

AUSTRALIAN GOVERNMENT BRIEFING

14 December 2007

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SUMMARY TABLE

| MEASURE | CLC POSITION | AUST GOVT POLICY | IMPLEMENTATION |
|-----------------------|---|---|---|
| Intervention Outcomes | <p>Need to proceed with respect, cooperation and collaboration with communities and Aboriginal agencies.</p> <p>Abolish the Taskforce, and remove military approach</p> <p>Create a legitimate Working Party to oversee the Intervention.</p> <p>Allocate further resources to improving educational, health and employment outcomes, increased policing in remote communities and improvements in housing.</p> <p>Work with the NT government and the Working Party to develop an Australian government plan to complement and build upon the NT government response to the “Little Children are Sacred” Report.</p> <p>Ensure that the intervention budget is not allocated to increasing the bureaucracy but is used to enhance and strengthen programs specifically focused on child protection, strengthening families and communities, and supporting victims and perpetrators of child abuse, as outlined in the proposed complementary plan.</p> <p>Commit to creating a long-term Development plan for Aboriginal communities in the NT. This should be a fully costed plan of action by the Australian and NT governments, with set goals and measurable targets to be achieved within fixed timeframes. This process would be overseen by the Working Party (discussed below).</p> | <p>Commitment to working cooperatively and in collaboration</p> <p>Maintain the Taskforce</p> <p>Agreed to establish joint NT Working Party</p> <p>Commitment to:</p> <ul style="list-style-type: none"> ▪ allocated ARIA funding ▪ 200 new teachers ▪ 3 boarding colleges | <p>Administrative</p> <p>Legislation required</p> <p>new funding</p> |
| 5 Year Leases | <p>Abolish leases as do not fulfil objective to provide security of tenure for housing and infrastructure provision.</p> <p>Immediate:</p> <ul style="list-style-type: none"> - use survey money for negotiated leases rather than for 5 year leases - undertake desk top study with the Land Councils to amend lease boundaries to remove cultural and other problem areas. | <p>Consider in 12 month review – end of June 2008</p> | <p>Legislation required to remove leases</p> <p>Administrative</p> |
| Business Management | <p>Abolish powers as harsh, ill-considered and inappropriate</p> <p>Immediate: no delegation of powers to GBMs or use of the powers</p> <p>Modify role of GBMs to be accountable to the community and be positive face of intervention and facilitator of development, rather than punitive overseer</p> | <p>Consider in 12 month review – end June 2008</p> | <p>Legislation required to repeal business powers (but powers need not be utilised)</p> <p>Administrative</p> |

| MEASURE | CLC POSITION | AUST GOVT POLICY | IMPLEMENTATION |
|-------------------------------|--|---|---|
| CDEP and real jobs | <p>Support reform of CDEP as a genuine transition to work and capacity building program in line with the principles outlined in this document (see CDEP section)</p> <p>The CLC recommends that the Australian Government convene a high level advisory group to assist in the development of the new program (see CDEP section for details)</p> <p>The CLC also recommends that the roll-out of 'real jobs' is maintained and expanded and that support and mentoring programs are developed and funded to ensure all real jobs are realistic and sustainable</p> | <p>Retain/reinstate and modify</p> <p>Support move to 'real jobs' and further funding announced for 300 rangers</p> | Administrative |
| Permits | <p>Support retention of permits</p> <p>CLC proposed 12 month permits for local journalists in its submission to the permits review. Permit free access for journalists is not simple and there is a need to consult with land councils</p> | <p>Retain/reinstate but allow journalists and government workers permit free access</p> | <p>Legislation required (note: current permit changes will come into effect on 18 February 2008)</p> |
| RDA | Remove RDA exclusions | Remove RDA exclusions | <p>Legislative amendments required to remove exclusions</p> <p>[note: legal advice suggests measures for 5 year leases, town camps, statutory rights in buildings and blanket welfare control not likely to be RDA compliant]</p> |
| Statutory Rights in Buildings | <p>Abolish statutory rights as objective will be achieved through the roll-out of s19 leases</p> <p>Immediate: no determination by Minister which activates statutory rights</p> | <p>Consider in 12 month review – end June 2008</p> | <p>Legislation required to repeal statutory rights</p> <p>Administrative</p> |

| MEASURE | CLC POSITION | AUST GOVT POLICY | IMPLEMENTATION |
|---------------------------|--|---|--|
| Welfare | <p>CLC supports welfare reform on the basis of the principles outlined in the welfare section, in particular community engagement and trial model, similar to that being implemented in Cape York.</p> <p>All welfare arrangements must accord with the operation of the <i>Racial Discrimination Act</i>. Accordingly, CLC recommends halting the rollout of blanket income management.</p> <p>Decisions made under all welfare arrangements must be reviewable. It is appropriate that a right of appeal be reinstated to the Social Security Appeal Tribunal and the Administrative Appeals Tribunal.</p> <p>CLC recommends a review be undertaken of the consequences and administrative issues for the communities where the roll-out has occurred, as at 1 January 2008. This review must include a detailed analysis of any systemic administrative problems encountered to date, in the roll out of the CDEP and welfare changes.</p> <p>Further develop the scheme for income management arrangements for the education and child neglect triggers, and commence a trial reviewable after 12 months. This trial must include complementary initiatives to support parents/carers to behave responsibly and consider voluntary alternatives such as Centrepay.</p> | Consider welfare measures in 12 month review – end June 2008 | <p>Blanket income management can be started and stopped administratively</p> <p>Administrative</p> <p>Legislation required for broader changes to welfare measures</p> |
| Funding | <p>Monitor and evaluate spending as per below.</p> <p>Re-orient funding allocations away from increasing the bureaucracy and towards child protection programs, education, housing, health and a monitoring and evaluation process.</p> <p>Request a detailed cost-benefit analysis associated with the delivery of each intervention measure.</p> | <p>Consider current funding in 12 month review – end June 2008</p> <p>Committed to new economic and education funding totaling \$211m</p> | Legislation required for modifications and new funding |
| Monitoring and Evaluation | Commit to an adequately resourced whole-of-government monitoring and evaluation process to be conducted independently but with access to hard data at an NT and Australian government level. This process must be inclusive and transparent and be overseen by the Working Party. | Commitment to review at 12 month period | Administrative decision around access to data |

INTERVENTION OUTCOMES

The “emergency intervention” is a suite of measures announced by the previous Australian government on 21 June 2007 and implemented in legislation on 17 August 2007 in response to the “Little Children are Sacred” report.

This paper does not represent a CLC policy response to the “Little Children are Sacred” report or to the long term development issues facing Aboriginal communities but rather responds to a significant portion of the suite of measures announced by the previous Australian government. In particular, this paper focuses on issues on which the CLC has knowledge or expertise.

In an overall context, the CLC believes the following points are important in considering the broader outcomes of the intervention:

1. Aboriginal people are offended and demoralised due to their lack of engagement in the intervention process. This stems from the absence of any consultation about any of the changes, the speed of implementation of the changes, and the lack of accurate information provided about the changes. Many times while consulting about the intervention, the CLC has been left to explain changes because of the absence of any clear government information or inability to engage with the government representatives. This poor process has fuelled considerable distrust in the intervention aims and outcomes (also see separate CLC ‘Feedback from the Grassroots’ paper for specific detail on feedback to the CLC). The government needs to engage with local communities, including through the implementation of the proposed Working Party, as discussed below.
2. Child welfare initiatives remain largely unfunded in the suite of intervention initiatives. The NT government response to the “Little Children are Sacred” report suffers from a lack of consultation with Aboriginal organisations and communities, severe funding constraints, and the lack of cooperation with the Australian government. It does, however, provide a foundation that can be used to develop a more comprehensive plan focused on the protection of children. The Australian government can adopt a cooperative approach with the NT government, and develop an Australian government plan to complement the NT government programs and initiatives.
3. Overall the intervention lacks a long term plan. It focuses far too much on the ‘emergency’ phase and needs to be seriously re-oriented and located in both a short-term and long-term development planning context. Without proper consideration of the key structural issues of education outcomes, health status, employment opportunities, policing methods and housing systems, longer term benefits to Aboriginal people in the NT will simply not be delivered.

CLC Position

That the ALP:

- Begin a proper process of engagement with Aboriginal communities around the roll out of the intervention. This should include the provision of appropriate information on the roll out of aspects of the intervention in each community.
- Allocate further resources to improving educational and employment outcomes, increased policing, housing and child protection programs, rather than increasing the bureaucracy.
- Work with the NT Government and the Working Party to develop an Australian Government plan to complement and build upon the NT Government response to the Little Children are Sacred Report.
- Commit to creating a long-term development plan for Aboriginal communities in the NT. This should be a fully costed plan of action by the Australian and NT Governments, with set goals and

measurable targets to be achieved within fixed timeframes. This process would be overseen by the Working Party (discussed below).

Establish new Working Party

The process concerns that Aboriginal people feel about the intervention will be partly addressed if the intervention is overseen by a legitimate group of Aboriginal leaders.

Aboriginal people in the NT have no confidence in the existing Taskforce. It is clear that it does not have the required expertise to oversee a development rather than an operational approach, and it does not have any Aboriginal representation from the NT.

Creating a legitimate body, with majority Aboriginal membership, to steer this process will ensure that programs and initiatives are far more likely to be successful, and ensure that proper local engagement mechanisms are developed, funded and followed through.

CLC Position

Wind up the existing operational Taskforce, chaired by Dr Gordon, and replace by a Working Party with a development rather than an operational focus. The initial 'rolling out' phase is almost over and this is an appropriate time to wind up the existing Taskforce that has a clear focus on operational matters and no Aboriginal representation from the NT.

The Working Party would be responsible for:

- Overseeing the development of an Australian Government plan to complement the NT Government response to the Little Children are sacred report.
- Monitoring, evaluation and review of the emergency measures (discussed below).
- Recommendations regarding the amendment or adjustment of emergency measures, including legislative reform.
- Overseeing the implementation and evaluation of trials relating to welfare reform.
- Ensuring there is engagement with aboriginal communities, and close liaison with Aboriginal organisations and other NGOs.
- The development of a long term Development Plan for indigenous communities in the NT within two years.

Membership of the Working Party should be discussed further but could be:

- 5 x representatives from Aboriginal organisations
- 4 x remote community representatives
- 2 x agreed external representatives with relevant development expertise
- senior Australian and NT Government representation
- the Chair should be an Aboriginal person from the NT.

The term would be three years, with the ability to be appointed for another term.

The Working Party would require appropriate secretariat and policy support, and operational funds (including for consultants) to ensure the above responsibilities can be fulfilled in a timely manner.

Monitoring and evaluation

To date, the budget for this package of measures is estimated to have reached \$1.6 billion. This money is being expended without any meaningful monitoring and evaluation being built in to the intervention measures so as to determine what is working, and what is not.

CLC Position

That the ALP:

- Commit to developing a meaningful, adequately resourced, independent monitoring and evaluation process to assess the intervention measures. This process would be overseen by the Joint Working Party and would need access to ‘hard data’ indicators from all key NT and Australian Government agencies that provide a meaningful, contextual picture of the intervention on a community-by-community basis. These indicators would need to be supplemented by detailed community consultation including Aboriginal people having the opportunity to ‘self-evaluate’ the intervention measures.
- Monitoring and Evaluation reports must be provided on a 3 monthly basis back to the Joint Working party and should be tabled in parliament on a 6 month basis.

5 YEAR LEASES

Current 5 Year Lease Measure

The *Northern Territory National Emergency Response Act 2007* (Cth) [NTNER Act] grants 5 year 'leases' to the Australian government over a total of 31 Aboriginal communities in the CLC region on Aboriginal land, freehold land and community living areas.

The boundaries of the leases for communities on Aboriginal land are described according to coordinates described in the legislation and generally include the basic community footprint, airstrip and outlying infrastructure such as rubbish dumps, bores and gravel pits. No consultation was undertaken with the CLC or any other relevant agency in the field. The boundaries for the freehold and community living area leases follow the surveyed title boundaries for those communities.

In addition, provision was also made to grant 5 year leases over further land, including land in the gazetted towns of Finke and Kalkarindji:

other Aboriginal land, other community living areas, land at Finke held by Aputula Social Club Incorporated or Aputula Housing Association Incorporated, or land at Kalkarindji held by Daguragu Community Government Council.

No such land has been prescribed so far.

The 'leases' are created by force of the legislation – no negotiation or lease document is required. Under the terms of the legislation, the Australian government is afforded rights of exclusive possession and quiet enjoyment of the lease areas as well as the right to terminate the lease at any time. All existing leases and other interests in communities are preserved, but the Minister has the power to terminate those interests at any time by written notice.

A further determination of the Minister gives the Australian government rights to repair, construct or remove any existing buildings and infrastructure on the lease areas.

Neither the legislation nor the determination notes any interests in favour of residents or traditional landowners.

See **Appendix B** for background on land tenure in central Australia. Also see the CLC's 2005 paper on '[Communal Title and Economic Development](#)'.

CLC Analysis

WHAT IS THE PURPOSE OF THE 5 YEAR LEASES?

The Australian government's stated reason for the 5 year leases is to:

"allow the government to improve conditions in communities without having to go through long approval processes... money spent on housing, infrastructure and repairs has often been wasted because the Government does not have control of the assets."

(see [Australian government Fact Sheet 24](#))

The 'long approval processes' are not described or explained and it is not clear what they are. Up until now it has been easier to construct houses on Aboriginal land than on other places where the *Planning Act* (NT) and other requirements apply. The government has been free to simply construct and repair houses without any process, other than sacred site clearances. The CLC is not aware of an instance where housing construction has been held up because of community or process concerns.

Likewise, the government has not provided any evidence to show why investment in housing and infrastructure has often been wasted because of a lack of control over assets. It has not described why it has not had control of assets (presumably by way of a lease) or why assets have not been maintained even without a lease (say with effective government administrative control).

There is a clear process for obtaining a lease on Aboriginal land under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) [**Land Rights Act**]. The CLC has a straightforward, standard lease available for government infrastructure and has a principle of providing leases for government infrastructure in exchange for a 'peppercorn' rent. However, in the CLC's experience, most government infrastructure has been built without an application for a lease to provide for security of tenure. For example, the large community of Yuendumu has only 7 leases.

There are no known leases on freehold or community living areas titles.

DO THE 5 YEAR LEASES MEET THEIR OBJECTIVE?

The implied objective is that for all new housing and infrastructure the government now wants a long term lease. A long term lease supplied quickly will provide security of investment over an extended period.

A 5 year lease simply does not deliver this objective. By legislative definition, the lease is only for 5 years and it provides no other process to deliver long term leases.

All that can be said for the 5 year leases is that they make clear that the government, according to the lease terms, has the authority to repair, construct or remove any existing buildings without any consultation or process for a 5 year period.

[Note: While long term leases under s 19 of the Land Rights Act are still possible while there is a 5 year lease in place (with the Minister's consent), it is doubtful the same applies to freehold and community living area communities where no such special allowance is made. In this way, without amendment, the 5 year leases prevent long term leases on these communities (which are already difficult – see background on land tenure at **Appendix B**).

PROBLEMS WITH THE 5 YEAR LEASES

There are a number of problems with the 5 year leases:

- The leases do not require the payment of rent or compensation nor do they provide any appropriate formula or mechanism for dealing with it. Any process for negotiating appropriate compensation may be protracted and costly.
- Other interests in 5 year lease areas are preserved but may be terminated by the government at any time.
- The leases do not guarantee Aboriginal people right of residence in their own communities. On the face of it the government will be able to exclude residents who are the owners of the title held by the Land Trust under Australian law.
- The leases likely breach the *Racial Discrimination Act 1975* (Cth) [**RDA**] because they cannot reasonably be held to be a special measure for the benefit of communities (see section on the RDA).
- Many traditional owners and community residents perceive the leases as a 'land grab' resulting in a diminution of their limited authority over their lives and culture.

Perhaps most significantly, because the 5 year leases were taken without the consultation or consent of traditional owners, community residents or the land councils, the leases incorporate many inappropriate areas including:

- culturally important areas such as sacred sites, sorry camps, ceremony or business areas and outlying cemeteries
- commercial initiatives on Aboriginal land such as the lucerne paddock developed by traditional owners at Willowra, and the gravel pit utilised by an Aboriginal mining company in Yuendumu
- large areas of vacant land outside the footprint of the community and in some cases adjacent pastoral leases, and
- in the case of community living areas, the leases simply annex the existing title, in many cases a large area which incorporates places of cultural significance by design.

The lack of any proper process for establishing appropriate lease areas, combined with the centrality of land to Aboriginal beliefs, has fuelled enormous distrust in the purpose of the 5 year leases and the intervention generally.

The previous government had agreed in principle to reduce the 5 year lease boundaries to ameliorate some of these concerns. However, it is apparent that the cost and effort to consult traditional owners and community residents about appropriate lease boundaries which cover community footprints only, and to survey all relevant communities, would be substantial. This cost is disproportionate to any benefits that could be gained by keeping the leases in place, given that they achieve so little.

CLC Position

The 5 year leases do not meet the policy objective of providing long term security of investment for housing and infrastructure provision. Long term tenure security can be achieved using the existing s 19 processes under the Land Rights Act. The CLC therefore recommends that the 5 year leases be abolished and efforts be focused on the successful negotiation of s 19 leases for housing and infrastructure.

IMMEDIATE ACTION

The CLC also recommends that:

- Due to the cost and effort involved, surveys of 5 lease areas do not proceed at this time and instead resources are used to undertake work for s 19 negotiated leases.
- A quick desktop process and consultation with the Land Councils be used to amend the current five year lease boundaries to remove cultural and other areas of concern. This is an administrative action.

Australian Government Policy

Consider the 5 year leases as part of the 12 month review. Support just terms compensation.

Implementation

Scrapping the 5 year leases would require repeal of Division 1 of Part 4 of the NTNER Act (notwithstanding that the area of the leases can be reduced by Ministerial notice under s 35(6)).

Amending the boundaries is an administrative action.

BUSINESS MANAGEMENT

Current Measure

The *Northern Territory National Emergency Response Act 2007* (Cth) [NTNER Act] gives the Minister a broad range of new powers over organisations which perform functions or provide services in communities.

The Minister may:

- unilaterally alter funding agreements
- direct how services are to be provided where the Minister is not satisfied with the current service
- direct how assets are used by organisations or acquire assets from organisations
- appoint observers to attend meetings of organisations including committee meetings
- suspend community government councils or appoint managers for associations on service related grounds.

The Act also creates civil penalties where organisations fail to comply with a direction or to inform an observer of meetings where one has been appointed.

The Minister may delegate any of these powers to a Senior Executive Service employee (including government business managers) except for the governance power to suspend councils and appoint managers for associations.

CLC Analysis

WHAT IS THE PURPOSE OF THESE POWERS?

The Australian government says these powers are necessary to facilitate rapid improvements in communities but will only be used as ‘a last resort’.

However, the government has not explained how the powers will or have facilitated rapid improvements in communities. At this stage, it is not clear if the powers have been used at all.

What is clear is that the powers are very broad and the Minister (or delegate) has wide discretion – the powers are certainly not conditioned to ensure they could only be used as ‘a last resort’.

For example, the Minister’s new power to direct services could apply to an organisation that has not even received Commonwealth funds. This is so because the services power is only conditioned on the basis that the Commonwealth has provided funds which could be used to provide a particular service, not that a particular organisation has received funds to provide that service. Similarly, the Minister’s new power to give directions related to assets could extend to seizing assets that are not even located in an area where the business management powers apply. Again, this is so because the assets power is only conditioned on the basis that the Commonwealth has provided funds which could be used to provide a particular service, not that a particular asset was purchased with funds to provide the service in a particular place.

These examples show that the powers have very broad application and have been poorly conditioned. Such broad and sweeping powers might be appropriate in a genuine emergency context but here they are simply not attended by appropriate checks and balances which would prevent their misuse, and avoid unintended consequences.

WHAT IS THE ROLE OF GOVERNMENT BUSINESS MANAGERS?

The Australian government states that the role of government business managers (GBMs) is to coordinate the role of various government agencies on the ground and “maximise the benefits to the community of Australian Government funding” (see [Australian government fact sheet 21](#)).

It is not advertised that part of the role of the GBMs is to advise on or utilise the business management powers. It is not known whether any delegations exist for the GBMs.

The feedback to the CLC is that the role of the GBMs on the ground is not clear. Many traditional owners and community residents do not understand what the GBMs are doing and are distrustful of their presence (see separate CLC ‘Feedback from the Grassroots’ paper). In particular, communities would like the GBMs to be accountable to communities as well as have a stronger more proactive role in providing information and coordination as the face of the intervention. Communities are facing a great many changes and despite a considerable number of community meetings, many people are still lack basic information and understanding. At the very least the CLC believes that GBMs should conduct regular community meetings to update people on roll-out of the intervention in their community.

Funding for Government Business Managers

Intervention funding allocated to GBMs is difficult to discern, however, they have been funded out of the FaCSIA allocation of \$212.3m. More specifically \$71.4m has been allocated for GBMs and the Taskforce, and a further \$34.4m has been allocated for short term staff housing. The funding for GBMs is likely to be a substantial proportion of this.

CLC Position

The business management powers mean that arbitrary interventions in the lives of Aboriginal people are now possible. The business management powers are harsh and inappropriate and should be abolished.

Immediate: The CLC recommends that no delegations be given to GBMs to use business management powers and that the role of the GBMs be modified to be accountable to the community and be a positive face of the intervention and facilitator of community engagement and development, rather than a punitive overseer.

Australian Government Policy

Consider the business management powers as part of the 12 month review.

Implementation

If the business management powers were scrapped it would require repeal of Part 5 of the NTNER Act.

The role of GBMs is an administrative decision as there is no legislative basis for their placement and operation in communities in a general sense.

CDEP

Current Measure

Although no legislation was required, the previous Australian government announced an administrative shut down of Community Development Employment Projects (CDEP) program as part of the intervention to be replaced by:

- rolling out mainstream employment programs into remote communities, and
- investing in more fully funded or real jobs in remote communities.

The mainstream programs are Work for the Dole, Structured Employment and Training Projects (STEP), and job placement and support services such as Job Network.

The government indicated it would rollout these changes community by community and to date that has occurred in parallel with the rollout of income management in Aputula, Areyonga, Imanpa, Kaltukatjara (Docker River), Haasts Bluff (Ikuntji), Kintore, Mt Liebig (Watiyawanu), Ntaria (Hermannsburg), Papunya, Santa Teresa, Titjikala, Tjuwanpa (Hermannsburg), and Wallace Rockhole. CDEP has also been shut down in the Alice Springs area as part of preparation for implementation of income management in that area.

In each community where CDEP has been shut down the government has converted some CDEP program jobs into fully funded jobs while the remainder have moved into 'transition arrangements' onto Work for the Dole and STEP training programs.

As a transitional measure, the government also legislated in Schedule 3 of the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007* (Cth) for a 'CDEP transition payment' to ensure that no person on CDEP would be financially disadvantaged by moving to Work for the Dole or STEP training programs before the end of June 2008. However, this has not always been the case and some people are financially worse off under the new arrangements.

Funding

As part of intervention funding the government announced \$205.8m for welfare and workforce measures, of which a significant portion would be for the administrative transition of CDEP to Work for the Dole and STEP. In addition, given the government had set itself the target of converting 2,000 of the 8,000 CDEP jobs into fully funded jobs over time, the government announced further funding of \$78.2m and up to an additional \$30m if matched by the NT government for job creation over 3 years.

CLC Analysis

The decision to scrap CDEP has a number of problems:

- 8,000 people cannot transition to other jobs and training in 11 months without a massive rollout of alternative programs. While the government has made good efforts with job creation, the evidence on training programs is less clear. By the government's own reckoning, only 2,000 jobs would be created and 6,000 people would still be out of a job.
- Every person who moves from CDEP to Work for the Dole will have their income reduced by 20-50% from July 2008. The overall income drop for communities will exert significant pressure on those communities – as income into remote communities drains away, so will services, jobs and people.
- The income of every person on Work for the Dole is affected if their partner has a job. There are already many examples of people receiving drastically reduced Work for the Dole income because

their partner has a job. This would not be the case if the person was on CDEP and greatly reduces the incentive to participate in Work for the Dole.

- Communities already report the inflexibility of Work for the Dole as against CDEP. Lower hours and no availability for top-up wages means that Work for the Dole is a less meaningful basis for employment. The following table highlights differences between WFD and CDEP:

| ISSUE | CDEP | WORK FOR THE DOLE |
|----------------------|---|--|
| Eligibility | ATSI only | Anyone |
| Types of work | Broader Includes health workers, teachers aids, rangers, aged care workers, youth program workers, school meal programs, night patrol, cultural programs | Narrower Includes disabled and aged care, environment, heritage, charity work |
| Hours | 15 hours pw plus top up hours | 21-39: 15 hours pw 40-49: 6 hours pw |
| Pay | \$12,800 Top up available | \$10,900 Less top up available |
| Finding a job | Incentives to place employees | Requirements to apply for jobs |
| Penalties for breach | Loss of income for missed time | 8 week loss of income |
| Length of time | Unlimited | 6 months then reassessment Hours can increase |

A reasonable assessment is that CDEP has been the backbone of many communities. It has documented strengths and weaknesses. Work for the Dole does not build on the strengths nor does it offer the same opportunities or incentives. It has harsher penalties. Scrapping CDEP in such a short period of time in favour of the blunter Work for the Dole programs will erode the functionality and sustainability of communities.

LIFTING INDIGENOUS EMPLOYMENT

The identification, funding and roll-out of ‘real jobs’ is the most significant positive outcome from the intervention to date. However, agencies and individuals involved in the roll-out readily acknowledge that there is a clear need for more mentoring and support programs to support individuals to adjust to permanent employment, even on a part-time basis. These support mechanism are largely not yet in place, and need urgent attention.

A NEW CDEP?

The CLC has limited experience in the delivery of CDEP programs. A new form of CDEP needs to be developed in consultation with successful CDEP providers and other agencies based on the following principals:

- it should be a genuine transition to work program
- it should not be used to subsidise the provision of core government services (health, aging, local government, education etc)
- it should be a program or project oriented rather than a service delivery mechanism. That is, it should be used to support Aboriginal enterprises, natural resource management projects or

innovative community and economic development projects that do not deliver or duplicate government services

- positions to be approved on the basis of project applications (not annual) and clear job descriptions for participants
- participation should be time limited (say three years), with perhaps some flexibility in certain circumstances
- organisations should have to demonstrate appropriate training and career development opportunities for participants and the capacity to provide appropriate supervision
- participants should not be paid unless work is undertaken
- CDEP places should not be included in indigenous 'employment' figures as it is a training and transition program without the full entitlements expected of employment
- the success of the program should be regularly reviewed, and
- transitional and on-going funding must include an allocation for the administration of CDEP programs.

The roll-out of Work for the Dole, STEP program and the 'real jobs' will hopefully create clear changes in community employment patterns. The need for a reformed CDEP remains but must be considered in light of these changes.

CLC Position

CLC supports the retention of a remodeled CDEP program. A new CDEP needs to build on the strengths of the old program, remove the problems, mesh with other new arrangements such as Work for the Dole and STEP and incorporate the principals listed above.

The CLC recommends that the Australian government adopts the following process to ensure a new CDEP is targeted, appropriate and successful:

- Immediately convene a high level advisory group to assist in the development of the new program. This advisory body should consist of Australian and NT government representatives, representatives from at least 6 successful CDEP service providers and representatives from land councils with appropriate expertise in natural resource management.
- Invite a broader range of stakeholders to briefing sessions once the new program is developed and revise program based on feedback and comments.
- Ensure new CDEP program arrangements are in place ready for the start of the 2008-09 financial year, and support organisations to continue in 'transition' mode until that time.
- Commit to a regular review process to ensure the program is achieving its objectives.

The CLC also recommends that support and mentoring programs are developed and funded to ensure that the roll-out of 'real jobs' is realistic and sustainable.

Australian Government Policy

Australian government policy is to reinstate a remodeled CDEP program.

Implementation

CDEP can be reinstated and modified administratively.

PERMITS

Current Measure

The *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory Emergency Response and Other Measures) Act 2007* (Cth) [**FaCSIA Act**] directs that permits will not apply to 'common areas', airstrips and access roads for major communities.

'Common areas' are defined as areas "generally used by members of the community but do not include a building or a sacred site".

Other changes to the permit system are that:

- parliamentarians and government workers will no longer require permits
- anyone attending a court hearing does not need a permit, and
- it is a defence to stay at a house with the permission of the residents.

The permit system will still apply to outstations and other Aboriginal land.

The changes are due to commence on 18 February 2008.

CLC Analysis

The CLC submission to the Australian government permit review proposed a trial of 12 month permits for local journalists on the basis of a number of requirements including induction at CLC and notifying communities before visiting.

If a broader system of permit free access is to be considered by the Australian government, a number of issues need to be considered:

- Whether journalist access will be limited to certain areas – eg communities rather than all Aboriginal land. Defining areas introduces some level of complexity but open access to all Aboriginal land is not appropriate.
- Whether journalists be required to notify land councils or communities of intended visits. If journalists just arrive, there is potential for difficulty if there is a funeral or cultural business occurring at that time.
- How journalists will demonstrate their status on demand – self pronouncement as a journalist will be unworkable. At one end is perhaps induction by land councils and issue of 12 month accreditation and at the other is perhaps letter of employment from host organisation or, in the case of freelance journalists, letter of commission from relevant publication. The issue of who is a journalist and whether you are on Aboriginal land in that role is more difficult than identifying government employees on official business.

In addition, consideration needs to be given journalists access will be a defence to permit offences (similar to the current government employees defence) or whether it will be a positive statutory right (similar to the current changes opening up communities).

CLC Position

CLC supports retention of the permit system. The CLC submission to the permit review argues the case that permits are strongly supported by communities.

The CLC submission proposed a trial of 12 month permits for local journalists on the basis of an induction at CLC and notifying communities before visiting. Implementing permit free access for journalists is not simple and there is a need to consult with land councils.

The CLC recommends the earliest possible action to ensure current changes are abolished, given they are due to commence on 18 February 2008.

Australian Government Policy

Abolish the changes to the permit system but ensure that journalists and government workers do not require a permit.

Implementation

Abolishing the changes to the permit system will require repeal of Schedule 4 of the FaCSIA Act.

It is important to note that the current changes by the previous government will automatically commence on 18 February 2008 without legislative action. Not being able to legally apply permits will make it difficult administratively for land councils.

Implementing permit free access for journalists would require legislative amendment which considers the issues outlined above.

RACIAL DISCRIMINATION ACT

Current Measure

Section 132 of the *Northern Territory National Emergency Act 2007* (Cth) [**NTNER Act**] contains the following exclusion from the *Racial Discrimination Act 1975* (Cth) [**RDA**]:

- (1) The provisions of this Act, and any acts done under or for the purposes of those provisions, are, for the purposes of the *Racial Discrimination Act 1975*, special measures.
- (2) The provisions of this Act, and any acts done under or for the purposes of those provisions, are excluded from the operation of Part II of the *Racial Discrimination Act 1975*.

Section 3 of the *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007* (Cth) [**FaCSCIA Act**] and s 7 of the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007* (Cth) [**Welfare Reform Act**] are in similar terms.

The effect of these sections is that intervention measures are deemed to be “special measures” according to the RDA, but that the discrimination provisions of the RDA do not in any event apply to intervention measures.

CLC Analysis

LAW ON “SPECIAL MEASURES”

The principle of “special measures” is embedded in the Convention on the Elimination of all forms of Racial Discrimination [**CERD**]. Under article 1 of CERD, any “special measures”, which may otherwise *be discriminatory*, taken for the “sole purpose of securing adequate advancement” of a particular group, are *not discriminatory*.

In interpreting article 1 of the CERD, Australian courts have said a special measure:

- must confer a benefit
- must be for the sole purpose of securing adequate advancement, and
- must provide protection to the beneficiaries in order they can enjoy human rights equally.

In addition, in determining whether a measure confers a benefit, the views of the intended beneficiaries are important. The leading High Court discrimination case of *Gerhardy v Brown* notes that:

“the wishes of the beneficiaries for the measure are of great importance (perhaps essential) in determining whether a measure is taken for the purpose of securing their advancement”

In the past in the Northern Territory “special measures” have been agreed in relation to alcohol on the basis that the communities themselves have agreed. In its 1995 Alcohol Report, the Human Rights and Equal Opportunity Commission concluded that alcohol restrictions which are incompatible with the policies of the community concerned will not be “special measures”.

The recent adoption by the United Nations of the Declaration on the Rights of Indigenous Peoples supports the primacy of informed consent:

“States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.”

Some advice was provided to the Senate Legal and Constitutional Committee inquiring into the legislation:

- [Law Council of Australia](#)
- [Jumbunna Indigenous House of Learning](#)
- [Parliamentary Library Bills Digest NTNER Bill](#)

None of these submissions discuss in detail the intervention provisions enacted nor measures taken against the requirements of the RDA. However, the first two reject the contention that the intervention legislation could be taken to be a “special measure” and the Parliamentary Library itself raises significant questions about the legislation. The Human Rights and Equal Opportunity Commission has raised similar concerns.

CLC Recommendation

CLC supports removal of the RDA exclusions from the intervention legislation.

Australian Government Policy

Australian government policy is to remove the RDA exclusions from the intervention legislation.

[Note: It must be doubted whether measures to compulsorily acquire land (including the 5 year leases and town camp vesting provisions), statutory rights in buildings and blanket quarantining of welfare without any consent could be “special measures”. If the exclusions were removed, land measures suffer the extra burden of s 10(3) of the RDA which states that any measure to take property from an Aboriginal person without consent is deemed to be discriminatory.]

Thorough legal advice would indicate whether these or other intervention measures would breach the RDA or could properly be considered to be “special measures” even though discriminatory.]

Implementation

Removing the RDA exclusions would require repeal of:

- s 132 of the NTNER Act
- s 3 of the FaCSIA Act, and
- s 7 of the Welfare Reform Act.

However, if the RDA exclusions are removed, there is likely to be uncertainty about the legality of the land acquisition, blanket welfare and possibly other measures.

STATUTORY RIGHTS IN BUILDINGS

Current Measure

The *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory Emergency Response and Other Measures) Act 2007* (Cth) establishes a new mechanism for statutory rights in government funded buildings on Aboriginal land.

The government will have statutory rights to occupy, use, construct, maintain and repair any building or infrastructure in the works area which is:

- funded by the government or partly funded by the government where the Minister determines statutory rights apply
- is not covered by a lease (except a 5 year lease), and
- has been consented to by the land council.

If a 5 year lease is in place, any statutory rights in buildings do not apply while the 5 year lease is in place.

Statutory rights can only apply where new buildings or repairs are done by government funded bodies.

If statutory rights apply, the government and the land council must negotiate in good faith for a lease over the works area. If a lease is in place, the statutory rights do not apply while the lease is in place.

CLC Analysis

WHAT IS THE PURPOSE OF STATUTORY RIGHTS?

The Australian government appears to have implemented a statutory rights regime as a measure to protect the future investments of any government, although the CLC could find no statement by the government on the statutory rights system.

The new system may well offer a measure of protection for government investment as the legislation makes clear that the government is taken to be the owner of any buildings where statutory rights apply.

However, the system has a number of problems:

- For significant upgrades ownership of the existing building can pass from the land trust to the government funding the upgrade, irrespective of who may have originally constructed the building.
- Rather than streamlining an existing system, statutory rights is a new system which will require another level of consultation with traditional owners.
- Governments may choose to refuse to construct new housing on the basis that the land trust will not agree to statutory rights (but may well agree to a lease under s 19 of the Land Rights Act which would also provide security of investment with a normal transferable property title).
- Statutory rights are not transferable, except between the Commonwealth and the Northern Territory, further restricting dealings on Aboriginal land.
- Once in place, statutory rights can go on forever, until the government decides it no longer wants them. Even if the government and land trust negotiate a s 19 lease, the statutory rights will survive the lease.

CLC Position

CLC recommends the abolition of statutory rights as it creates a new species of property right to deal with an objective that can already be met by existing s 19 leasing arrangements.

Immediate: the Minister not to make any determinations under s 20U(1)(a)(ii) which is one of the necessary conditions to activate statutory rights.

Australian Government Policy

Consider statutory rights in the 12 month review.

Implementation

Abolition of statutory rights in buildings would require repeal of Schedule 3 of the FaCSIA Act.

WELFARE

Current Measure

The *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007* (Cth) [**Welfare Reform Act**] introduces a system of income management for recipients of welfare payments for all people in an area declared by the Minister.

The Minister can declare any area on Aboriginal land, community living areas, town camps in Alice Springs and Tennant Creek, Canteen Creek, Aputula and Kalkarindji for a period up to 12 months (this can be extended).

The Minister has already declared Aputula (Finke), Areyonga, Imanpa, Kaltukatjara (Docker River), Kintore, Mt Liebig, Mutitjulu, Ntaria (Hermannsburg), Papunya, Santa Teresa, Titjikala, Tjuwanpa, Wallace Rockhole [approximately one third of the main communities in the CLC region], and there is a proposed roll-out schedule for the remainder of the communities over the next 6 months.

A portion of welfare payments is set aside in a special account managed by Centrelink. Money in the account can only be spent at the community store or otherwise as arranged with Centrelink. Centrelink manages:

- 50% of social security benefits and pensions and ABSTUDY money, and
- 100% of advances, lump sums and baby bonus money.

Money in the Centrelink account can only be spent on 'priority needs' including food, clothing, health, household items, education, rent, funerals and motor car costs.

Money cannot be spent on alcohol, tobacco or gambling.

The Welfare Reform Act also allows for income management because of:

- lack of school enrolment
- unsatisfactory school attendance, or
- child neglect as specified by a child protection officer.

These other ways manage 100% of all government money (or lower amount specified by the Minister) but have not been used yet by the government.

CLC Analysis

The current approach to welfare reform in designated communities is a simplistic, blanket approach that offers little incentive for people to change their parenting behavior and no meaningful access to treatment options. The Cape York Institute Report, based on the experience in communities in the Cape, argues that:

Programs that rely primarily on financial sanctions (or the threat thereof) have a negligible effect on [school] attendance. On the other hand, those programs that combine sanctions with case management, supportive services, and positive financial incentives...showed more positive results (From Hand Out to Hand Up, p66, May 2007).

The CLC believes that an incentive based approach to welfare reform that better targets the actual behavior of individuals, would be more appropriate in the NT. This could be supplemented by income management arrangements that can be opted into by individuals on a voluntary basis.

The CLC is supportive of the alternative income management triggers for lack of school enrolment, unsatisfactory school attendance and child neglect as specified by a child protection officer. However,

further consideration is needed so as to better target these measures at parents or carers who are behaving irresponsibly.

The CLC believes that the current welfare reform package should be reviewed, in accordance with the following principles:

- Parents/carers who are meeting their parenting obligations will not be subjected to income quarantining, but are able to voluntarily opt into income management arrangements (this proposal accords with that of the Cape York Trial).
- Welfare reform arrangements be put in place on a community-by-community basis, after discussion with a community and involving a degree of community input. Arrangements to be trialed in communities for a 12 month period and be then subject to review, with input from communities.
- All welfare arrangements accord with the operation of the RDA. The CLC is principally concerned that the blanket income management regime is discriminatory (see RDA section) and does not leave any way out for responsible people.
- Welfare decisions be reviewable. While there is scope for the Secretary (mainly for geographic reasons) and the Minister to exempt individuals, in practice this has not happened and there is no method to do this on a systematic basis. It is appropriate that a right of appeal be reinstated to the Social Security Appeal Tribunal and the Administrative Appeals Tribunal.
- Access be provided to a team of fully informed Centrelink staff embedded in each community where the welfare changes are introduced for a period of 3 months. These staff should also offer in-depth case-management to people who have serious literacy or institutional barriers to managing the changes.
- A review commence of the communities where the welfare changes have already been made to inform any future welfare arrangements. This review needs to include a detailed analysis of any systemic administrative problems encountered to date.
- That access to support services and treatment options are made available and that some mechanisms, possibly a community based structure, is put in place to allow for referral to these services.

These changes will go some of the way to addressing some of the outstanding concerns that the CLC has with the current operation of the welfare changes, namely that:

- The lack of an incentive-based approach means that responsible parents are also being captured in the measures.
- Withholding income from people will not automatically teach people how to manage family budgets. Quarantining income is not a magic financial literacy bullet, as pointed out by the Australian Council of Social Services (in their submission to the Senate Legal and Constitutional Affairs Committee on the Welfare Reform Act).
- Evidence from the United States where large scale welfare quarantining and food voucher schemes have been shown to be of demonstrably high cost and of limited benefit. Evidence from central Australia suggests that vouchers are already being traded on the black market for cash.
- The issue of who will document school attendance and who will breach individuals is yet to be resolved. The Australian Education Union remains unconvinced that teachers should be placed in this role. Moreover, there is little incentive for teachers to comply with enrolment and attendance data when so many schools in the NT are understaffed and under resourced.
- How will the issues of mobility be resolved? Who will track school attendance and what will happen if parents and children cross into another state?

- Problems remain in terms of identifying who actually is responsible for caring for children.

Funding

As part of intervention funding the government announced \$205.8m for welfare and workforce measures. A substantial portion of this funding would be used for rollout of income management in declared communities. In particular, \$52.2m is allocated specifically for welfare measures (administered item) and \$24.4m is allocated to Centrelink for staff deployment and IT capacity. Questions on notice to the Senate Inquiry into the intervention legislation estimated that Centrelink would put on 350 additional staff to deal with the changes.

CLC Position

CLC supports welfare reform on the basis of the principles outlined above, in particular community engagement and trial model, similar to that being implemented in Cape York (as discussed above).

All welfare arrangements must accord with the operation of the Racial Discrimination Act. Accordingly, CLC recommends halting the rollout of blanket income management.

Decisions made under all welfare arrangements must be reviewable. It is appropriate that a right of appeal be reinstated to the Social Security Appeal Tribunal and the Administrative Appeals Tribunal.

CLC recommends a review be undertaken of the consequences and administrative issues for the communities where the roll-out has occurred, as at 1 Jan 2008. This review must include a detailed analysis of any systemic administrative problems encountered to date, in the roll out of the CDEP and welfare changes.

Further develop the scheme for income management arrangements for the education and child neglect triggers (as discussed above), and commence a trial reviewable after 12 months. This trial must include complimentary initiatives to support parents/carers to behave responsibly and consider voluntary alternatives such as Centrepay.

Australian Government Policy

Consider welfare measures in 12 month review.

Implementation

Blanket welfare control can be stopped or started by Ministerial action (administrative).

Changes to the implementation of income management for the education and child neglect triggers could be achieved by administrative action.

Changing the substantive welfare measures would require amendment of Schedule 1 of the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007*.

FUNDING

Current Funding Measures

To implement the intervention the Australian government passed two appropriation acts on 17 August 2007:

[Appropriation \(NTNER\) Act \(No 1\) 2007-2008](#) dealing with operational and administered expenses, and

[Appropriation \(NTNER\) Act \(No 2\) 2007-2008](#) dealing with non-operational expenses such as capital funding for infrastructure and payments to the states.

The total appropriation was \$587 million for the 2007-08 year for stabilisation activities:

- Employment and welfare reform – \$205.8 million
- Law and order – \$64.7 million
- Education – \$24.4 million
- Family support – \$32.8 million
- Health checks – \$83.1 million
- Housing and land reform – \$85.1 million
- Various services and logistics – \$91.3 million.

[Note: These groupings supplied by the government but in some cases difficult to match with appropriations to departments. A detailed breakdown of these totals is lacking.]

In addition, on 18 September 2007 the government announced a further \$740 million funding from the Contingency Reserve for longer-term measures:

- \$18.5 million over two years from 2008–09 for 66 additional Australian Federal Police
- \$514 million to repair and build housing in remote communities over the next four years
- \$100 million over two years from 2008–09 for more doctors, nurses, allied health professionals and specialist services
- \$78.2 million over three years to create fully funded jobs in Australian government service delivery
- up to \$30 million over three years to match contributions by the Northern Territory government to assist the conversion of CDEP positions supporting Territory and local government services into real jobs.

These further measures back up an agreement reached between the Australian and Northern Territory governments on housing, health, jobs and education for indigenous children and families in the Northern Territory.

Therefore the total funding committed to intervention measures is \$1327 million over four years or \$1606 if the housing allocation made in the 2007 Budget is included. A summary table of this funding is at

Appendix A.

(This funding is in addition to money the Australian government is already spending in the Northern Territory.)

CLC Analysis

HOW MUCH MONEY WILL BE SPENT ON BUREAUCRATS?

Of the original appropriation on 17 August 2007, \$256 million or 44% is for departmental administration of outputs. In answers to questions on notice, the government indicated that 715 jobs were estimated to be created in the public service, including 350 for Centrelink alone (the total does not include AFP and Defence secondees).

Because the further funding announced on 18 September 2007 does not involve appropriation bills and has not been scrutinised by Parliament, it is not possible to know the breakdown between departmental funds and administered funds (eg contracts) and therefore what proportion might be spent on the public service. The bulk of the additional funds does appear to be for administered funds and the summary table at Appendix A assumes all these funds are administered.

WHAT IS THE FUNDING BREAKDOWN OVER THE NEXT FOUR YEARS?

Assuming an even distribution of the Contingency Reserve funding over 4 years (which may not be correct), the overall breakdown for the four years is:

| | |
|---------|--------|
| 2007-08 | \$820m |
| 2008-09 | \$292m |
| 2009-10 | \$292m |
| 2010-11 | \$198m |

Beyond the first year, the funding is exclusively for housing and infrastructure (biggest component by far), AFP officers, health professionals and job creation. Further appropriations would be required to continue to fund other aspects of the intervention.

HOW MUCH MONEY HAS BEEN SPENT SO FAR?

It is difficult to ascertain what money has been spent but an estimation is possible by matching up what has actually happened with the allocations in the appropriation acts by department. Key items are as follows:

| | |
|--------------------|---|
| Attorney-General's | \$7.4m AFP – 28 interstate police have been deployed but not clear how many are AFP. Likely to be largely expended. \$10.8m legal services and night patrols – not aware of any spending of this allocation. |
| Defence | \$15.5m logistics support – Norforce personnel were placed in many communities during the initial phase. Some funds expended, not clear how much. |
| Education | \$34.2m schools and vocational education – not aware of any of these funds being expended. |

| | |
|------------------------------------|--|
| Employment and Workplace Relations | <p>\$39.9 IBA outback stores – not aware of any of these funds being expended.</p> <p>\$94.8m welfare and workforce measures – income management has commenced in 12 communities in the CLC region (along with CDEP shutdown) and much preparatory work has occurred in many other communities. A significant portion of these funds likely to have been expended.</p> |
| FaCSIA | <p>\$25.7m police deployment – 40 extra police have been deployed. Likely to be largely expended.</p> <p>\$131.6m taskforce, business managers, infrastructure – the taskforce has been fully operational, 38 business managers have been deployed and an array of staff housing has been constructed. A significant portion of these funds likely to have been expended.</p> <p>\$91.3m services and logistics – not aware of any of these funds being expended on any particular contracts.</p> <p>\$793m (over 4 years) housing – apart from some initial repairs not aware of any significant portion of these funds being expended.</p> |
| Health | <p>\$72.7m health checks – over 5,000 child health checks have been conducted in 47 communities. A significant portion of these funds likely to have been expended.</p> |
| Human Services | <p>\$24.4m Centrelink (staff & IT capacity) – income management has commenced in 12 communities in the CLC region and much preparatory work has occurred in many other communities. Likely to be largely expended.</p> |

| |
|--|
| <p><i>CLC Position</i></p> <p>Monitor current funding allocations to ensure appropriate spending on intervention measures.</p> <p>Consider reallocation of future funding allocations according to 12 month review.</p> <p>Re-orient funding allocations to ensure child protection programs, education and housing are adequately funded.</p> <p>Request a detailed cost-benefit analysis associated with the delivery of each intervention measure.</p> |
|--|

Australian Government Policy

Consider funding as part of the 12 month review.

New economic development funding measures including:

- \$60.6m over 4 years for 200 additional teachers across the Northern Territory
- \$40.9m over 4 years for 3 new secondary boarding colleges
- \$10m for a Remote Enterprise Centre (also servicing remote Qld, SA and WA)

- \$90m over 5 years for 300 indigenous rangers
- \$10m to investigate carbon trading on Aboriginal land

Implementation

Monitoring funding is an administrative function.

Reallocation of funding would require amendment through budgetary process or separate appropriation bill.

APPENDIX A – FUNDING SUMMARY

| Department | Operational Expense | Non-operational Expense | Administered Expense | 2007/8 | 2008/9 | 2009/10 | 2010/11 |
|------------------|---|---|--|-------------------|----------|----------|----------|
| A-Gs | \$0.3m (civil justice) \$4.0m (Aust Crime Com: child abuse intelligence) \$7.4m (AFP) *\$18.5m (AFP: police) | \$0.7m (ACC: capital) | \$10.8m (legal services and night patrols) | 23.2 | | | |
| | | | | | *9.2 | *9.2 | |
| Defence | \$15.5m (logistics support) | | | 15.5 | | | |
| DEST (education) | \$2.6m (schools) | | \$22.4m (classrooms, teachers) \$9.2m (vocational and technical education) | 34.2 | | | |
| DEWR | \$15.7m (labour market assistance) \$23.2m (workforce participation) \$18.9m (IBA: new outback stores) \$5.3m (IBA) | \$3.7 (capital) \$10.2 (IBA: capital for new outback stores and existing community stores) \$5.5 (IBA: capital) | \$52.2m (welfare measures) *\$78.2m (government service job creation) *up to \$30m if NT matched (CDEP conversion) | 135.5 *34.5 | *34.5 | *34.5 | |
| FaCSIA | \$25.7m (police deployment and infrastructure) \$71.4m (taskforce, business managers, volunteers) \$25.9m (infrastructure upgrades) | \$14.5m (payments to states: child services) \$34.3m (capital: short term staff housing) | #\$279m and *\$514m (ARIA: housing) \$91.3m (services and logistics) | ##*198.3 262.1 | ##*198.3 | ##*198.3 | ##*198.3 |
| Health | \$10.2m | | \$72.7m (health checks, drug and alcohol response teams) *\$100m (doctors, nurses, health professionals, specialists) | 82.9 - | 50 | 50 | |
| Human Services | \$0.8 \$10.1m (Centrelink: staff deployment) \$0.2m (Medicare) | \$14.3m (Centrelink: IT capacity) | \$7.8m (??) | 33.2 | | | |
| PM&C | \$0.6m \$0.2m (Ombudsman) | \$0.1m (Ombudsman: capital) | | 0.9 | | | |
| Totals | \$256.5m | \$83.3m | \$1267.4m | \$820.3 | \$292.0m | \$292.0m | \$198.3m |

All items from:

| | |
|---|---------|
| Appropriation (NTNER) Act (No 1) 2007-2008 | \$502m |
| Appropriation (NTNER) Act (No 2) 2007-2008 | \$85.3m |
| except: | |
| # 2007 Budget | \$279m |
| * Contingency Reserve (announced 18 September 2007) | \$740m |
| TOTAL | \$1.6b |

Sources:

[Appropriation \(NTNER\) Act \(No 1\) 2007-2008](#)
[Appropriation \(NTNER\) Act \(No 2\) 2007-2008](#)
[Second Reading Speeches](#)
[Parliamentary Bills Digest 13 August 2007](#)

[Questions on Notice to Senate Inquiry](#)
[Brough press release 18 September 2007](#)
[Aust Govt Fact Sheet No 7](#)

Notes:

- all Appropriation Act items are for 2007/8 only
- not clear how all Contingency Reserve items broken down according to the appropriation and forward years allocation used in above table (best guesses made)
- Contingency Reserve announced funds for housing and CDEP transition all assumed to be allocated to administered expense (probably not correct)
- about \$340m allocated to departmental/agency admin and capital expense
- questions on notice reveal staffing increase estimate of 715 positions across key agencies (not including police and defence secondees)



APPENDIX B – BACKGROUND ON LAND TENURE

ABORIGINAL LAND:

The main communities on Aboriginal land in the CLC region are Hermannsburg (Ntaria), Yuendumu, Lajamanu, Papunya, Kintore, Docker River (Kalkukatjara), and Ali Curung. Many smaller communities and outstations are also located on Aboriginal land. Aboriginal land is held by Aboriginal Land Trusts under the Land Rights Act.

There presently is a mechanism under s 19 of the Land Rights Act for granting leases to third parties for residential, commercial and public purposes. Aboriginal Land Trusts have granted many leases in communities under this mechanism: for government services, such as Centrelink, and community organisations, such as Warlpiri Media. Unless there is a lease in place, fixed assets on Aboriginal land are owned by the Aboriginal Land Trust.

FREEHOLD:

Some larger communities on pastoral land have been granted freehold titles under the *Crown Lands Act* (NT). The title generally only covers a contained area around the community itself. The main communities on freehold land are Laramba, Lake Nash (Alpurrurulum), and Engawala. The titles for these communities are held by incorporated associations under the *Associations Act* (NT).

The titles for these communities are endorsed as “prescribed property”. Under the *Associations Act* any dealings on “prescribed property” must have the consent of the Minister. This means that the associations holding the title can only grant a lease if the Minister agrees.

The CLC is not aware of leases or applications for leases in these communities.

FREEHOLD – COMMUNITY LIVING AREAS:

Many smaller communities have been granted freehold titles as community living areas under the *Pastoral Land Act* (NT) such as Imangara and Wilora. Part 8 of the *Pastoral Land Act* allows for Aboriginal people to apply for an excision of an area from a pastoral lease as a community living area. If successful the applicant is granted a freehold title, which is endorsed as “prescribed property” and held by an incorporated association.

Under the *Associations Act* dealings on community living areas are further restricted because commercial leases are prohibited. The CLC has requested the NT Government amend the *Associations Act* to incorporate a provision similar to s 19 of the Land Rights Act to allow the grant of leases or other interests. The NT Government has taken no action.

GAZETTED TOWNS:

Apart from the municipalities of Alice Springs and Tennant Creek, Ti-Tree, Harts Range, Kalkaringi and Finke are also gazetted as towns. Land tenure is controlled by the NT Government in gazetted towns.