



# North Australian Aboriginal Justice Agency

Freecall 1800 898 251 • ABN 63 118 017 842 • Email [mail@naaja.org.au](mailto:mail@naaja.org.au)

Welfare Review  
C/o Welfare System Taskforce  
Department of Social Services  
PO Box 7576  
CANBERRA BUSINESS CENTRE ACT 2610

15 August 2014

By email: [welfarereview@dss.gov.au](mailto:welfarereview@dss.gov.au)

Dear Sir/Madam,

NAAJA welcomes the opportunity to contribute to the Interim Report into Australia's social security system. We consider that given the importance of the intentions of the review that the time for consultation should be extended by 6 months to allow a fuller ventilation of the issues.

We have had the opportunity to read the National Welfare Rights Network's submission to this review. We share its concerns.

We do not have the capacity to make a detailed submission and refer to the Aboriginal Peak Organisations of the Northern Territory submission on the Social Services Bills (**attached**) as a background to our comments.

The proposals contained in the Interim report cannot be considered separately to those detailed in the Social Services Bills, particularly the income exclusion period. We urge the Reference Group to consider the particular disadvantage experienced by a high proportion of Aboriginal people in the Northern Territory in its review and the impact of Social Services Bills changes in its review.

## 1. NAAJA

The North Australian Aboriginal Justice Agency was formed in 2006. It brought together three existing Aboriginal Legal Services across the Top End to ensure the provision of quality legal services for Aboriginal Australians. NAAJA has grown to employ over 100 staff across the Northern Territory, with offices in Darwin, Katherine and Nhulunbuy and is the largest law firm in the Northern Territory.

---

### HEAD OFFICE - DARWIN

61 Smith Street  
GPO Box 1064 DARWIN NT 0801  
Tel: 08 8982 5100 • Fax: 08 8982 5190

### KATHERINE

32 Katherine Terrace  
PO Box 1944 KATHERINE NT 0851  
Tel: 08 8972 5000 • Fax: 08 8972 5060

### NHULUNBUY

Franklyn Street  
PO Box 120 NHULUNBUY NT 0881  
Tel: 08 8939 2300 • Fax: 08 8939 2399

NAAJA provides high quality, culturally inclusive criminal, civil (including family law, child protection and welfare rights) law advice and assistance, community legal education, throughcare and prison support services. NAAJA attends community courts and holds regular advice clinics in remote communities across the Top End, from Groote Eylandt to Wadeye.

NAAJA advocates for the legal rights of Aboriginal Australians at a national level and through the Aboriginal Peak Organisations of the Northern Territory. In 2010, NAAJA was awarded the prestigious Law Award from the Australian Human Rights Commission for its commitment to bringing about long term change in the justice system through representation, law reform and education.

## 2. Context

As detailed in the APO NT submission, Aboriginal people in the Northern Territory:

- have a lower median age than the rest of the Australian population<sup>1</sup> and tend to have children at a younger age;<sup>2</sup>
- have high rates of disabilities<sup>3</sup> and low access to disability support services;<sup>4</sup>
- are more likely to live in remote or very remote areas,<sup>5</sup> which is connected to other factors of disadvantage – poorer access to services, overcrowded housing, fewer employment opportunities and very high costs of living<sup>6</sup>;
- experience homelessness<sup>7</sup> and overcrowding<sup>8</sup> at a higher rate than the rest of Australia; one in four Aboriginal people in the NT are homeless;<sup>9</sup>
- have fewer employment opportunities<sup>10</sup> and have significant barriers to employment, such as lack of literacy and budgeting skills, discrimination in the labour market, and deficits in skills/training matched to job demand in many remote communities;<sup>11</sup>
- are unable to access affordable housing, if work were available;<sup>12</sup>
- are income managed at a much higher rate than non- Indigenous people;<sup>13</sup>
- have low median incomes;<sup>14</sup>
- have lower life expectancy;<sup>15</sup>

<sup>1</sup> ABS (2010) *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples* [<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/6CD003E84F950DDCCA257AD900098C94?opendocument>]

<sup>2</sup> ABS (2012) *Births, Australia 2011* (3301.0)

<sup>3</sup> Australian Institute for Health and Welfare. (2013a). *Australia's welfare 2013. Australia's welfare no. 11. Cat. no. AUS 174*. Canberra: Australian Institute of Health and Welfare. Available: <http://www.aihw.gov.au/publication-detail/?id=60129543825>, pp. 196, 206-207

<sup>4</sup> Productivity Commission (2011) *Disability care and support: draft report [vol 1 & 2]*. Canberra: Productivity Commission (section 9).

<sup>5</sup> <http://www.abs.gov.au/ausstats/abs@.nsf/Previousproducts/1301.0Feature%20Article22004?opendocument&tabname=Summary&prodno=1301.0&issue=2004&num=&view=>

<sup>6</sup> <http://www.abs.gov.au/ausstats/abs@.nsf/Previousproducts/1301.0Feature%20Article22004?opendocument&tabname=Summary&prodno=1301.0&issue=2004&num=&view=>

<sup>7</sup> AIHW *Homelessness among Indigenous Australians Report 2014*, table 2.1

<sup>8</sup> AIHW *Homelessness among Indigenous Australians Report 2014*, table 2.1.

<sup>9</sup> AIHW *Homelessness among Indigenous Australians Report 2014*, table 2.1

<sup>10</sup> See APO NT Submission to the Senate Standing Committee On Community Affairs Social Services and Other Legislation Amendment (2014 Budget Measures No.1) Bill 2014 Social Services and Other Legislation Amendment (2014 Budget Measures No.2) Bill 2014, 2014, p 22.

<sup>11</sup> Senate Standing Committee on Education, Employment and Workplace Relations, *Questions on Notice*, Additional Budget Estimates, 2011-12, DEWR Question No. EW1045\_12.

<sup>12</sup> *Anglicare Australia Rental Affordability Snapshot* April 2014, p 37.

<sup>13</sup> 2014-2015 Budget Estimates, Community Affairs, Document 1, 05/06/2014, 11.15am, Secretary Mr Finn Pratt, at p 1.

<sup>14</sup> Office of the Northern Territory Coordinator-General, *Office of the Northern Territory Coordinator-General for Remote Services Report Jun 2011 to August 2012*, p 21

<sup>15</sup> 2010-2012 data from COAG Reform Council NT jurisdictional snapshot, see Appendix 7.3

- more likely to not be in the labour force;<sup>16</sup>
- have a low rates of educational attainment;<sup>17</sup>
- are more likely to have a financial penalty applied for participation failures;<sup>18</sup>
- live in communities where there are significant structural barriers to development<sup>19</sup> and
- have a high degree of language diversity, which affects access to services.<sup>20</sup>

The combined effect of these factors is that any changes to the social security system, which restrict access to payments or increase compliance penalties without addressing the adequacy of payments, the creation of employment and education opportunities and the structural barriers to development, will disproportionately and detrimentally affect Aboriginal people.

### 3. The Four Pillars

#### Pillar One: Simpler architecture

Any simplification in the architecture of the social security system should carefully consider the particular circumstances of Aboriginal people in the Northern Territory to ensure that no further disadvantage is suffered by Aboriginal people.

#### *Fair rate structure*

##### a) Adequacy

We echo the concerns of the National Welfare Rights Network,<sup>21</sup> the Business Council of Australia and other stakeholders regarding the adequacy of the Newstart Allowance.

This inadequacy is magnified in remote areas, where the costs of living are high and job opportunities are minimal. A large proportion of the population of the Northern Territory live in remote and very remote areas, where the cost of fresh food is 150% to 180% higher than in capital cities<sup>22</sup> and the cost of fuel in remote communities can double the national average.<sup>23</sup> People in remote areas are reliant on private vehicles for transport due to the absence of public transport; the NT is the only jurisdiction where households spend more money on transport than on food.<sup>24</sup>

People whose major source of income is unemployment benefits and study payments spend a greater proportion of their income on fuel than other households, and spend more absolutely than most other low income households.<sup>25</sup>

<sup>15</sup> Australian Institute of Health and Welfare, *Life expectancy* [<http://www.aihw.gov.au/rural-health-life-expectancy/>] accessed on 6 August 2014

<sup>16</sup> Havnen, Olga, *Office of the Northern Territory Coordinator-General for Remote Services Report, June 2011 to August 2012* (2012), p 176

<sup>17</sup> COAG Reform Council 2012-13. *Indigenous Reform 2012-2013: Five years of performance*, (2013) pp. 65-68

<sup>18</sup> Senate Standing Committee on Education and Employment, Questions on Notice, *Additional Estimates 2012-13, Department of Employment Question No. EM0186\_14*.

<sup>19</sup> Central Land Council, *Land Reform in the Northern Territory: evidence not ideology*, October 2013, p 3.

<sup>20</sup> <http://www.ais.nt.gov.au>

<sup>21</sup> National Welfare Rights Network *Making Welfare Work: Submission on the Interim Report into Australia's Social Security System* 8 August 2014.

<sup>22</sup> Olga Havnen, 2012, pp. 89

<sup>23</sup> <http://www.ntnews.com.au/news/northern-territory/diesel-in-wadeye-hits-366-a-litre/story-fnk0b1zt-1226859097843>

<sup>24</sup> NT Council of Social Service Inc., *Cost of Living Report*, Issue 3 (April 2014), p. 4.

<sup>25</sup> NT Council of Social Service Inc., *Cost of Living Report*, Issue 3 (April 2014), p. 5.

Compounding this, between 2012 and 2013, average household expenditure on utilities increased by \$800 per year per household in the Northern Territory.<sup>26</sup>

The high cost of living in remote communities is not adequately ameliorated by the Remote Area Allowance; singles receives \$18.20 per week, couples \$15.60 each and \$7.30 for each dependent child.<sup>27</sup>

A lower rate of payment cannot be an 'incentive' to work if there are no job opportunities to pursue. The lack of affordable housing in the Northern Territory further restricts labour mobility.<sup>28</sup>

One off payments such as the Relocation Assistance to Take Up a Job measure of \$3000 will assist with the costs of re-location but will not assist the person to meet ongoing payments such as rent.

*Proposal: that the Remote Area Allowance be increased to more adequately compensate for the higher cost of living in remote and very remote areas in Australia*

b) Partnered rates

The approach to paying partnered people lower rates should be re-considered. In our casework experience, whilst partnered women may share resources with the whole family, generally partnered men reserve their income for their own purposes.<sup>29</sup>

c) Age Pension

We note the Federal Government has proposed to raise the eligibility age for the age pension 70 years.

In its submission on the Social Services Bills, APO NT recommends as a temporary measure that the eligibility age for the Aged Pension be reduced for Aboriginal and Torres Strait Islander people to 60 years of age until the life expectancy of Aboriginal people improves to the same level as non-Indigenous Australians.

d) Disability Support Pension

The high proportion of Aboriginal people with disabilities in the Northern Territory, and the lack of employment opportunities available for people with disabilities, particular in remote communities, means that withdrawal of the DSP from people who have some capacity to work will be incredibly detrimental.

The Remote Jobs and Community Programs providers in the Northern Territory largely do not have the capacity to provide specialist services to assist people with disabilities to secure and maintain sustainable employment.<sup>30</sup>

---

<sup>26</sup> NT Council of Social Service Inc., *Cost of Living Report*, Issue 1 (October 2013), p. 6.

<sup>27</sup> <http://www.humanservices.gov.au/customer/enablers/centrelink/remote-area-allowance/payment-rates>

<sup>28</sup> Anglicare Australia *Rental Affordability Snapshot* April 2014, p 37

<sup>29</sup> See for example Musharbash, Yasmine 'Marriage, Love Magic, and Adultery: Warlpiri Relationships as Seen by Three Generations of Anthropologists' (2010) *Oceania* 80, 272, 285, which describes the greater financial burden of married Warlpiri women for families when compared to men.

<sup>30</sup> See APO NT Submission at page 35 for discussion.

We have concerns regarding the robustness of the Job Capacity Assessments conducted for claimants of the DSP in remote communities. As there is a very small number of assessors (3-4) in the NT, they are conducted over the phone, which limits the assessor's ability to accurately assess the functional impairment, especially when the assessor is unable to access medical records regarding the claimant.<sup>31</sup> This combined with language and literacy barriers may result in Aboriginal people being unfairly excluded from being granted the DSP.

The lack of employment opportunities in remote communities for people without disabilities and the lack of support services available for people with disabilities, means that there are virtually no opportunities for people with disabilities to be supported to enter the workforce; withdrawing DSP will increase hardship and deepen poverty for Australia's most disadvantaged people.

Increasing the Newstart Allowance would ameliorate some of our concerns with the DSP proposals.

#### e) Rent Assistance

The Federal Government should consider paying Rent Assistance to people living in public housing.

Rent Assistance is available to Centrelink recipients who do not live in public housing and pay rent over \$112-\$118 a fortnight.<sup>32</sup>

A high proportion of Aboriginal people in the Northern Territory live in public housing as it is the only affordable housing available; the alternative is homelessness. In remote communities there is no choice: public housing is the only housing available irrespective of income or employment status.

People in public housing in urban and remote areas do not have access to rent assistance, despite paying rent of up to \$500 a fortnight.<sup>33</sup> In its factsheet on remote rent, Territory Housing uses an example of a remote household of four income earners paying a total of \$230 a week in rent to live in a 3 bedroom house. But for living in public housing, a couple with three children would receive \$167.30 in Rent Assistance.

We are increasingly seeing Aboriginal families in remote communities particularly in rent stress as a result of the lack of rent assistance and a relatively high proportion of the families' income being spent on rent. This can act as a disincentive to work.

Currently 29% of low income renters in the NT are in housing stress, which equates to 3,904 Northern Territory households, which spend more than 30% of their already low income on rent.<sup>34</sup>

### Pillar Two: Strengthening individual and family capability

#### a) Mutual obligation

The current system of 'mutual obligation' penalises Aboriginal people at a far greater rate than non-Aboriginal people.<sup>35</sup>

---

<sup>31</sup> See APO NT Submission at page 31-32 for discussion.

<sup>32</sup> Havnen, 2012, p. 176

<sup>33</sup> <http://www.humanservices.gov.au/customer/enablers/centrelink/rent-assistance/payment-rates>

<sup>34</sup> ABS (2013d) 640109 Consumer Price Index Australia Tables September 2013, Tables 12 & 13; NT Council of Social Service Inc., *Cost of Living Report*, Issue 2 (December 2013), p. 11.

Given the significant structural barriers to development and the significant barriers to employment experienced by Aboriginal people, pursuing a penalty based approach has no benefit, it is only punitive.

We consider that the current penalty system plays a significant role in the high rate of Aboriginal men that are disengaged from the labour force in the Northern Territory.

We endorse the proposal of the National Welfare Rights Network to introduce a 'participation supplement' to assist with the costs of job search<sup>36</sup> and incentivise participation requirements.

The current approach of linking income support payments to children's school attendance in the Northern Territory undermines families' capacity to get children to school; it is wholly punitive and its continuation and extension is opposed by NAAJA.

#### b) Income management

Income management has been imposed on a significant proportion of Northern Territory's Aboriginal Centrelink population since 2007. Despite this, 'pathways' to work or study have not materialized as income management does not in itself generate employment or educational opportunities.

Further the model of income management in the Northern Territory, which is not a case management model which provides tailored support services,<sup>37</sup> and the lack of employment and study opportunities, has means that a very low rate of people have transitioned off income management and into work or study.

Of the 24, 711 people on income management in the Northern Territory, as at 5 June 2014 there were 64 exemptions in place for regular paid work, 482 for full time students, 1721 for parenting requirements. The majority of exemptions granted have been to non-Indigenous people.<sup>38</sup>

Before any further expansion of income management is recommended, the Reference Group needs to take account of the findings of the final report of the *Evaluation of New Income Management in the Northern Territory* and examine not only qualitative assessments of income management, but is quantitative impacts if any.

### Pillar 3: Engaging with employers

#### a) Labour mobility

We refer to APO NT's submission in relation to labour mobility.<sup>39</sup>

Overwhelmingly, people in remote locations are unable to move to major centres such as Darwin and Katherine because of the lack of affordable housing.

---

<sup>35</sup> Senate Standing Committee on Education and Employment, Questions on Notice, *Additional Estimates 2012-13, Department of Employment Question No. EM0186\_14*.

<sup>36</sup> NWRN Submission, p 11

<sup>37</sup> Dr L Buckmaster, 'Does Income Management Work' Parliamentary Library Briefing Book, 44<sup>th</sup> Parliament, Canberra

<sup>38</sup> 2014-2015 Budget Estimates, Community Affairs, Document 1, 05/06/2014, 11.15am, Secretary Mr Finn Pratt, at p 1.

<sup>39</sup> APO NT Submission, p 20.

The Northern Territory is the least affordable state or territory in which to rent.<sup>40</sup> Between June 2006 and December 2013, the median rent for a three bedroom house in the NT increased by between \$165 and \$336 per week (depending on the region), and for a 2 bedroom unit the increase in median rents has been between \$110 and \$265 a week.<sup>41</sup> By comparison, Commonwealth Rent Assistance increased by just \$11.20 per week<sup>42</sup> during this period.

We regularly see clients who move to Darwin to take advantage of employment opportunities becoming homeless; living in overcrowded houses or staying in temporary accommodation.

#### Pillar 4: Building Community Capacity

##### a) Access to technology

There is a very large digital divide between remote communities and the rest of Australia. Some communities lack mobile phone reception in addition to not having high speed internet. The rate of ownership of personal computers is low, but mobile phone usage is relatively high, with attendant high costs. The public phone network in remote communities has also reduced significantly, meaning that Aboriginal people find it very difficult to communicate with agencies that do not have a presence in the community or toll free contacts.

Given the importance of access to affordable technology to find and get jobs, emphasis should be placed on equipping every remote community with a community services hub, where people are able to access computer, internet and printing facilities, faxes and telephones to assist in their job seeking activities.

Should you have any questions please contact Lauren Walker on (08) 8982 5100.

Yours faithfully,



**Jonathon Hunyor**  
**Principal Legal Officer**

---

<sup>40</sup> REIA/Adelaide Bank (2013), Real Estate Institute of Australia/Adelaide Bank: Housing Affordability Report June 2013 quoted in NT Council of Social Service Inc., *Cost of Living Report*, Issue 2 (December 2013), p. 4.

<sup>41</sup> REINT (2013) Real Estate Institute of the NT – Quarterly RELM Analysis June 2005-June 2013.

<sup>42</sup> Centrelink (2013), A Guide to Australian Government Payments, released quarterly. Australian Government, Canberra, 1 July-19 Sept Figures