Patricia Grimmett - Fwd: Ngaanyatjarra joint response to 'Where from, where to' discussion paper

From: Education & Health Standing Committee
To: Patricia Grimmett
Date: 17/07/2007 10:06 am
Subject: Fwd: Ngaanyatjarra joint response to 'Where from, where to' discussion paper

To Whom It May Concern:

Please find attached the Ngaanyatjarra Council and Ngaanyatjarraku Shire joint response to the WA Legislative Assembly Health and Education Standing Committee discussion paper 'Where From? Where To? Remote Aboriginal Communities'.

We're happy to talk further with you about this if you would like.

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The Ngaanyatjarra Council contact is: Mr Gerard Coffey, Coordinator, 08 8950 1720, and email address above

Regards

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Shire of Ngaanyatjarraku
ON A JOURNEY

NGAANYATJARRA COUNCIL (Aboriginal Corporation)

Response to

Western Australia Legislative Assembly Education and Health Standing Committee

Discussion Paper on Remote Aboriginal Communities

July 2007

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Preface

The main focus of the Discussion Paper on Remote Aboriginal Communities is to examine the roles of the Australian, State and Local Government in the provision of services to remote Aboriginal Communities.

At a local level, the current environment for Aboriginal affairs in Western Australia is one of confusion and uncertainty. There are clearly unresolved differences at a very high level between the State Government and Australian Government. These have arisen as a result of the Australian Government's concerted attempts to bring the Western Australian State Government into a stronger role in relation to service provision of its Aboriginal citizens. While this is a valuable initiative, it has to be implemented carefully, in collaboration with Local Governments and Communities. The current level of uncertainties and conflicting information from different levels of government is undermining stability in remote Aboriginal Communities.

A significant reform proposed by the Australian Government is in the area of municipal services. Under the Bilateral Agreement on Aboriginal Housing and Infrastructure, specific Western Australian obligations include "*progressively* assuming increased responsibility for all aspects of essential services delivery' to large Indigenous Communities (pop. over 50)". From the Australian Government's perspective, the 'progressive' handover to the Western Australian Government will be completed by 1 July 2008. Yet, the WA Minister for Housing and Works (and Indigenous Affairs) has expressed concerns to the Committee that the Bilateral Agreement will result in "the attempt to shift responsibility for municipal services *solely* to the State". The urgency on the part of the Australian Government and the lack of urgency on the part of the State is disturbing, and does little to build confidence in smooth transitional arrangements from 1 July 2008. The environment is further complicated by a lack of clear language. The term 'municipal' is used interchangeably to describe the delivery of Local Government services to describe the Commonwealth municipal program and the delivery of essential services.

The lack of discussion and collaboration with Local Government is also worrying. The Western Australian Municipal Association has advised its members that the role of Local Government in the municipal reforms has not been specified and Local Government has not been a party to the negotiations. This is notwithstanding that the Australian and State Governments have a major role planned for Local Government.

The discussion paper highlights the lack of a coherent framework for addressing the needs and service delivery arrangements for remote Aboriginal Communities in Western Australia. It demonstrates the complex, often contradictory forces and events working directly and indirectly to undermine service delivery in remote communities. Without concerted action to clarify the proposed service delivery and community administration arrangements from 1 July 2008, there is considerable risk that the Ngaanyatjarra Communities will undergo a period of substantial instability and chaotic administration as a result.

It is hoped that this response to the discussion paper will highlight a range of other relevant factors in the current service delivery and management of remote Aboriginal communities in Western Australia. It draws upon the practical experience of non-government and Local Government agencies, and the real life impact of government policies and programs on remote Aboriginal citizens.

The Destabilising Effect of National Political Agendas

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:

- 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 insistence on WA State and Local Government meeting their obligations was delivered in a very confused bundle of blunt if unclear messages. The Australian Government focus on negotiating service delivery and program around mutual obligation did not make a close fit with State and Local Government service delivery. These services tend by their nature not to be conditional, being essential in nature (eg police, education and child protection) or paid for at an agreed charge (eg, power and water).

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 kilometers from the Territory will decrease even further.

Civil Rights and Access to Mainstream Services

Civil rights and the right to mainstream services are at the heart of the "Where To?" question posed in the discussion paper.

Civil rights for Indigenous Australians were legislated for as a result of the 1967 Referendum. These rights included citizenship, the right to vote, the right to an education, the right to health services, the right to the protection of the law and the right to own property. The *Racial Discrimination Act* 1975 (Cth) made it a crime to deny a person their civil rights based on being Indigenous.

These civil rights came with the usual obligations on citizens. The rights were qualified by the capacity to fund these services and the level of acceptance of the exercise those rights by Indigenous people, by the wider community and its institutions.

A substantial factor in the negotiation for the delivery of services to Indigenous people in remote Communities is predicated on their being citizens of Australia, citizens of Western Australia and citizens (electors) of their respective Local Government. Each level of Government is expected to provide the same services to all citizens, regardless of race or disadvantage.

This premise would suggest that the delivery of essential services, power, water and sewerage in remote Aboriginal communities would be the responsibility of the WA State Government.

In the past in Western Australia, the Australian Government has met both the civil rights and indigenous rights to service delivery into a single Commonwealth instrument in the Department of Aboriginal Affairs and then ATSIC (and briefly ATSIS). The WA State Government paid for this by having its annual Commonwealth grant reduced by the amount required to fund the provision of essential services. The WA State Government provided police and justice, education and health services (some indigenous-specific assistance for education and health was also provided as a supplement by the Australian Government).

The relationship between and 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 Minster 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 1994) 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.

Indigenous Rights – Marginalised and Overlooked

Indigenous rights are a different set of rights, over and above civil rights. As such, these rights are more contentious.

Indigenous rights are rights that relate to the preservation and protection, in a contemporary setting, of a culture that has been substantially disturbed by historical events. Indigenous rights arise by the intrusion of a social, economic and cultural order that is so different as to be at odds with the traditional indigenous society.

There is and continues to be a need for Indigenous specific programs to address the resultant impact and the adjustments needed to retain social, cultural and spiritual stability of Aboriginal people. These elements include security of land tenure and practical assistance for the high level of disadvantage experienced by people only a few generations away from traditional life now living in a contemporary world.

Indigenous rights have been identified with past failed Indigenous policies of land based separatism and self determination. The current enthusiasm for 'mainstream' service delivery as the solution to improvement in Indigenous affairs is premised, in part, on the

belief that there has been an unwarranted exaggeration of the distance between the Indigenous community and mainstream Australian society. This exaggeration has come about due to a self-interested group of people, described by detractors as 'the Aboriginal industry'.

In 2003, the Shire of Ngaanyatjarraku published a report entitled *Doing Business with Government* to address long term, intractable lack of access to mainstream programs by the Ngaanyatjarra Communities. The considerable interest that this document attracted was exciting. The limited success in untying mainstream program was, however, far less encouraging.

Far from endorsing access to the mainstream as a solution for Indigenous people, the results of this work confirmed that in the key areas identified as Ngaanyatjarra priorities, there was an ongoing and urgent need for flexible, Indigenous-specific programs. Merely identifying the need for access to the mainstream, without facilitating mechanisms to achieve this, only serves to further compound Indigenous disadvantage and undermine achievement of Indigenous rights.

The following is an extract from the overview of that report, which remains as relevant four years later:

> The purpose of this report is to talk to Government about the range of issues that are of concern to the Ngaanyatjarra communities and to talk about the ways that Government does business in the Ngaanyatjarra Lands and the ways that Ngaanyatjarra people do business with Government.
>
> The issues of concern to the Ngaanyatjarra communities have emerged in the course of discussions with the Ngaanyatjarra Council and Ngaanyatjarra community organisations. Some of the issues of concern to the Ngaanyatjarra communities are long standing matters that have proved intractable, in part because of inflexible patterns of doing business by Government and also because of a lack of capacity in the Ngaanyatjarra communities.
>
> A feature of much of the material in the report is that there is a need, not so much for new money or new programs or new services, as much as access to existing programs, services and opportunities that are targeted toward low income and disadvantaged people in the community, in order to improve their health, education, housing and general living conditions.
>
> The fundamental components of these programs and services are the avoidance of entrenchment of disadvantage and opportunities for improvement in these key areas. The welfare reform agenda entails Government engaging with individuals to pursue a fair and reasonable engagement in a social contract of mutual obligation. This approach focuses on individual case management.
>
> Government business with the poor and marginalised is predicated on individuals making application for low income support programs. This individual approach requires the applicant to have reasonable literacy and numeracy skills, viable use of English, adequate maintenance of personal records (i.e. income details, birth certificate, tax file information, rent accounts and essential services accounts), an understanding of Government programs and program delivery and a residential address for the receiving of relevant mail.
>
> To date, the lack of this individual capacity on the part of Ngaanyatjarra community members has been addressed by the Ngaanyatjarra communities pooling limited resources and capacity to represent themselves to Government and Government agencies.

The separation in the ways that Ngaanyatjarra communities have done business and the way that Government is doing business is widening.

Native Title and Indigenous Rights

A significant sub-set of indigenous rights concerns rights that relate to land tenure. Issues to do with the unique indigenous cultural relationship to land, and with the rights and responsibilities associated with this relationship, feature prominently in the Australian public arena over the last few decades.

Many people in the Australian community no doubt consider that the passage of the *Native Title Act* 1993 (Cth) and its implementation since then has addressed this area comprehensively, so that no outstanding issues remain. However two points can be made that indicate that this is far from the case.

The first point, which has been widely publicised, is that the Native Title Act as a political response to a ground-breaking legal decision (the *Mabo* decision) fell far short of a full recognition of Indigenous rights related to land. The second point, which is less widely understood, is that an apparatus has developed around native title that functions to limit and constrain Indigenous groups to narrow avenues for assistance to maintain and utilise their established connection to land.

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.

Community Management and Administration

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 is 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.

National Competition Policy

The effect of National Competition Policy on remote Aboriginal communities should not be underestimated. It has had a profound effect on the provision of what used to be spoken of as 'public utilities'. Public utilities were the almost universally accepted area of government monopoly ownership and provision of electricity, water supplies and sewerage disposal.

The provision of these services was assumed to be provided on a cross subsidised basis to uneconomic locations, where services were provided to meet a service obligation.

National Competition Policy emerged to change the prevailing outlook to an ideological position that power and water are no different to any other commodity, with no rational economic reason to treat them differently to any other commodity.

This position fostered the notion that government does not have a retail monopoly in the sale of goods and services generally, and should restrict their role in the provision of power and water to regulation only. The private sector should be encouraged to compete to provide these services at the best price. Under these arrangements, where there is no capacity to purchase power and water at the market rate, it is not appropriate to distort the market value of a commodity and offer a reduced rate or cross subsidise the cost. The appropriate response is for government to provide a welfare measure to address disadvantage.

Remote Aboriginal communities clearly fall outside the mainstream of services provided by corporatised trading entities. Provision needs to be made for someone to provide these services. This has resulted in form of stand off between the WA State and Australian Governments as a result.

In the 1980s, the negotiations for the WA State to take on essential services to remote Indigenous communities from the previous Department of Aboriginal Affairs (DAA) were based on 'normalisation'. This required DAA to fund the upgrade of essential services infrastructure in remote Communities to a standard acceptable to the State Electricity Commission (SEC) and Western Australia Water Authority (WAWA). The capital upgrades were done on a contract basis by the SEC and WAWA. At some point in the future, these authorities were to take on the provision of the services. This has not occurred.

The brinkmanship between the two levels of government has been more active on the part of the Australian Government. The federal govemment has the most to gain in relinquishing responsibility for essential services, and are seeking to devolve to the State Government. The State Government has been passive in response, appearing to see this change as the thin end of a very large financial wedge. The communities, who have no control or involvement over this negotiation, are left in with considerable uncertainty into the future.

The responsibility for essential services to remote Communities has been further complicated by the introduction of the GST. This brought with it a fundamental shift in Commonwealth/State financial relationships. Prior to the introduction of the GST, the Australian Government top sliced the WA State Government grant by the $17 million

required to provide the Community Housing and Infrastructure (Municipal) program to remote Indigenous Communities in WA. This money was redirected to the relevant agency (DAA/ATSIC/FACSIA) to deliver the program. The Australian Government clearly sees this arrangement as no longer possible, necessary or desirable under the terms of the GST agreement.

Community Development Employment Program (CDEP)

CDEP is a program introduced by Commonwealth Government in 1977 to address social dysfunction, alcohol abuse and lack of a viable labour market in remote Indigenous Communities.

However, the original community development and employment projects which were envisaged in 1977 have been larged ignored in the latest chaotic policy shift in a mainstream world.

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.

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.[1]

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

[1] Australian Parliament, House of Representatives, Daily Hansard, 26 May 1977, p 1922.

reducing community violence driven by social dislocation and fierce competition over very scarce resources.

CDEP allowed the Ngaanyatjarra Communities to effectively mange 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 closet level to that type of activity.

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 'siloed 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 income – encouraging people to move from work to welfare.

Justice, Police and Remote Communities

Indigenous Western Australians, particularly from remote communities, are heavily over represented in the prison system and the justice system generally.

The trend is not improving.

The Ngaanyatjarra Council and the Shire of Ngaanyatjarraku jointly produced a report entitled 'Law and Justice in the Ngaanyatjarra Lands'. This report was sent to the WA Attorney-General in April 2004.

Many of the fundamentals in that report remain relevant and sound:

- The mandatory cumulative (9 months – 3 years) ban for driver's licence suspension for the offence of driving under suspension.

  The likelihood of imprisonment for this offence requires that the ban be taken into account in all circumstances of the offence when deciding on the suspension period, when it commences, and whether it should be concurrent or cumulative.

- The *Fines, Penalties, Infringement Notices and Enforcements Act* 1994 (WA).

  This law has as it centerpiece driver's licence suspension for non payment of fines and infringements. Driver's licence suspension should be reserved for whether or not someone is fit to drive as a responsible member of the motoring public. This law is most onerous on those with least capacity to pay. Indigenous people are heavily over represented as a proportion of the population under fine suspension.

  The Act has also undermined the full range of sentencing option available to the Court under the provisions of the *Sentencing Act* 1995 (WA). Fines and Conditional Release Orders are two very important non-custodial orders. These orders no longer operate in the manner originally described in the Sentencing Act. Fines do not proceed to default within a prescribed time to conversion to Work and Development Orders and then to warrant of commitment in the event of non compliance. Pursuit of a breach of Conditional Release Orders now effectively defaults to Fines Enforcement and completely alters the effect of the order.

- Police services

  The Gordon Inquiry response implementation has been very successful in the Ngaanyatjarra Communities. It has laid a sound foundation for long term improvement in 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 Warakurna, staffed by WA and NT police officers. The Ngaanyatjarra Communities were recently advised that a third police station, likely to be at Blackstone community, will also be built.

The Unfair Impact of the Goods and Services Tax

The Ngaanyatjarra Communities have the second lowest per capita income by Local Government area on mainland Australia. They also have one of the highest costs of living because of their isolation and small, finely dispersed population.

The GST is calculated on the retail price of goods and services. This has the effect of levying the tax most heavily on people with the least capacity to pay. This has led to a disproportionate erosion of the purchasing power of already low incomes.

A simple example demonstrates this unfair impact. A set of furniture in metropolitan Australia might cost $1000, of which $100 is subject to GST; a similar item in Warburton might cost $1200 (due to the increased cost of transport and diesel), the GST component will be $120. However, for someone on CDEP or Centrelink benefits, this $20 additional impost could constitute 5% of their weekly benefit for all living expenses.

The Significant Impact of Rising Fuel Prices

Increases in the cost of fuel in the last four years has put substantial pressure on Community members' incomes. Fuel is an essential commodity in a remote location with no access to public transport, and where electricity is generated from diesel fuel generators. Travelling to a nearby community for an essential health service, a community sports event, or a funeral, can cost in excess of $80 one way.

To illustrate the impact of rising fuel prices, in 1982, the average weekly income for Community members in Warburton had a purchasing power of 100 litres of fuel. In 2007, the average weekly income for Community members has purchasing power of 55 litres of fuel.

Similarly, the cost of powerhouse fuel has gone from being a third of Ngaanyatjarra Communities' Municipal Program budgets to being close to two third with no appreciable increase in funding. The cost of providing power to the communities has effectively been paid for in substantially reduced services.

Centrepay Deductions

Centrepay was introduced by Centrelink so that recipients could authorise the deduction of payment of rent and utilities. This was to avoid welfare recipients falling into arrears on essential services, and potentially jeopardising their accommodation, safety and health.

However, Centrepay has expanded to a range of other deductions, including telephone charges, payment of fines and infringements, and health and community care services. It has now been increased to the point that is available for a very wide range of goods and services.

As a result, in effect Centrepay has become a welfare credit card, with all the negative implications associated with this outcome. Centrepay is further compounded by the availability of a Centrelink 'white goods' loan of up to $500, which is repayable in installments.

For some community members, the combined effect of all their Centrepay deductions is a welfare benefit that is insufficient to feed them for less than half the time covered by the payment.

Debit Card Fees

Debit cards have now become the standard for payment for Centrelink benefits and CDEP payroll. Many community members are unaware or unconcerned by the cost of accessing their account regularly (for example, to check the balance). As there are limited ATM machines available (normally only one per community), and none provided by the major financial institutions on the Ngaanyatjarra Lands, the cost of debit card fees for accessing accounts is high. Half a dozen attempts to access a pay before it is transferred can result in fees up to 5% of some people's net CDEP incomes.

This is not a condemnation of bank fees. The fees are referred to only to highlight the profound effect even very small charges can have on very low incomes.

Adults without Children in Remote Indigenous Communities.

Adults in remote indigenous who do not have children do not have access to Commonwealth payments for the relief of child poverty.

These payments are calculated to meet national minimum family income benchmarks and are substantial in the economy of remote Indigenous Communities. The payments do have an important role in relieving absolute poverty within families.

People who do not have children do not have this element of income security and often exist well below the poverty line.

Family tax benefit is central to the economic viability of remote Indigenous Communities, and records need to be maintained by community offices in order to ensure that people continue to have access to these benefits and entitlements.

Partnerships with Government

It is worth concluding with a final statement that returns to 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.

On the two major programs that support remote Aboriginal communities – the misnamed Australian Government 'Municipal Services Program' and CDEP, there remains continuing and ongoing uncertainty. In relation to 'municipal' services, there is the distinct risk that community offices will be undermined or crippled on 1 July 2008; if only half the current staff funding is available, offices will be unable to provide a range of essential government and non-goverment services to its highly disadvantaged client group. Ngaanyatjarra Council has been unable to shift or influence the negative outcomes of CDEP policy reforms, with the resultant increase in bureaucratic hoop jumping of little practical impact or effect for community members.

The Wanarn community continues to wait for its new store, agreed to in a Shared Responsibilty 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 bumblings 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 RPA 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 ATSIC program and policy making processes could be dismantled for this outcome.

Conclusion

This submission is not a comprehensive response to all the issues raised in the Discussion Paper. It can only be a snapshot of the many and varied forces that impact on remote Aboriginal communities.

The breadth and complexity of the debate demonstrates that remote Indigenous affairs is a battle ground for people who have far more power and influence on Indigenous affairs than the Community members who live with the outcomes.