representation and engagement in local government; and the funding frameworks needed for local government service delivery in remote communities and regions, commencing with an initial focus on the regions of the Western Desert, the Kimberley and the Pilbara.

The LGSB Inquiry should also specifically examine how these arrangements could be underpinned by purchaser-provider arrangements and streamlined service delivery by all three spheres of government.

Inquiry recommendations should principally aim to both build on, and rationalise existing arrangements, but will also need to take full account of the views of local Indigenous communities and their varied history. Specifically, there is the opportunity for a new Western Desert Regional Development Commission to be immediately established. This new WDRDC would draw on the strengths and resources of existing regional structures of government and should develop increased levels of collaboration with the Indigenous communities across the region.

The committee believes the approach outlined in the recommendation above is a timely opportunity to address a critical element of existing institutional and structural shortcomings in remote regions in particular, where in most Indigenous communities the current governance arrangements are largely incoherent and dysfunctional.

The committee further believes the LGSD Inquiry should be tasked to identify more coherent state 'governance frameworks' that serve to lay down the prerequisite institutional foundations upon which sustainable levels of service delivery and economic development can be grafted.

An opportunity exists to advance sequentially towards a sustainable engagement, region wide, with the remote communities therein, perhaps by starting with the purchase of the most basic of municipal services (eg rubbish collection and disposal), utilising local government expertise and

³⁹⁴ The RDA committees were formerly known as Area Consultative Committees and the Minister for Infrastructure, Transport, Regional Development and Local Government, Hon Anthony Albanese, announced on 20 March 2008 that the RDA Interim Board would develop a Charter for regional Australia and ensure "...closer ties with the local government sector".

creating an economy of scale to secure reliable, effective environmental health outcomes as well as opportunities for local Indigenous employment and enterprise that might incorporate regional recycling strategies (as for instance are on offer through the Pilbara Regional Council).

(ii) Current WA Government administrative arrangements in Indigenous affairs

Many people believe that this department should be abolished. I do not subscribe to that view. We need the department to maintain a specific voice for Aboriginal people across the government sector. (WA Premier 2008)

The issue of the effectiveness of the WA Department of Indigenous Affairs has been extensively canvassed earlier within this report, identified in a number of submissions to the Committee and was also the subject of a previous comprehensive government internal review conducted by Dr Dawn Casey. The Premier has made it clear the WA Government is committed to retain DIA as its principal lead agency in Indigenous Affairs. The Premier has also announced an intention to restructure the Department and establish a Cabinet Standing Committee on Indigenous Affairs, chaired by the Minister for Indigenous Affairs.

Finding 14

In the light of this Committee's previous findings, and noting the current firmly-stated commitment of the WA Government to the central role of the Department of Indigenous Affairs, it is essential that the DIA gain the necessary functional authority and capacity to operate effectively.

Whilst these measures announced by the Premier (the internal structural reorganisation and the establishment of a Cabinet Standing Committee) are welcome first steps, the facts are that given the complex challenges faced in addressing Indigenous policy issues, especially in remote regions, more action is required. In particular, there is an urgent need for the development of an energetic whole of state government policy approach to Indigenous affairs and a strengthening of existing coordination arrangements. This proposal was included as a recommendation by Dr Casey in her report and reflects the consistent theme that arose in a number of submissions made to the Committee. It identifies the current lack of a holistic approach to Indigenous affairs policy development and coordination across WA agencies, and the lack of authority vested in any single agency to undertake the necessary leadership role.

This cross-agency coordination could be achieved in various ways. One approach could focus on the role played by the Director General of DIA. This position is presently classified as Group 2 (minimum).³⁹⁵ This is the same level as that which applies to the Executive Director of the Coastal Shipping Commission and the Water and Rivers Commission! If DIA is to be agency that is the driving force of co-ordinating the State Government response to the crisis facing Indigenous

³⁹⁵ www.sat.wa.gov.au/index.cfm?event=specialItem20070404, accessed 31 March 2008.

community, bringing together all of the departments, agencies and arms of government into a focussed and energetic response, then the Director General of that agency will need to have the capacity and the standing within government and across government to do just that. A higher level of classification would seem to be necessary to attract individuals with the broadest of experience in a whole of government approach and with the ability to shape that Department and other government departments and agencies and programs as a whole, so as to be more effective in securing real and positive outcomes.

Alternatively, the coordination process could be overseen by a 'bi-partisan' Policy Implementation Commission, chaired by the Minister for Indigenous Affairs, and includes as a full-member the Shadow Minister for Indigenous Affairs and an 'Eminent Persons Group'. This Policy Implementation Commission would include key senior representatives of the Indigenous communities, together with the most senior representatives of industry and the wider Western Australian community. The Policy Implementation Commission's role would be to focus on securing progress in the advancement of indigenous interests across WA by ensuring a coordinated approach from all state agencies.

Recommendation 17

There are a number of further measures that need to be adopted by government to ensure DIA gains the necessary authority and credibility both within government and outside, to enhance Indigenous interests in WA.

This requires a clear mandate from Cabinet to DIA to provide high level coordination of all State agencies in delivering an energetic whole of state government policy agenda in Indigenous Affairs; with the authority to recruit and train highly-skilled and capable staff.

Consideration should be given to establishing a bi-partisan Implementation Commission, chaired by the Minister for Indigenous Affairs that includes appointments of key senior representatives of the Indigenous community, together with the most senior representatives of industry and the wider West Australian community, focused on securing progress in the advancement of indigenous interests across WA.

(iii) Mismatch between policy and implementation on the ground

Current policy and program arrangements in Indigenous Affairs in Western Australia are largely predicated on a 'one size fits all' approach. Policy and program settings need to be reformed in a manner *that fully takes into account the geographic, cultural, social and economic life opportunities that apply where people actually live.*

Finding 15

Current Government program arrangements, at both a Federal and State level, effectively operate in a manner that marginalise Indigenous people's access to mainstream services (and confine them to a virtual labyrinth of individual or one-off programs and related funding sources) that are poorly delivered on the ground and take little account of the individual circumstances of Indigenous communities.

The WA Government should take the opportunity of the mooted bipartisan 'Policy Commission on Indigenous Affairs' to press the Commonwealth to reform current program arrangements by removing duplication, streamlining reporting and accountability requirements and collapsing the existing departmental silo approach to Indigenous programs. It should also press the Commonwealth to be more transparent in reporting on levels of access by Indigenous citizens to mainstream Commonwealth programs.

For its part, WA should consider leading the way by itself instituting such reporting to Parliament on a biannual basis.

Recommendation 18

That WA Treasury is requested to report annually to the WA Parliament on the levels of Indigenous access and equity to Government programs delivered by all relevant WA agencies.

(iv) Fiscal Federalism

There is a considerable on-going debate regarding current financial arrangements as they relate to Indigenous affairs between the Commonwealth and the WA Government. Various submissions have been made to the Committee alleging structural bias (both direct and indirect) against Indigenous people and other residents of remote areas, both in terms of the ultimate expenditure of GST revenues calculated as a result of the determinations made by the Commonwealth Grants Commission (CGC), and the per capital calculations that are applied in determining Federal assistance to local governments.

This ongoing debate has also been reflected in pressure from the larger states for reforms, particularly in relation to the role of the CGC and the transparency afforded to funds allocated on the basis of 'Indigenous Disability Factors'. Whilst the WA Treasury has sought to counter these assertions in its submission to the Committee by arguing that an alternative approach would be a complex exercise and that its own indicative calculation is that 'WA's expenditure is roughly in line with the CGC allocation'. Nevertheless, it is likely that the controversy and public perceptions surrounding these payments and their disbursement will continue.

These ongoing arguments have tended to distract attention away from the fact that the CGC does not inquire or make assessments in relation to actual capital investment in remote Australia. The huge and expanding (due to demographic population growth) capital back logs in respect to essential services infrastructure (eg. roads, power, health care) and housing are a major issue in remote regions of WA.

In seeking to take advantage of this current debate and the increased national focus on Indigenous issues, WA should consider agreeing to the CGC creating a new category of funding for remote Australia which addresses capital investment needs and ties the funds to the needs identified in the region, but only on the basis that these funds are expended in response to the needs identified by communities in those remote regions.

This would help nullify opposition from other jurisdictions to changes to the CGC formula, but more importantly, provide a basis to begin addressing the huge backlogs in capital investment in remote areas. The WA Government could also pressure the Commonwealth to reform its current local government funding arrangements by moving from a per capita to a needs based formula that better responds to the needs of remote areas.

Finding 16

The ongoing arguments over the distribution of GST revenues has distracted attention from the fact that one of the most significant issues in remote communities is the huge (and growing) capital backlog in essential services infrastructure, especially housing.

Recommendation 19

The WA Government should encourage the CGC to create a new category of funding for remote Australia which addresses capital investment needs and ties funds to the needs identified in the region, but only on the basis that these funds are expended in response to the needs identified by communities in those remote regions.

WA Government should also pressure the Commonwealth to reform its current local government funding arrangements by moving from a per capita to a needs based formula that better responds to the needs of regional and remote communities.

(b) Specific initiatives**(i) Responding to Indigenous opportunities arising from the resources boom**

I strongly believe the key to resolving Aboriginal disadvantage is engagement in the real economy... That is our ambition for Indigenous Western Australia. ...With our economy now thumping along at a record growth and critical labour shortages looming as the biggest restraint on that growth, the time, surely, has arrived when we can fundamentally change the long-term economic and, therefore, social outlook of Indigenous Western Australians. This government desperately wants that outcome. It is in the interest of every single person in the state..... I believe we can make profound change, and the time for that change to occur is now.³⁹⁶

The chance that a newborn Indigenous male will reach workforce age (15 years) is 97 per cent. For those who do reach workforce age, 28 per cent will not reach 50 years of age. Statistically, more than half (58%) of Indigenous males who reach 15 years of age have no chance of surviving to retirement age at 65 years. Thus out of an average cohort of 100 Indigenous males aged 25, only 42 would still be alive by age 65.³⁹⁷

The continuation of low labour force status represents a major drain on the Australian economy in terms of foregone production and tax revenue, the fiscal costs of welfare provision, remedial costs of social pathology and social costs of exclusion. The allied deficits in education status, housing and health amongst people in the region, and the degree to which interaction with the police and subsequently the courts and various custodial institutions, has become so persuasive, that indications are that such costs are no doubt substantial. These costs are likely to escalate further still against the background of a growing and intractably marginalised Indigenous population.³⁹⁸

COAG reaffirmed its commitment to close the gap on Indigenous disadvantage and agreed to a new national target for its reform agenda -halving the gap in Indigenous employment outcomes within a decade.³⁹⁹

In November 2007, the Committee provided the Parliament with an in-depth analysis of Indigenous employment by the State Government through its various agencies and departments (Report no 10 November 2007). The Committee's report concluded that after more than 20 years, cross-sector employment by the State has matched the overall Indigenous workforce participation rate (2.5 per cent). However, it also found the performance of individual State agencies highly variable and that Indigenous employment by the State remained substantially below the level of Indigenous representation in the West Australian community.

³⁹⁶ Premier, Hon A. Carpenter (Willagee), WA Legislative Assembly, 30 August 2007, *Hansard*, pp 4593-4596.

³⁹⁷ Taylor, J. 2008, *Indigenous Labour Supply Constraints in the West Kimberly*. CAEPR Working Paper No 39/2008, Australian National University, Canberra.

³⁹⁸ Biddle, N. and Taylor, J. 2008, *A Regional Analysis of Indigenous participation in the Western Australian Labour Market*, CAEPR Working Paper No. 41/2008, Australian National University, Canberra.

³⁹⁹ COAG Communiqué, 26 March 2008, www.coag.gov.au/meetings/260308/index.htm, accessed 31 March 2008.

The Committee recommended that particular attention be paid to successful initiatives that have been undertaken within the private sector, (including those that were to be subsequently highlighted at the *Indigenous Jobs Forum* on 30 November 2007) in order to ensure that they contribute to the long-term reform of public employment in WA.

In the same month as the Committee released its report, the WA Premier convened the *Indigenous Jobs Forum*, which brought together leading figures in business and industry with Indigenous stakeholders, training providers, and Government to discuss and develop new initiatives to promote Indigenous employment participation.

In recognition of the need for appropriate support and job readiness services, the State Government had also previously announced a commitment of almost \$10 million for an Indigenous Trade Training Package, including funding for job and training readiness support, mentoring and cross-cultural training the workplace. A total of \$2 million had also been committed for the provision of four mobile Indigenous trade training units to service Indigenous communities in the Kimberley, Pilbara, Central West and Goldfields regions. An additional \$3 million was also committed to upgrading a range of TAFEWA infrastructure and equipment.

The *Indigenous Jobs Forum* was convened at the same time as detailed analysis became available from the 2006 Census, particularly as it relates to current and projected Indigenous participation in employment across WA. The findings were summarised and provided to forum participants. These have now been publicly released.⁴⁰⁰

Despite unprecedented economic growth and associated demand for labour in the context of the resources boom, the latest State-wide analysis from the 2006 Census⁴⁰¹ and detailed regional analysis across the State⁴⁰² confirms that 'Western Australia has a serious economic problem. ...Much of its Indigenous population remains overly dependent on welfare, structurally detached from the labour market and ill-equipped to engage it'.⁴⁰³

The 2006 Census analysis confirmed that the unemployment rate for the Indigenous population in WA at 14.3 per cent, which is more than a percentage point lower than the national average for Indigenous people. However, when this is expressed relative to the non-Indigenous population, only the Northern Territory has a greater disparity. This is because the unemployment rate does

⁴⁰⁰ Biddle, N. and Taylor, J. 2008, *A Regional Analysis of Indigenous participation in the Western Australian Labour Market*, CAEPR Working Paper No. 41/2008, Australian National University, Canberra.

⁴⁰¹ ABS. 2007, *Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities- Australia, 2006*, Cat. No. 4710.0, Australian Bureau of Statistics, Canberra.

⁴⁰² Biddle, N. and Taylor, J. 2008, *A Regional Analysis of Indigenous participation in the Western Australian Labour Market*, CAEPR Working Paper No. 41/2008, Australian National University, Canberra; Taylor, J. 2008, *Indigenous Labour Supply Constraints In The West Kimberley*, CAEPR Working Paper No 39/2008, Australian National University, Canberra; and Taylor, J. and Scambary, B. 2005, *Indigenous People and the Pilbara Mining Boom – A Baseline for Regional Participation*, CAEPR Research Monograph No 25, Australian National University EPress, Canberra.

⁴⁰³ Biddle, N. and Taylor, J. 2008, *A Regional Analysis of Indigenous participation in the Western Australian Labour Market*, CAEPR Working Paper No. 41/2008, Australian National University, Canberra.

not completely capture all aspects of labour market outcomes, and in particular it fails to make a distinction between CDEP and other employment, nor does it capture discouraged job seekers or underemployment.

When these factors are taken into account, Biddle and Taylor's report concludes that the labour force participation rate and the employment to population ratio of the WA Indigenous population are both lower than the national average. Furthermore, the WA Indigenous population has one of the lowest comparative rates of participation in the private sector labour market and Indigenous median income in WA is low in both relative and absolute terms by national standards. This pattern of significant disengagement from the labour market becomes even more apparent when the buoyant labour market in WA is taken into account.

The State-wide findings show a continuation of regional diversity in outcomes with regions away from the south west fairing worst, although there is little evidence of a closing of the gap in key indicators. It concludes that strategies aimed at improving Indigenous participation in the labour market:

*...all need to address the structural issues at different formative stages in the life cycle, as well as assume a broad scope for economic inclusion and participation to cope with the growing needs of an expanding Indigenous working age population in very diverse settings.*⁴⁰⁴

Notwithstanding that much of this labour demand is located away from the actual communities in which Indigenous people reside, the detailed analysis confirmed that even if Indigenous labour was fully available for formal market engagement, the cumulative depth of human capital disadvantage is such that governments and industry goals of closing gaps in employment status would still face a major challenge.

The analysis also confirmed that current targets set by mining companies for engaging Indigenous workers are likely to exhaust total supplies of employable labour. This is reflected in companies increasingly turning to remedial programs to enhance work readiness and address structural barriers in meeting 'fitness for work' requirements. When other competing industry sectors are added to this equation, the supply-side constraints are further emphasised.

These WA wide findings are also complimented by detailed regional studies in both the Pilbara and West Kimberley, funded by major mining houses and the West Australian Government. The Pilbara and West Kimberley studies conclude that:

*...it is clear that Indigenous economic outcomes do not remain sub-optimal because of a lack of labour per se. The issue of low labour force participation and poor employment status is therefore not a measure of demand rather it reflects the fact that many Indigenous people are poorly equipped to respond to the nature of current and likely future demand, even if they wanted to.*⁴⁰⁵

⁴⁰⁴ *ibid.*

⁴⁰⁵ *ibid.*

Crucial findings of these studies highlight that the supply side constraints that militate against successful Indigenous participation are more wide ranging than just the skill-set brought to the labour market. They underpin the acquisition of such skills in the first place and importantly include key points of intersection between Indigenous peoples and government policy, such as housing, health and interaction with the criminal justice system. For example, the West Kimberley is the latest region in WA poised to reap huge benefits from resources boom. Labour demand is at all time high and challenges in securing an adequate labour supply are already emerging.

Notwithstanding these opportunities, Taylor's detailed analysis concludes that:

It is ironic then that the very people whose land base is exploited to generate much of this economic activity and wealth, who are located in a region of rising labour demand and who have sizeable cohorts moving into working-age groups, are so poorly situated to share in the benefits of economic growth for want of adequate capacities to participate. The skills required for labour force participation forms only part of a complex of factors that impact on Indigenous labour supply.⁴⁰⁶

The complex range of factors Taylor identifies include that over half of existing housing stock in the 117 discrete communities across the Kimberley region requires major repair or replacement. He points out that the current WA Government response of providing 14 net annual dwellings in the Kimberley region is hardly adequate and fails to take into account the cost blow-out of rental and purchased housing in towns such as Broome, which is well beyond the income level of most Indigenous residents.

Furthermore, Taylor points to the fact that the WA Aboriginal Child Health Survey has drawn a direct link between housing, low academic performance and the risk of clinically significant emotional or behavioural difficulties. In the West Kimberley as a whole, as many as 500 students were found to be at moderate risk or above against these measures and two-thirds were rated by teachers as being at low academic performance.

In respect to the criminal justice system, Taylor estimates that the number of persons imprisoned or under supervision in mid-2006 was equivalent to one-fifth of the number of Indigenous workers in mainstream employment in the West Kimberley. Also, up to one-third of all Indigenous males and some 10 per cent of all females between the ages of 18-34 in the region faced arrest in any one year.

The Pilbara regional study confirms largely similar findings to those of the Kimberley.⁴⁰⁷ Taylor and Scambary conclude that merely concentrating on job training and work readiness programs overlooks the sustained impacts of a lack of meaningful work, poor educational achievement, effects of drugs and alcohol and breakdown in adherence to customary laws. These research

⁴⁰⁶ Taylor, J. 2008, *Indigenous Labour Supply Constraints in the West Kimberley*, CAEPR Working Paper No 39/2008, Australian National University, Canberra.

⁴⁰⁷ Taylor, J. and Scambary, B. 2005. *Indigenous People and the Pilbara Mining Boom – A Baseline for Regional Participation*, CAEPR Research Monograph No 25, Australian National University EPress, Canberra.

findings reinforce the fact that government policies and programs need to adopt a holistic approach to addressing existing disadvantage by recognising the direct linkages between employment participation, educational attainment, housing and health status and interaction with the criminal justice system.

Whilst there doesn't appear to be any formal outcomes of the *Indigenous Jobs Forum*, it is clear from both the discussions that occurred at the forum and the subsequent feedback from the mining industry (provided through the Premiers Special Adviser, Lieutenant General (Retd) John Sanderson), that there are a number of issues which require a more comprehensive government policy response if Indigenous employment participation in remote WA is to be enhanced and sustained over the longer term.

Consistent with the demographic analysis outlined above (which the major resource companies have had a direct hand in commissioning), the mining industry have formed the view that for it to continue to grow and sustain Indigenous employment participation (particularly given the projected growth in the working age population) governments need to do their job more effectively. This includes preparing Indigenous people for training and employment with literacy and numeracy programs, not only in the school but beyond, and to create sustainable regional environments with safe communities, coherent governance arrangements, and government services that deliver quality education, public housing and health outcomes.

The potential scale of current and proposed resource developments on Indigenous land in the Pilbara and the Kimberley is enormous, and the likely flows of funds from agreements with resource companies to Indigenous groups, are similarly likely to be substantial. The Kimberley and Goldfields in WA are also likely to be the locus of substantial resource development on Indigenous land over the coming decade with significant financial flows to Indigenous groups and corporations.

While the primary flow of funds will be substantial, the secondary flows derived from investment of the primary flows and profits and wages from associated business enterprises will also provide significant ongoing revenue flows to relatively small numbers of Indigenous citizens and their community economies in the north of Western Australia. For example, a relatively small number of Indigenous groups in the Pilbara hold native title rights over proposed developments and have been the beneficiaries of a number of existing native title agreements.

It is clear, however, that government and the major resource developers are beginning to become concerned that, given the size of benefits flowing to Indigenous groups, there is an increased need to ensure that recipient trusts and other incorporated organisations make good use of what will be a once-only opportunity to establish an economic base and foundation for future beneficiaries.

Finding 17

The supply constraints that mitigate against successful Indigenous participation in employment are more wide ranging than just the skill-set brought to the labour market by Indigenous employees. They underpin the acquisition of such skills and importantly include key points of intersection between Indigenous peoples and government policy, such as housing, health, education, training and interaction with the criminal justice system.

Finding 18

Strategies aimed at improving Indigenous participation in the labour market all need to address the structural issues confronting Indigenous people at different formative stages of their life cycle. They also need to assume a broad scope for economic inclusion and participation to cope with the growing needs of an expanding Indigenous working age population in very diverse settings. In particular, it is important for governments to consider how the broad strategy of raising employment levels might be targeted to suit particular regional and local circumstances of Indigenous communities.

Recommendation 20

A comprehensive whole of state government policy approach is required to maximise Indigenous employment, training, business, and investment and wealth management opportunities from the current resources boom. This includes addressing the pre-requisites for linking Indigenous communities to employment in the resource sector (eg accommodation for training and initial employment) and encouraging greater engagement by the financial services sector in delivering products and services that facilitate long term investments, wealth creation and business and joint venture opportunities.

Recommendation 21

The State Government should negotiate a partnership agreement with the Commonwealth, relevant regional bodies and industry that commits all the parties to a long term investment strategy that provides the necessary resources to enable Indigenous labour supply to be matched to regional demand.

(ii) Reducing the jail population

The WA Justice and Correctional system 'now absorbs approximately half of the State's total expenditure on Indigenous affairs'. (Lieutenant General (Retd) John Sanderson)⁴⁰⁸

A report by the WA Department of Community Services confirmed that a high proportion of the adult prison population identified as being Aboriginal.⁴⁰⁹ In August 2005, there were 1,293 Aboriginal inmates in adult prisons and 131 Aboriginal females. This represented 25 and 40 per cent respectively of the total prison population.

One link between recidivism and economic outcomes for individuals is the degree to which convictions and interaction with police, courts and prisons reduce an individual's chances of successfully participating in the labour market, with Hunter and Boland finding a strong negative impact of arrest on economic participation.⁴¹⁰

The recently completed West Kimberley Region study on Indigenous employment constraints highlights these issues in an even starker, regional context. It found that:

In 2004 the vast majority of persons arrested (80%) were male. Around one-third of all Indigenous males in the region between the ages of 18-34 were arrested in 2004, along with some 10 per cent of females in the same age range. Overall it appears that 22 per cent of Indigenous males were arrested aged 10 years and over, and 6 per cent of females, were arrested in 2004. ...As many as 512 Indigenous males and 146 Indigenous females in the prime working age group of 18-34 were arrested. These figures are very substantial when set against numbers in the workforce of equivalent ages.⁴¹¹

In safety conscious industries (such as mining), prior conviction and ongoing substance abuse can be major constraints on securing employment. Recent research (11) confirms that if Governments are concerned about Indigenous social and economic wellbeing, then a priority should be to ensure as far as possible that they stay out of the criminal justice system.⁴¹²

⁴⁰⁸ Sanderson, J. 2007, 'Brief to the Minister for Indigenous Affairs in Preparation for a Meeting with Special Adviser on Tuesday 13 February 2007', p 1.

⁴⁰⁹ DoCS. 2007, *Monthly Graphical Report: August 2007*, Department of Corrective Services, Government of Western Australia, Perth.

⁴¹⁰ Hunter, B. and Borland, J. 1999, 'The effect of arrest on indigenous employment prospects', *Crime and Justice Bulletin*, No 45, NSW Bureau of Crime and Statistics and Research, Attorney General's Department, Sydney.

⁴¹¹ Taylor, J. 2008, *Indigenous Labour Supply Constraints in the West Kimberly*, CAEPR Working Paper No 39/2008, Australian National University, Canberra.

⁴¹² Weatherburn, D., Snowball, L. and Codde, J. 2006, 'The social and economic factors underpinning Indigenous contact with the criminal justice system', *Crime and Justice Bulletin*, No. 104, NSW Bureau of Crime and Statistics and Research, Sydney.

Finding 19

In Western Australia the negative employment impacts of over representation in the criminal justice system by Indigenous peoples' are yet to be addressed. This includes measures to keep people out of the criminal justice system, or when they are incarcerated, providing opportunities that equip them for labour force participation when they return to their communities.

Recommendation 22

This Committee recommends that changes be made to both sentencing laws and prison education programs to create and encourage opportunities and incentives for prisoners to earn earlier release in response to effective engagement in education and training and preparation for employment through job readiness programs.

(iii) Indigenous housing and land tenure – tackling the emerging opportunity for systemic reform

The Aboriginal Land Trust (ALT) Estate is badly neglected. The Department of Indigenous Affairs (DIA) acknowledge that there are some 3,500 houses and other buildings on the estate, many of which are dilapidated and in dangerous condition. There are problems with overcrowding, exposure to asbestos, contaminated water supplies, ageing and run down waste water and other environmental health infrastructure, poorly maintained roads, and lack of fire abatement and vermin control programs. The State Solicitor's Office has advised that the ALT has a legal duty of care to the more than 15,000 residents who live on the ALT estate'. ... 'the government has failed to progress the transfer of ownership of Aboriginal lands back to Aboriginal people, despite this being an urgent requirement a decade ago. The neglect of living conditions on the ALT estate remains an appalling indictment on the government. Where the government has had the means to make a direct and lasting impact on the lives of 15,000 (almost one quarter of all) Aboriginal people of Western Australia, they have failed to do so. Furthermore, it has left the government exposed to liabilities from the very people the ALT was established to benefit.' (Dr Dawn Casey: 2006)

In short, housing in remote Indigenous communities is in a state of crisis. The statistical deficits and backlogs are larger than ever, and projected to increase over the next decade and beyond.....Formal tenure and ownership arrangements are confused and create severely distorted incentive structures for tenancy managers, traditional owners, other community residents and tenants.⁴¹³

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Dillon, M. and Westbury, N. 2007, *Beyond Humbug: Transforming Government Engagement with Indigenous Australia*, Seaview Press, Adelaide.

Prime Minister Rudd and Opposition Leader Nelson have agreed Indigenous housing will be the first 'cab off the rank' in respect to the initial tasks of the new bi-partisan Joint Policy Commission on Indigenous affairs.

It is obvious that that the pre-existing frameworks for the provision of Indigenous housing – institutional, program, and organisational- have not delivered the required solutions, particularly in remote Australia. This conclusion is reflected in the findings of the most recent review commissioned by the previous Federal Government⁴¹⁴ and the latest results of the ABS National Survey of Housing and Infrastructure in Aboriginal and Torres Strait Islander communities.⁴¹⁵

Recommendation 23

The WA Government identify innovative ways to extend public housing provision to remote communities and regions in ways that ensure:

- secure tenure (and thereby opens up opportunities for encouraging private investment in partnership with the State Housing Authority);
- robust tenancy and maintenance arrangements;
- simplification and streamlining of current funding program channels;
- provision of public housing (with associated access to public borrowings which leverage financial allocations in State Housing authorities);
- a focus on geographically targeted investment (rather than spreading resources thinly);
- policy pathways for Indigenous people to purchase or part purchase rented homes; and
- local Indigenous organisations take on outsourced tenancy management roles for the WA State Housing authority (i.e. create local employment opportunities).

Despite progress underway in the Northern Territory and Queensland, in WA there appears to be little comprehension of the critical relationship between tenure issues and securing public housing, home ownership and economic development.

⁴¹⁴ FAHCSIA. 2007, *Living in the Sunburnt Country: Indigenous Housing, Findings of the Review of Community Housing and Infrastructure Program- Final Report*, Department of Families, Housing, Community Services and Indigenous Affairs, Australian Government, Canberra.

⁴¹⁵ ABS. 2007, *Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities- Australia, 2006, Cat. No. 4710.0*, Australian Bureau of Statistics, Canberra.

Recommendation 24

If WA is to fully avail itself of the emerging opportunities at a Commonwealth level in relation to Indigenous housing, it should seek an expedited review of tenure issues in relation to major Indigenous townships (i.e. town-based leases and subdivisions), taking into account developments in other jurisdictions. It should also take every opportunity to identify other related tenure options for facilitating economic opportunities for the 15,000 Indigenous Western Australians currently resident on ALT-owned lands, and pastoral leases and other lands owned by Indigenous interests.

The Hon. Jenny Macklin, the new Commonwealth Minister for Families, Housing, Community Services and Indigenous Affairs recently announced that “Over the next four years we are investing \$1.6 billion to address Indigenous housing, including \$793 million to help tackle severe need in remote Indigenous communities in the Northern Territory.”⁴¹⁶ WA has some work to do in ensuring it is on the front foot in seeking to convince the Commonwealth (and the Joint Indigenous Policy Commission) to make a substantial financial contribution in WA towards implementing a comprehensive reform agenda in Indigenous housing, and related land tenure issues.

(iv) Financial literacy and access to financial services

In its report no 11 tabled in November 2007 *A Successful Initiative- Family Income Management*, the Committee recommended that the State government, in collaboration with not-for-profit and private agencies, initiate regional programs with remote Aboriginal communities and agencies to develop and implement initiatives based on the Cape York voluntary Family Income Management (FIM) model and that it should be adapted to meet the needs and expectations of local communities. In its response, the Government welcomed the Committee’s recommendations in regard to FIM and Minister Ellery proposed to act upon them.

In response to recent events relating to child neglect in the Kimberley, discussions have been initiated between the Commonwealth and WA regarding the use of compulsory income management as a case management tool to address child neglect, with a pilot of this initiative occurring in the second half of 2008 (see statement by WA Minister: 2008). The Minister has confirmed that the aim is that income is managed in a way that goes towards meeting the essential needs of children. In critical cases this will occur compulsorily, but together with parenting support. The aim is that families will ultimately be able to manage their own income and improve their parenting skills. This system of income management, child protection and parenting services will apply to Aboriginal and non-Aboriginal families where children are at risk

⁴¹⁶ www.facsia.gov.au/internet/jennymacklin.nsf/print/check_21feb08.htm, accessed 31 March 2008

With the move from the Commonwealth Government to extend ‘compulsory quarantining’ of welfare monies into the Kimberley region (and likely beyond) there is a need to look for sustainable solutions towards improving existing low levels of financial literacy which assist individuals to budget and manage income. Apart from the FIM model, consideration might be given to encouraging the Commonwealth to work with the State in encouraging the Traditional Credit Union to extend its services into remote communities in WA. Established in the Northern Territory in 1994, the TCU has over 14,000 active members with 11 branches located in Indigenous communities providing face to face, telephone and internet banking services with over 60% of its employees Indigenous (100% in the communities). It also runs a number of micro-finance programs tailored to the needs of local community members.

Recommendation 25

Apart from the FIM model already examined and recommended by this Committee, consideration might be given by the WA Government to working with the Commonwealth to assist the Traditional Credit Union to extend its services to selected communities and townships in WA.

(v) *Indigenous governance and capacity development*

The Indigenous Governance Research Project (funded by the ARC, Reconciliation Australia, Commonwealth, WA and NT Governments) undertaken over the last 4 years across a number of locations Australia-wide has concluded that in the absence of the normal range of services in many remote communities, the burden has fallen on local or regionally-based Indigenous organisations to deliver a wide range of government or private sector services. In many cases these services are not adequately funded and this compounds the difficulties faced by these organisations and the communities they attempt to service.

The IGRP project has also identified that these difficulties are reflected in the lack of a systematic approach by all levels of government to improve the governance capacity of Indigenous organisations, including directors, office bearers and staff, despite their crucial role in delivering services to communities. The project’s research findings conclude that more sustained, place-based governance support—not simply one-off training—is urgently required to enable Indigenous groups and incorporated organisations to better understand the statutory implications and obligations of incorporation, and to develop locally workable options for their local asset and funds management.

Recommendation 26

WA should give consideration to both encouraging and joining with the Commonwealth, and other jurisdictions, in the development of a more systematic approach to ‘train the trainer’ programs and initiatives aimed at improving the governance capacity of Indigenous organisations.

(vi) Healthy living centres in remote regions

The Federal Government’s policy paper, *New Directions: An equal start in life for Indigenous children* outlines a number of comprehensive policy initiatives directed towards children and families aimed at ultimately reducing the gaps in child mortality and literacy and numeracy of Indigenous citizens. The policy indicates that the Federal Government seeks to combine mother and babies’ services with parent-child services and other existing infrastructure to create Indigenous Child and Family hubs.

These policy objectives are explicitly linked to the Federal Government’s Indigenous economic development policy which emphasizes the importance of education outcomes for addressing Indigenous disadvantage. Both policies explicitly emphasise the importance of establishing robust partnerships with Indigenous people and their communities.

It is now apparent that many remote communities in Western Australia are subject to severe dysfunction. In different ways, communities such as Halls Creek, Fitzroy Crossing, Warmun and even larger towns like South Hedland in the Pilbara, have each confronted challenging crises with potentially life changing impacts on all community members, but particularly women and children. At the same time, a demographic explosion is underway in remote communities which will only exacerbate these types of challenges if they are not effectively addressed now.

The Western Australian Government has initiated a number of policy and program responses in conjunction with the Federal Government to strengthen the quality of and access to various services. These have included the COAG trial site at Tjurabalan and the mutual obligation strategy that has seen the construction of community swimming pools aimed at increasing school attendance in places such as Warmun and Bidyadanga.

It is apparent though, that severe social problems remain, and that there are particular significant issues in co-ordinating and joining up the program and policy responses of different departments and agencies, at both State and Federal levels. A new and innovative approach, which explicitly addresses the lack of coherence and co-ordination which bedevils many government initiatives in these remote regions, is needed.

What is required is a mechanism which integrates and combines the various efforts of government agencies in particular Indigenous communities, akin to the Federal Government’s proposed Child

and Family hubs. This mechanism is termed a **healthy living centre (HLC) program** for the purposes of this report.

Such a mechanism would do a number of essential things. It would pool relevant funding and programs so that on-ground initiatives are linked and co-ordinated in situ and are not subject to reams of red tape and debilitating bureaucracy. It would ensure the placement of a 'co-ordinator' (employed either by the State or Federal government) with the authority and capacity to flexibly respond to the actual needs within particular communities, to build and maintain relationships with community members at all levels, and to liaise with relevant government agencies and private sector and non-government stakeholders. Importantly, the HLC coordinators would be selected in large measure on the basis of the effective use of their energy and zeal, and thus should be engaged on contract terms which maximise the likelihood of this occurring.

Features of this initiative would be the capacity to establish family training programs, home maker support services, healing centres that tackle alcohol and drug addictions, as well as responding to the needs to reunite families and communities following the trauma of violence and abuse. However, the concept proposed here extends beyond the arena of social support services (though this is an important part) and extends to the realms of training and employment programs, sport and recreation, and the establishment of practical and tangible linkages with economic development opportunities and private sector activities within each region.

The overall philosophy is that social health within remote communities is directly related to expanding the opportunities for community members to find a sense of purpose and opportunity for achievement, from whichever source or direction. So while it is consistent with the Commonwealth's child and family hub concept referred to above, it is somewhat broader in its aims.

In order to ensure that such a program is implemented effectively and with an appropriate sense of urgency and zeal, it is proposed that these healthy living centres be supported in policy formulation and program design and delivery through the regional structures identified in this Report above, where the formal inclusion of Indigenous voice is a key to strengthening the value of partnership.

It will also be important that the regional structures be able to provide the administrative backup for the program, so that gaps in placing coordinators and other key staff do not emerge, and backups are available. The co-ordinator positions are likely to be stressful and appropriate support facilities will need to be made available to co-ordinators. There is no doubt that Western Australia's remote Indigenous communities require sustained and committed action by governments. The HLC program proposal is a practical and flexible initiative which carries within it the seeds of innovative action which addresses the real needs of remote Indigenous families.

Recommendation 27

That the WA Government move to establish a healthy living centre (HLC) program, with a more detailed Implementation Plan prepared by relevant State and Federal agencies. The key features of the HLC program will include family training programs, home maker support services, healing centres that tackle alcohol and drug addictions, as well as responding to the needs to reunite families and communities following the trauma of violence and abuse. Extending beyond the arena of social support services, the healthy living centres will help establish practical and tangible linkages to training programs and employment opportunities, as well as sport and recreation, and links to opportunities for economic development and private sector activities within each region.

APPENDIX ONE

SUBMISSIONS RECEIVED

No.	Date	Name	Position	Organisation
1	23/04/2007	Mr Peter Taylor		
2	9/05/2007	Ms Robin Ho		
3	21/05/2007	Mr Rasjad Moore		
4	22/05/2007	Dr David Palmer	Senior Lecturer and Program Chair	Murdoch University
5	11/07/2007	Ms Sharyn O'Neill	Director General	Department of Education and Training
6	13/07/2007	Hon Ljiljanna Ravlich, MLA	Minister for Local Government, Racing and Gaming	
7	13/07/2007	Mr Colin Murphy	Auditor General of Western Australia	Auditor General
8	17/07/2007	Mr Damian McLean	Shire President	on behalf of Ngaanyatjarraku Council and the Shire of Ngaanyatjarraku
9	26/07/2007	Mr Peter Moore	Acting Chief Executive Officer	Water Corporation
10	8/08/2007	Mr Paul Frewer	A/Director General	Department of Water

EDUCATION AND HEALTH STANDING COMMITTEE

No.	Date	Name	Position	Organisation
11a	15/08/2007	Mr Wes Morris	Coordinator	Kimberley Aboriginal Law and Culture Centre
11b	5/09/2007	Mr Wes Morris	Coordinator	Kimberley Aboriginal Law and Culture Centre
11c	20/09/2007	Mr Wes Morris	Coordinator	Kimberley Aboriginal Law and Culture Centre
12	22/08/2007	Mr Timothy Marney	Under Treasurer	Department of Treasury and Finance
13	31/08/2007	Hon Michelle Roberts, MLA	Minister for Indigenous Affairs	
14	5/09/2007	Ms Jodie Holbrook	Policy Manager Community	Western Australian Local Government Association
15	17/09/2007	Dr Zohl de Ishtar	Coordinator	Kapululangu Aboriginal Women's Association, Balgo

APPENDIX TWO

BRIEFINGS HELD

Date	Name	Position	Organisation
13/09/2006	Ms Anne Hill	Director, Industry and Community	Office of Energy
	Mr Graeme Eley	Manager, Strategic Programs	Horizon Power
	Mr David Martin	General Manager, Public Affairs	Horizon Power
20/09/2006	Mr Daniel Ford	Executive Director, Aboriginal Housing and Infrastructure	Department of Housing & Works
	Mr Robert Thomas	General Manager, Housing Development Services	Department of Housing & Works
	Mr David Carpenter	Manager, Capital Works and Maintenance Programs	Department of Housing & Works
	Mr David Kelly	Principal Policy Officer	Department of Housing & Works
	Ms Teleah McCulloch	A/Manager, Essential Services	Department of Housing & Works
18/10/2006	Dr Jim Gill	Chief Executive Officer	Water Corporation
	Mr Peter Moore	Chief Operating Officer	Water Corporation
	Mr Kevin Bradley	Manager, Service Delivery	Water Corporation
22/11/2006	Ms Amanda Cattermole	A/Director General	Department of Indigenous Affairs
	Mr Trevor Tann	Assistant Director, Policy and Innovation	Department of Indigenous Affairs

APPENDIX THREE

LEGISLATION

Legislation	State (or Country)
<i>Aborigines Act 1905</i>	Western Australia
<i>Aboriginal Affairs Planning Authority Act 1972</i>	Western Australia
<i>Aboriginal and Torres Strait Islander Commission Act 1989</i>	Commonwealth
<i>Aboriginal Land Rights (Northern Territory) Act 1976</i>	Northern Territory
<i>Commonwealth Electoral Act 1918</i>	Commonwealth
<i>Commonwealth of Australia Constitution Act</i>	Commonwealth
<i>Constitution Act 1889</i>	Western Australia
<i>Health Act 1911</i>	Western Australia
<i>Industrial Schools Act 1874</i>	Western Australia
<i>Land Act 1898</i>	Western Australia
<i>Local Government Act 1995</i>	Western Australia
<i>Local Government (Financial Assistance) Act 1995</i>	Commonwealth
<i>Native Administration Act 1936</i>	Western Australia
<i>Native Welfare Act 1954</i>	Western Australia
<i>Waste Lands Act 1842</i>	Imperial

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