Aboriginal Peak Organisations Northern Territory (APO NT)

An alliance of the Central and Northern Land Councils, Aboriginal Medical Services Alliance Northern Territory and North Australian Aboriginal Justice Agency

The First Assistant Secretary
Community and Economic Development Division
Department of the Prime Minister and Cabinet
PO Box 6500
Canberra ACT 2600
Via email: cdpconsultation@pmc.gov.au

Friday 23 February 2018

Dear First Assistant Secretary,

RE: APO NT's Preliminary Response to Discussion Paper: Remote Employment And Participation

The Aboriginal Peak Organisations Northern Territory (APO NT) welcomes and supports the Government's stated commitments to growing the remote labour market by creating subsidised jobs, providing the opportunity for increased earnings, and adopting a tailored, community based approach, with greater local control and decision making.

This submission is offered as a preliminary response to the Government's Discussion Paper, noting the lack of detail provided in the Discussion Paper and the lack of time for our members to consider it. Before any new program model is adopted there must be a process of engaging with people who are or will be affected by the proposals and their representative organisations, so that they can fully understand the proposals and their potential effects. These discussions should include examples, so that the impact on individual incomes and obligations can be understood. This must be followed by negotiation of what program arrangements are implemented, both at a national and community by community level, consistent with the Indigenous Peoples' Right to free prior and informed consent over proposals that affect us.[1]

A foundation principle for any new model, is that it should not, directly or indirectly, discriminate against Indigenous people. If work is created under the scheme then those doing that work should enjoy the same wages, conditions and employment rights as workers elsewhere. Indigenous people in remote communities must be able to access income support, without more onerous conditions than are applied elsewhere. In order to ensure equitable access to social protection, the Commonwealth Government must take positive steps to address existing barriers to access. Arrangements need to take into account obstacles to access, such as the lack of culturally appropriate health/disability

[1] Refer to '*Free, Prior and Informed Consent of Indigenous Peoples*' Office of the High Commissioner for Human Rights. Retrieved from http://www.ohchr.org/Documents/Issues/IPeoples/FreePriorandInformedConsent.pdf

assessments; language and/or literacy barriers; and lack of access to communications. Outsourcing administration of social protection to provider organisations will not address these issues – as evidenced by the unacceptable level of 'breach' recommendations in the current system.

There is insufficient detail in the Discussion Paper to fully assess the Government's proposed 'Wage Based Model'. APO NT supports inclusion of waged work in any proposal, provided that the work that is offered, under the proposed scheme, is offered as ordinary employment, not as a 'work-like' arrangement with lesser rights and conditions. The scheme should enable a substantial pool of jobs to be created across included areas so that most of those currently willing and able to work can access part-time employment. Those who are not employed must have access to income support with participation obligations, no more onerous than those elsewhere and adjusted to accommodate the particular challenges, faced by remote Indigenous people in accessing services.

APO NT welcomes the Government's proposal to recognise the significant number of people in the CDP at any given time who are unable to participate, or participate fully, because of health or other issues. APO NT supports the investigation of better models for assessment, but also recognises that this is a long standing and complex issue that will take some time to address. Different cultural perceptions of disability, mental illness, lack of access to culturally appropriate or culturally safe services, all have an impact on the accuracy of assessments. In the meantime, 'streaming' of participants should not be based on formal assessments alone, as this heightens the risk of inappropriate obligations and penalties. Local organisations need to be able to respond to personal crises, or issues that have not been picked up elsewhere, and to reduce requirements accordingly without a negative effect on their revenue. Providers need to be encouraged, not penalised, for trying to engage people without using coercion.

APO NT supports the Government's commitment to greater community control of services. This requires that the Government move to a less prescriptive approach to program rules. It must remove rules that require daily Work for the Dole and the application of penalties. It should also allow local community boards or committees to make decisions on these issues in consultation with local community members, within a broad national framework, that ensures social protection and equity. Local communities must have a significant say in what mix of program outcomes are valued and in evaluating program success. APO NT also recognises that Indigenous community control is not the same as Indigenous ownership. No matter what their ownership structure, program providers must have local decision making structures that enable local Indigenous people to have a real voice and be represented in the decisions that affect them.

In order for there to be a greater say for Indigenous people in any scheme, the overall management of CDP needs to change. Currently the program is top down and there is no structure through which representatives of Indigenous people can be engaged in the ongoing development, implementation and assessment of the scheme. Nor is there any process of sharing information about the program, for example, the outcomes of evaluations. While many providers are Indigenous organisations, they are treated as service delivery arms of the Government and have limited scope to respond to, or represent the needs of their communities. Any future program must include a structure for Indigenous involvement at the national level, in addition to regional and local community involvement.

The current rigid, compliance-driven program model is driving disengagement, particularly amongst young people. Any new model should be assessed on the basis of whether it encourages young people to engage and allows significant investment in their skills and opportunities. Again, this means flexibility at the local level to experiment with different engagement models and to set rules that encourage participation, rather than continually reinforce failure.

To discuss this submission in further detail, please contact Brionee Noonan by phone on (08) 8944 6672 or via email to brionee.noonan@amsant.org.au.

Yours sincerely,

David Ross

On behalf of the APO NT CEOs

Joe Morrison CEO NLC	David Ross Director CLC	John Paterson CEO AMSANT	Priscilla Atkins CEO NAAJA

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APO NT's proposed model: The REMOTE DEVELOPMENT AND EMPLOYMENT SCHEME

APO NT has developed a detailed proposal for a scheme to replace the current CDP. This proposal is found in **Attachment A**. The scheme has been endorsed by over 30 organisations from across the country, including many Indigenous organisations currently delivering CDP. The organisations that have endorsed the proposal to date are listed at **Attachment B.**

We welcome PM&C's agreement to identify likely costs of this proposal and believe that it should be presented as one of the options for detailed community consultation.

APO NT's submission presents some areas of difference between the proposals, noting that it may be possible to modify Options 1 or 3 to accommodate these proposals.

APO NT's submission goes on to respond to specific questions in the Discussion Paper to the extent possible at this stage.

Five proposed adjustments, based on the APO NT approach

1. Clarifying the nature and role of waged work

APO NT has proposed a Remote Jobs Investment Fund that is available to local Indigenous organisations and can be used to employ local people living in remote areas. The overall funding available from year to year would be capped, as it was under the CDEP. It would be linked to the employment rate or – more specifically – the need to substantially reduce the gap between the employment rate of Indigenous people in remote areas and other Australians. Organisations that can identify work that needs doing (which could be projects, services or positions) would be able to access funding to create part-time employment – generally 20 hours per week for people living in their region who would otherwise be unemployed[2].

[2] Funding would include a loading on wages to cover employment costs, project costs as per CDEP

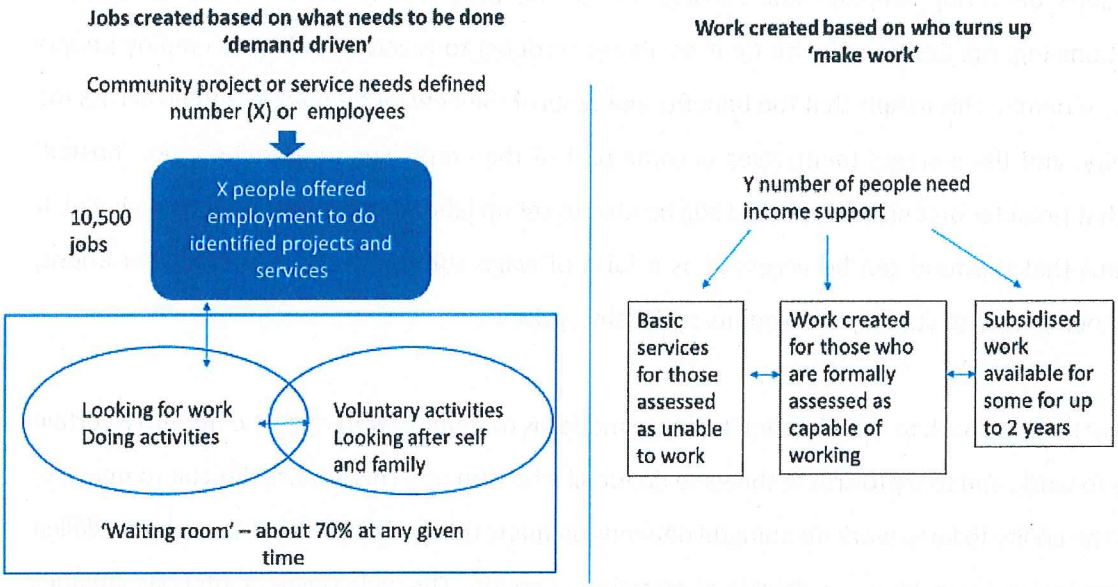
APO NT has proposed this approach because it means that the work that needs to be done needs to be identified before people are employed. The definition of work should be very broad, including caring for relatives and cultural preservation and transmission. The relevant employer could choose the people they wish to employ (provided that they are local residents who would otherwise be unemployed), and replace them if they are not willing or able to do the work, subject to the normal safeguards that apply to employment. Funding for positions would be for a fixed period and subject to review, but individuals could continue in funded jobs where there is no other work for them to move into. While we expect that many of the jobs created under the scheme will be created by organisations delivering employment services under the program, it would be open to other organisations (eg. Art Centres, Health Centres, Ranger groups) to receive funding to employ people under the scheme. This means that the benefits and costs of the new jobs would be spread across the community, and the workers themselves become part of the employing organisation, not 'hosted' (noting that provider organisations would still be able to set up labor hire operations if they chose). It also means that the fund can be accessed as a form of wage subsidy by a range of organisations, including being used to start-up Indigenous social enterprises.

The alternative approach to this 'demand led' type model, is to require everyone who fits into a certain category to work, and to try to create things to do for all who turn up. This is more difficult to manage, because the ability to keep work meaningful depends on many things that are hard to control – skilled supervisors/project managers, availability of materials or assets. The wide range of interests, abilities and disabilities of the people within work teams (particularly in CDP which catches a much wider group than under the former CDEP) often means that only menial work can be organised. The fact that people are compelled to turn up means that it is often hard to maintain productive work teams – the focus is often on keeping people busy, not producing outcomes or building individual skills. Many peoples' existing skills are under used. Even if wages are paid, work in the scheme may come to be seen as valueless by participants, employers and the wider community – a 'make work' scheme, rather than a scheme led by community demand for particular jobs to be done.

APO NT has recommended a substantial capped scheme where people are employed to work on identified jobs and tasks, rather than a scheme that must 'make work' for everyone who is unemployed. We believe that this will provide workers with more meaningful work and employers (including the equivalent of CDP providers) with the ability to deliver services and projects that are of real value to the community. Because it is capped (we are proposing an initial 'cap' of around 30% of available participants – approximately 10,500 jobs) this creates a sort of notional 'waiting room' for

jobs in the scheme (just as CDEP had waiting lists in many areas). This means that the whole system is less reliant on the accuracy of the formal work capacity assessment process to sort out who can work, as there will be some in the 'waiting room' who, while formally assessed as able to work, have a range of immediate or undisclosed reasons for not being able to participate. There would be a degree of 'self-sorting' within the group competing for available jobs. **Figure 1** illustrates this key difference in approach.

Figure 1



2. Recognising the differences between the income support system and employment

APO NT recognises that there is an important difference between employment and income support which affects how payment rates are set and how checks and balances are applied.

The income support system is designed to ensure that people's basic living needs are met. It recognises that, for example, people with dependents need more income, but can often work fewer hours. It has checks and balances designed to minimise the risk that people will be left without any means of support, or that existing health, housing or other issues will be made worse by penalties. These checks and balances are not currently as effective as they should be, but they are a core part of the system.

On the other hand, wages pay people for the contribution they make to a particular outcome, regardless of their personal circumstances. Workers and employers enter into a contract of

employment voluntarily and have rights and obligations to each other. People get paid when they show up. If they get sick or if there is a crisis (including a crisis at work), there is a safety net available. Where people are in part-time work but are low paid, then they can continue to access income support part-payments to help them make ends meet until they get enough hours, or their pay increases to meet the income threshold.

Table 1 compares the current income support arrangements to a 'wage-like' system. Columns A and B show example of fortnightly incomes under existing income support arrangements. Column A shows the base rate of income support with the Work for the Dole supplement – what CDP participants currently receive provided they meet their Work for the Dole requirements.

Column B shows current income support arrangements with the addition of 20 hours per week work or 15 hours per week work. This shows the income that would be available in new subsidised jobs if they were jobs with ordinary employment arrangements, as proposed by APO NT. It shows that, under APO NT's proposal, all categories of participant would be better off working, but the part-payment of income support means that total income will vary according to need. The full time minimum wage is $1389.80 per fortnight, so there would still be a significant incentive for all participants to increase working hours to full time if possible.

Column C shows what would happen if people are given a payment that is 'wage-like' at the minimum hourly wage rate, but are prevented from accessing part-payments of income support. The biggest work incentives would flow to singles with no dependents, but these workers would still be worse off than other people working 20 hours per week in non-remote areas. Those with part-time work capacity would earn less under this system than they would under current income support arrangements. While it might be possible to pay this group a higher hourly rate, this would increase complexity and fly in the face of the principle that this is waged work. A 'wage-like' arrangement could be in breach of the *Race Discrimination Act* if it means that people in remote areas are worse off overall than those in non-remote areas[3]. In our view it would not just be fairer, but be simpler, to ensure that those working in jobs created or subsidised under a scheme are simply employed and paid on the same basis as other workers.

[3] The Human Rights and Equal Opportunities Commission considered this issue in relation to CDEP and said that that scheme would have been discriminatory for this reason, had it not been for the fact that participation was voluntary.

Table 1 Comparison of income support, ordinary part time work, and 'wage like' system

	A – Current, without part-time earnings	B- Current plus 15-20 hours work	C- 'Wage-like' at 15-20 hours per week work for the dole
	Income support only	**20 hours per week @minimum wage rate with entitlement to income support (APO NT proposed)**	**20 hours per week @minimum wage rate but entitlement to income support removed**
Single no dependents	$559.60 (f/n)	$908.84 (f/n)	$731.60 (f/n)
Single, with dependents on Newstart	$603.60 (f/n)	$1063.36 (f/n)	$731.60 (f/n)
15 hours per week		**15 hours hours per week @minimum wage rate with entitlement to part-income support**	**15 hours hours per week @minimum wage rate but entitlement to income support removed**
Single, with dependents on Parenting Payment	$603.60 (f/n)	$953.62(f/n)	$548.70 (f/n)
Single no dependents on DSP	$808.30 (f/n)	$1166.65(f/n)	$548.70 (f/n)

Another reason for avoiding blurring the welfare system with employment is the need for any safety net system to have strong checks and balances. Any system that tries to make income support more like a wage (or vice versa) will involve significant additional complexity and red tape. Administering income support is much more complicated, and more rules bound, than administering a simple payroll. Already CDP providers focus too much on administration and not enough on achieving outcomes. Outsourcing income support administration to them would make this worse.

3. Orientation of the program to long term results

The Options Paper is generally silent on issues like how success will be measured under the new scheme. APO NT believes that the scheme needs to be substantially reformed so that it can support long term community, economic and individual development.

APO NT views the current system as too focussed on short term job churn at the expense of long term community level impact. While the Government refers to 15,000 placements having been made under the scheme, these may be for periods as short as a day. It is not clear how many of the 5,000, 26 week outcomes claimed by providers are in jobs that were, or would have been, found by job seekers themselves. These measures may be appropriate in large, 'high velocity' urban and regional labour markets. However there is an opportunity in a place-based model, to focus on net employment impact. This would include mapping future opportunities and skills needs over a longer timeframe, and including community members in setting long term goals.

APO NT's proposal includes:

- That a set of core set of objectives and measures for the program be established with net employment impact at its core and with scope to allow for local identification of priority outcomes and performance measures.
- That local organisations be assisted to collect, and be provided with data to allow participation in ongoing monitoring and evaluation of the scheme.
- There should be a focus beyond immediate job placement to career progression, including a training fund to enable employers or employees to increase their skills and long term support to assist people to move from entry level employment to higher paid, higher skilled work.

4. Governance arrangements

APO NT endorses the recent comments of the Secretary of PM&C, Martin Parkinson, when he spoke of the need to move from a technical approach to policy issues to one about adaptation and learning in partnership.[4] This means, as he said, 'letting go' and treating Indigenous organisations as partners in the program rather than simply service providers. We agree with him when he speaks of the importance of sharing data and the development, *with* Indigenous organisations, of targets that are well designed, reflect Indigenous aspirations, and are driven by local people.

[4] https://www.pmc.gov.au/news-centre/pmc/wentworth-lecture-full-transcript-promise-1967-commonwealth-public-administration-indigenous-affairs-50-years

To achieve this requires a fundamental re-engineering of the way that the Government manages the CDP. It means Indigenous engagement, not just in deciding what activities are run, but at every level of the program.

APO NT's recommendations include:

- That a new independent body with majority representation from remote Indigenous community groups be established to provide oversight and manage delivery of the scheme.
- That this body would also foster and support regional and local bodies and ensure they have a key part in decision-making about program directions, and contribute to achieving outcomes.
- The new program to be built around broad and long-term success measures (see above), the responsibility for which is shared between organisations involved in provision of services and Government.

5. Youth program

There is a significant group of young people in remote areas who could benefit from a voluntary, paid work experience program that includes vocational training and strong support. APO NT has proposed the establishment of this type of program, with an initial pool of 1500 jobs.

A note on legislative versus program level change

APO NT is concerned that the Government appears focussed on changing social security legislation rather than making changes within the scope of current legislation. Table 1 shows the source of rules that currently apply to CDP participants and that drive penalties. It highlights the fact that, while social security legislation places some upper limits on obligations, it is the CDP funding deed and guidelines that set out the regime of appointments and Work for the Dole that applies to participants. Similarly, it is the funding deed that requires strict reporting of attendance and drives recommendations of penalties, not the legislation. The Government could, immediately, and without legislation:

- Reduce Work for the Dole obligations for CDP participants and increase their flexibility;
- Reinstate local flexibility to decide when penalties should be recommended;
- Allow providers to reduce obligations for people with undiagnosed health/disabilities or in crisis;
- Introduce paid part-time work via direct funding to Indigenous organisations.

Table 2 Source of CDP participant obligations and penalties

Social security legislation	CDP Funding Deed and Guidelines
Obligations	
Describes which categories of payment are subject to an activity test	Describes what activities must be put into individual job plans (eg monthly appointments, Work for Dole, job search) for different groups in the program to satisfy the activity test
Says that work capacity must be taken into account	
Places upper limit on hours that unemployed can be required to participate (25 per week) and limits the type of mandatory activity (eg cannot be required to undergo medical treatment)	Describes how many hours different people in the scheme must have to Work for the Dole (within legislated limit) and what choice of activities they have.
Describes under what circumstances participants can or must be exempted from activity test (eg cultural activity)	Sets requirements for daily (Monday to Friday) Work for the Dole and number of weeks each year to be worked
Defines 'reasonable excuse' for non-attendance (in regulations)	
Penalties	
Sets circumstances in which people may be penalised and rate of penalty	Requires providers to report daily on attendance in the IT system. Links payment to recommending penalties for non-attendance.
Sets out appeal rights	
Payments	
Establishes payment rates and frequency (normally fortnightly, but can be weekly)	

SPECIFIC RESPONSES TO DISCUSSION PAPER QUESTIONS

Comment on Proposed design principles

A simplified system, relying less on a national welfare system and more on local control and decision making – removing the complexity around Centrelink.

The social security system is complex because of the need to balance giving people genuine access to a safety net payment based on their needs against the desire to target assistance and impose conditions. Any attempt to simplify the system would need to be carefully assessed to make sure that it will not, in practice, lead to greater poverty.

An alternative principle to the one proposed might be: *That a new model should reduce practical or administrative barriers to accessing rights and entitlements to income support and should promote increased stability of income.*

Reinvesting any efficiencies back into communities, for example through 'top up'

The definition of efficiencies here is unclear. APO NT's proposal includes allowing unspent wages to be used to employ additional workers and – to a limited extent – to pay existing workers to work additional hours. It also proposes that, wherever possible, non-profit community based Indigenous organisations should be contracted to deliver any future program– which means that program surpluses are more likely to be reinvested in the community.

An alternative principle might be: *Maximising retention of program funds in the community, including by allowing unspent wages to be used to provide new jobs and/or additional hours for local people.*

A wage-based or wage-like model providing weekly payments to job seekers

APO NT recommends that a clear distinction be maintained between employment that attracts a wage, and income support designed to address individual needs. APO NT strongly supports the creation of new jobs to increase employment rates, and reduce poverty in remote communities, and proposes the establishment of an initial 10,500 jobs (as well as 1500 youth positions).

APO NT proposes the following principle: *The scheme should include direct funding for part-time employment on wages for a substantial portion of those who live in CDP areas where there are insufficient jobs and who would otherwise be unemployed.*

Streaming job seekers to enable tailored assistance according to need

APO NT proposes the following principle:

There should be discretion at the local level to tailor individual participation obligations and assistance to aspirations, capacities and needs.

The discussion paper asks if there are additional principles that should be considered. The following are proposed:

APO NT proposes the following principles:

- Any new model must not directly or indirectly discriminate against Indigenous people.
- The focus of the program should be on long term change not short term results.
- A new model must allow for substantial flexibility at the local level so that communities can tailor program objectives and rules to local conditions and aspirations.
- Any future program must include a structure for Indigenous involvement at the national level so that there can be ongoing participation in monitoring, evaluating and adjusting the scheme.

COMMENT ON OPTIONS

Option 1 – Wage based approach

Will streaming assist in better servicing the caseload? How can assessment be improved?

APO NT welcomes the recognition that there is a substantial group currently in CDP who have major barriers to participation that are not currently properly recognised or accommodated under the program.

We also welcome the proposal to develop a more effective approach to assessment. Professional, culturally appropriate, assessments are important for use in assessing work capacity and access to DSP and in advising employers and providers as to what might need to be done to facilitate rehabilitation and/or accommodate disabilities in the workplace. The development of a sound assessment process must involve Indigenous health and disability experts with on-ground expertise, for example Aboriginal Community Controlled Health Organisations.

We believe that organisations delivering a new scheme could have a role in assisting participants to collect evidence for assessments and in accessing relevant services (and we note that some do this already). We do not believe that most organisations have the skills in-house (or are likely to be able

to acquire them) to conduct reliable occupational assessments themselves, but, if freed up from administration, they could support participants to get assessments.

We caution against any system that relies *only* on formal assessments to determine whether it is reasonable to expect a person to meet a particular level of obligation. The accuracy and appropriateness of health/disability assessments is a long-standing problem and will not be easy to fix. The circumstances that affect a person's ability to participate often change, and quite quickly. For example, a family member's health may deteriorate, housing may be lost, a family crisis may emerge. There must be flexibility for contracted organisations to reduce an individual's participation obligations in recognition of issues that have emerged recently, or have not been identified by a formal assessment. Contracted organisations should be encouraged to engage people through offering valuable assistance, rather than required to use compulsion or penalties.

Aside from the group of people who cannot work in the short or medium term, the biggest problem faced by participants is lack of jobs. Many participants work intermittently or have worked in the past (for example in CDEP). It would be inappropriate to stream them into a 'training wage' unless they are actively participating in a formal traineeship. Rather than attempt to stream Tiers 2 and 3, APO NT proposes that ne job opportunities be offered to participants (based on demand for projects and/or services) and those who fail to secure these jobs remain on income support.

Is there merit in moving elements of a new model outside the national income support and compliance system, if so which elements?

The number of penalties being applied to CDP participants at present is unacceptably high. It is impoverishing already poor people, placing strain on families, and making it harder for people to manage daily activities, let alone look for work.

Department of Human Services has advised that over the nine month period from 1st July 2016 – 31st March 2017 providers recommended 431,150 penalties to DHS in relation to CDP participants, nearly 50,000 per month[5]. Only 128,504 of these penalties were actually applied following the DHS investigation process. The most common reason given by DHS was that, at the time the penalty was recommended, the individual concerned was awaiting assessment through the CCA process[6]. Other

[5] Senate Community Affairs Legislation Committee, BUDGET ESTIMATES – 1 JUNE 2017, ANSWER TO QUESTION ON NOTICE, Department of Human Service Ref HS 3 (SQ17-000084)

[6] Senate Community Affairs Legislation Committee, BUDGET ESTIMATES – 1 JUNE 2017, ANSWER TO QUESTION ON NOTICE, Department of Human Services Ref HS 54 (SQ17-000135)

reasons included procedural errors by providers, medical issues and bereavement. It seems clear that under the current arrangements, had providers been able to penalise participants directly, many more penalties would have been applied. APO NT cannot support a proposal that would lead to the incomes of Indigenous people in remote areas being further reduced.

APO NT is of the view that the Government has an obligation to ensure that all people have access to an income support safety net and that this obligation should not be outsourced. The Government is not currently meeting its obligation to provide an effective safety net to remote Indigenous people as evidenced by the rate of penalties and the 2016 report by the Commonwealth Ombudsman on access to DSP. It has imposed discriminatory conditions on remote income support recipients, has reduced provider discretion, and has failed to address the inadequacies of DHS services to remote people. Rather than outsource DHS decisions, or create different social security rules for people in remote areas, APO NT proposes that the Commonwealth change the CDP program itself so that participants are better able to comply with obligations and so that providers can find ways of engaging people other than through penalties.

The Commonwealth should conduct a wider review of the current income support system to investigate its accessibility for remote Indigenous people, cultural appropriateness of assessments and other processes, and causes of over-representation amongst those receiving penalties, and particularly penalties for persistent non-compliance. This should be done with a view to ensuring access to the public system, not privatising it.

The difficulties faced by remote unemployed people and consequent penalties could be reduced by giving providers increased power to temporarily exempt people from participation, lift suspensions and allow absences. This flexibility would increase, not reduce individual protections.

How many (maximum) hours of required activity would be appropriate in each of the tiers? How should hours be structured (daily? monthly?). Flexibility to schedule outside normal working hours?

From September 2018, jobactive participants aged 18-49 with full-time work capacity will have an annual activity requirement (after the first 12 months of unemployment) of 650 hours per year. This should be the maximum annual requirement in remote areas for those with full-time wage capacity. Like jobactive participants, remote income support participants should be able to choose from different forms of activity, like voluntary work, part-time employment or training to meet their obligations. Providers should be able to reduce participation requirements for those with

personal/health issues affecting their ability to participate, even if these have not been formally assessed by DHS.

While the number of hours is important, the inflexibility of scheduling these hours is a critical driver of penalties. Simply reducing hours (for example to 20 hours) will not substantially reduce penalties unless providers are given capacity to schedule hours flexibly over the week and the year, and allow participants to work flexibly, for example by making up missed hours. Local community groups (eg community boards or advisory groups) could have a significant role in making decisions about how scheduling in the program works.

APO NT believes that where work is offered it should be as ordinary employment and the hours of work should be able to be scheduled by the employer in a way that meets the needs of the task and in accordance with the relevant award. Work done outside ordinary hours should be paid at the appropriate rate under the award or legislation.

The new model is based on a job seeker only being paid for the hours they turn up when engaging in more 'work-like activities (a 'show pay' system') – will this provide an adequate incentive for a job seeker to engage? What does a more incentives-based model look like? How should a model deal with persistent non-compliance (people who are able but unwilling)?

In our view, people are more likely to participate in any program if:

- It is seen as fair and non-discriminatory, and as offering opportunities rather than as being punitive;
- The organisation running the activities is seen as owned by, acting for and benefiting the local community;
- Program arrangements are flexible enough to accommodate people's family, cultural and other commitments.

Experience with CDP is that if people are forced to turn up simply to avoid losing income support, then the scheme will be viewed negatively and some, particularly young, people will opt out. Some may turn up so that they retain their benefit, but not actively participate in the activities themselves. This is demoralising for everyone.

A new scheme should reward those who want, and are committed, to work with ordinary employment at award (or minimum) rates. They should be able to retain access to part-payment of income support

until they reach the relevant income threshold, so that, by working, they substantially improve their financial situation. Poor performance or attendance can then be addressed by the employer in the normal way.

A possible consequence of a 'show pay' system is that a person who fails to do a day's 'Work for the Dole' because they took up a day of unsubsidised work would have their income support reduced. This was a feature of the proposals associated with the CDP2 Bill. As under *jobactive*, part-time employment (including subsidised employment under the scheme) must be able to be counted as a mutual obligation activity.

As discussed, a 'show pay' approach blurs the line between income support to address need and employment to reward performance. It would increase red tape and greatly increases the risk of poverty and hardship in already poor families and communities.

APO NT notes that over 80% of penalties for persistent non-compliance are applied to participants in the CDP. In the CCA process, CDP participants are more likely to be identified as being 'persistently non-compliant' than other job seekers (57% (CDP) vs 42% (all others) in 2016/17). APO NT rejects any proposal that would make these penalties any harsher, or reduce the ability of job seekers to work them off.

Option 2 - CDP 2 Model

APO NT opposed the CDP Bill when it was presented to Parliament. The Bill would have meant that the Minister had the power to make regulations that (1) identified certain regions as 'remote income support regions and (2) alter the way in which social security legislation applies to them.

APO NT submits that social security law is a core responsibility of the Australian Government and it is inappropriate to delegate decision making to the Minister.

The CDP Bill would have enabled the Minister to outsource administration of income support, including penalties, to providers. As discussed above, this would dramatically increase the number of penalties applied, and further divert program resources to red tape. Since the CDP2 Bill was introduced it has emerged that investigation of CDP penalties is currently over half of the DHS

Participation Solutions team's workload – giving a sense of the level of additional work that would sit with CDP providers.

APO NT notes that, under the proposed arrangements that were put forward along with the CDP2 Bill, many participants who took up part-time or casual work would have been worse off than under current social security rules. This was because the loss of income associated with missing a day of 'Working for the Dole' under the proposed scheme was greater than the effect of the taper rate.

APO NT submits that the primary problem with CDP is its current inflexible and discriminatory Work for the Dole rules, and its failure to address the problem of the lack of ordinary paid work for people in remote areas. The CDP2 did not address these issues and is likely to have made penalties worse.

Option 3 – Community Development Program with improvements

APO NT believes that the current program is in urgent need of change. It is discriminatory, punitive, and top down. Its substantial resources are directed to administration rather than making a significant positive contribution to increasing the incomes and wellbeing of Indigenous communities.

APO NT has proposed the following immediate steps to ameliorating the harm being done by CDP while a new model is negotiated and consultation occurs with affected communities:

- Reducing the annual Work for the Dole hourly requirement in line with the annual activity requirement of participants in other programs;
- Allowing providers to arrange the hours of participation in a way that suits local conditions and participants;
- Removing the financial disincentive for providers to use their discretion (DNAD) in cases of non-compliance.

APO NT's proposal for wage funding via a Remote Jobs Investment Fund and Remote Youth Projects could be implemented quickly and without legislation, as these are simply new, subsidised jobs. This could significantly reduce the negative impact of the current program as well as signalling a new, more positive, approach. It would enable testing aspects of design before full roll out.

APO NT proposes that a new interim body be established to develop the detailed program model and to manage implementation. In keeping with the proposed approach to delivery of the new scheme,

this body would be responsible for ensuring Indigenous stakeholder involvement throughout the process and would be led by an Indigenous-led board.

APO NT proposes a gradual roll out of any new arrangements, with implementation arrangements subject to negotiation and ongoing consultation with organisations involved in delivery and their peak bodies. These arrangements may include different timetables in different locations, giving local providers the opportunity to put forward implementation timelines that they know they can deliver. Some measures, like jobs under the Remote Jobs Investment Fund and Remote Youth Projects, should be rolled out gradually, allowing lessons learned from early implementation to be captured.

Additional questions

Which of the model options best suit the needs of remote communities?

APO NT has proposed a model, which is attached and has received widespread support. We believe that it provides a flexible framework which could be adapted to the range of communities affected by CDP. However, we reiterate the importance of further discussion at community level about the options and their practical consequences for individuals, families and communities.

Is there another option or additional design features than need to be considered?

APO NT's proposal includes:

- New paid work experience opportunities for young people
- Career progression support
- Arrangements for program management that include Indigenous people in program management and are based on ongoing learning and partnership
- Redesign of program objectives and measures to focus attention on long term changes in net employment, participation and in other areas identified by community members.

How could a new model better take into account community, family and cultural responsibilities?

APO NT's proposal includes the ability for wage funding from the Remote Jobs Investment Fund to be used for relevant organisations to employ or pay people who lead, practice, or pass on cultural activities. This recognises the vital significance of this work to Indigenous people and the nation more broadly.

APO NT is concerned that the Government's focus on providers giving participants 'leave' for cultural activities means that participants are not being advised of their entitlement to exemptions for up to

13 weeks at a time for cultural activities. This right should not be diminished or reduced in any future scheme.

How do we ensure greater accountability to community and stronger cultural authority?

A new program must be built around broad and long-term success measures, the responsibility for which is shared between communities, organisations involved in provision of services and Government.

We propose that a set of core objectives and measures be established, within a framework that also allows for local articulation of priority outcomes and performance measures. Projects like Ninti One's Interplay Wellbeing project, which has been supported by PM&C, and the Yawuru Wellbeing Project, can provide the basis for identification and measurement of improvements in wellbeing within a framework designed by and for Indigenous people[7].

Within this broader framework, we argue that a specific key objective of this program should be to increase, in overall terms, the number of people in a region in work or earning income. This might be measured by looking at changes over time in:

- The number of school leavers moving into employment;
- the number of people exiting unemployment benefits into work;
- the number of people applying for benefits or moving back onto benefits (and durations);
- the number of people on benefits declaring income, and the amount of that income;
- evidence of number of local people employed (eg through surveys of major employers).

We propose that each service area establish objectives and measures in relation to:

- Increasing youth participation in work, education and community life;
- Supporting people with disabilities to achieve personal and employment goals;
- Community involvement in decision-making and the development of effective and legitimate governance mechanisms.

Where there are existing plans and mechanisms in place, the scheme should align with those. The new oversight body could identify a set of core and optional measures for use by local bodies, and support

[7] Information on the Interplay project at https://crc-rep.com/interplay Information on the Yawuru project at : http://www.healthinfonet.ecu.edu.au/key-resources/programs-projects?pid=3245

implementation of participatory evaluation techniques allowing local areas to assess the performance of the Scheme.

APO NT also submits that stronger cultural authority will be achieved through a reformed scheme that better engages local community based organisations in decision-making and governance arrangements, program delivery and employment roles, including employment in cultural preservation and transmission; and that recognises the on-going cultural strength that exists in communities.

Does Government have a jobs creation role in remote? If so, how do we ensure subsidised jobs don't become a destination?

Unless Government invests in job creation through the Indigenous sector, remote Indigenous communities will descend further into poverty. This will have serious consequences for the health and wellbeing of existing and future generations. Complete withdrawal of Government from supporting in employment in remote communities is unlikely in the short or medium term. But subsidised employment, on standard terms and conditions, doing work that is important and useful, is a much better 'destination' than Work for the Dole. Program resources and objectives should be focussed on to increasing the number of jobs available to local people over time, including unsubsidised jobs. This should be the subject of ongoing negotiation and partnership between governments and Indigenous groups and a key success measure in the program.