



**Aboriginal Peak  
Organisations**  
NORTHERN TERRITORY

The Hon Brent Potter MLA  
Chair  
Legal and Constitutional Affairs Committee  
By email: [LA.Committees@nt.gov.au](mailto:LA.Committees@nt.gov.au)

2 October 2023

Dear Mr Potter,

**Aboriginal Peak Organisations NT submission to the  
Legal and Constitutional Affairs Committee (NT)  
Inquiry into a Process to Review Bills for their Impact on First Nations Territorians**

*"It is vital that everyone respects the long history of Aboriginal people seeking to have a say on matters that impact them. Just think of everything that has come from the Territory- Gwalwa Dariniki Petition, the Yirrkala Bark Petitions, the Barunga Statement. We are proud of our history of fighting for our sovereignty and for self-determination. The Uluru Statement from the Heart and the Voice to Parliament are further steps along the road – to a better future for all," said Joe Martin-Jard, Chief Executive Officer of Northern Land Council.*

**Introduction to APO NT**

APO NT is an alliance of Aboriginal organisations working to promote and protect the rights of Aboriginal people living in the Northern Territory (NT). The APO NT alliance comprises the Central Land Council (CLC), Northern Land Council (NLC), Tiwi Land Council (TLC), Anindilyakwa Land Council (ALC), North Australian Aboriginal Justice Agency (NAAJA), Northern Territory Indigenous Business Network (NTIBN), Aboriginal Housing Northern Territory (AHNT) and the Aboriginal Medical Services Alliance of the NT (AMSANT). The member organisations of APO NT are united in their commitment to improving conditions for Aboriginal people across broad political, economic, social, and cultural areas. Since APO NT's establishment in 2010, our members have been working to develop proactive and constructive policies on critical issues facing Aboriginal people in the NT and strive to influence the work of the Australian and NT Governments.

Underlining our collective work is the right to self-determination, which is detailed and expressed in the United Nations Declaration of the Rights of Indigenous People (UNDRIP). The significance of this cannot be overstated. As representatives from peak Aboriginal organisations in the NT, we share the aim of protecting and advancing the wellbeing and rights of Aboriginal people and communities in several key areas. Local involvement, ownership and control underpins APO NT's work in advocating for practical and sustainable solutions for Aboriginal people. These are then predicated on policy conditions that support Aboriginal self-determination, including commitments to needs-based funding, building the community-controlled sector and centring Aboriginal decisions in how national strategies are implemented on the ground.

**Response to the discussion paper 'Inquiry into a process to review bills for their impact on First Nations people'**



APO NT strongly welcomes the Northern Territory (NT) Legislative Assembly exploring how to improve its processes to consider the potential impact of proposed legislation on First Nations Territorians.

This consideration is particularly timely given the recent Productivity Commission draft report on the Review of the National Agreement on Closing the Gap has highlighted the need for government to improve how it works in partnership with Aboriginal people to improve life outcomes for Aboriginal people. The Report found that governments are not adequately delivering on their commitments under the agreement and that systemic transformation of government agencies to respond to the needs of Aboriginal people has ‘barely begun’.<sup>1</sup> In the NT, [we are going backwards](#) on eight out of the 17 socio-economic Closing the Gap targets.

APO NT strongly supports the implementation of consultation and accountability mechanisms that empower First Nations Territorians in policy and legislative decision-making processes.

Aboriginal people have the right to have a say over matters that affect us – and we achieve better outcomes when we do so. This fundamental principle is enshrined in UNDRIP, reflected in the principle of Free, Prior and Informed Consent, and underpins the call for a national Indigenous Voice to Parliament, the National Agreement on Closing the Gap, the NT Government’s Local Decision-Making Framework, and the work towards Treaty.

APO NT endorses the joint submission made by our members, the Central Land Council (CLC) and Northern Land Council (NLC), echoing their support for the concept of a review body and qualified support for a statement of compatibility.

We share the land councils’ deep concern about the abolition of previous scrutiny committees in 2020. These committees provided a valuable means for public scrutiny of and input into bills, and demonstrably improved the outcomes of legislation for Aboriginal people in the Territory in a number of instances, including, for example, the Burial and Cremation Act 2022. Since those committees were abolished, there have been multiple instances of highly impactful legislation being passed without any public or stakeholder consultation. For example, the *Youth Justice Legislation Amendment Bill 2021*, which increased the number of children and young people in prison, but has not reduced crime or reoffending, or improved the safety and wellbeing of children and young people.

APO NT also reserves its position on an appropriate structure for a review body, but again echoes the principles articulated by the land councils that any ‘body’ must be:

- Aboriginal-led
- Adequately resourced
- Empowered to have a meaningful impact on the legislative process and the final content of bills
- Have the capacity to bring in subject matter expertise as appropriate
- Operate with timeframes that provide sufficient opportunity for Aboriginal people and their representative organisations to provide input
- Developed with consideration to existing and any possible future Aboriginal representative bodies and forums. This includes land councils, Land Councils, the Northern Territory Executive Council on Aboriginal Affairs (NTECCA), the implementation of the Independent Mechanism (Clause 67 of the National Agreement on Closing the Gap) and a possible national Indigenous Voice to Parliament.

### *Commitment to Closing the Gap*

---

<sup>1</sup> Productivity Commission 2023, Review of the National Agreement on Closing the Gap – Draft Report.



While welcoming the directions proposed in this inquiry, in this submission, APO NT wishes to emphasise the need for the NT Government to uphold its commitment to the National Agreement on Closing the Gap (2020) and strengthen the mechanisms and governance of that framework to fully embed Closing the Gap in all its operations. Doing so means that First Nations Territorians should be involved in the development of policy and legislation, not just in the review of bills.

The National Agreement on Closing the Gap provides a robust framework supported by all levels of government and the Aboriginal community-controlled sector to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians<sup>2</sup>

The agreement has been built around four Priority Reforms that have been directly informed by Aboriginal and Torres Strait Islander people. Their intent is to fundamentally change, for the better, the way that governments work with Aboriginal and Torres Strait Islander people and communities.

**Priority reform 1:** Formal partnerships and shared decision-making

**Priority reform 2:** Building the Community-controlled sector

**Priority reform 3:** Transforming government organisations

**Priority reform 4:** Shared access to data and information and a regional level

Under the National Agreement, each jurisdiction develops an annual Implementation Plan. APO NT has partnered with the Northern Territory Government (NTG) and Local Government Association of the NT (LGANT) to develop the first NT Implementation Plan in 2021-2022 (IP1) that focused on the four Priority Actions of the National Agreement.<sup>3</sup> The second Implementation Plan 2023-2024 (IP2) includes ongoing actions from IP1 and actions to address the 17 socio-economic outcomes of the National Agreement is yet to be released.

APO NT plays a leadership role in coordinating and supporting its members to participate in Closing the Gap processes including through its representation and Co-Chairing of the NT Executive Council on Aboriginal Affairs (NTECAA), and Partnership Working Group. APO NT coordinates its member input at these forums and a range of working groups related to the agreed actions under the implementation plans.

The process of working in partnership at so many levels to establish and strengthen these mechanisms to ensure they operate effectively and to achieve their true intent is relentless. Closing the Gap represents a new way of working and, as such, it is a learning process between all partners. As evidenced in the Productivity Commission's draft report of the Review of the National Agreement.<sup>4</sup>

APO NT urges from the NT Government substantially greater whole-of-government commitment to and accountability for this new way of working, involving leadership across all Ministerial portfolios and departments.

*Commitment to a pathway to Treaty*

---

<sup>2</sup> National Agreement on Closing the Gap, Clause 15 ([weblink](#))

<sup>3</sup> [Closing the Gap - Northern Territory Implementation Plan](#)

<sup>4</sup> Productivity Commission (2023) Review of the National Agreement on Closing the Gap – Draft report ([weblink](#))



APO NT also wishes to acknowledge the historical work and commitment to Treaty from our members.

Treaty-making processes are now officially on the legislative agendas in Victoria, Queensland, South Australia and Tasmania.<sup>5</sup> As noted by the Commissioner in his final report, “treaty-making in the NT strongly aligns with a swathe of existing commitments made by government in (...) Aboriginal affairs.”<sup>6</sup> These include Closing the Gap, Local Decision-Making, *Everyone Together* Aboriginal Affairs Strategy, the Barkly Regional Deal, the Aboriginal Justice Agreement, and Voice and the Uluru Statement from the Heart.<sup>7</sup>

APO NT remains disappointed by the NT Government’s response to the Treaty Commissioner’s final report and calls on the NT Government to prioritise the pathway to Treaty, articulated in the final report of the NT Treaty Commissioner.

In the context of the proposals being considered in this inquiry, we note that the Commissioner’s final report recommends the UNDRIP be used as a basis to inform not only Treaty negotiations, but government policy more generally.<sup>8</sup> We recommend the Committee read APO NT’s submission on The Application of the UNDRIP in Australia to the Commonwealth Legal and Constitutional Affairs References Committee, which we have provided as an attachment to this submission.

The Legal and Constitutional Affairs Committee (the Committee) should take into account these large agendas in Aboriginal Affairs and ensure that Aboriginal organisations are given adequate time to consider the impact of both. To this end we request that the Committee undertakes further stakeholder consultation following the receipt of submissions.

Once again, we thank the Committee for the opportunity to contribute to this important inquiry and look forward to continuing the conversation.

Regards,

2 October 2023

Dr John Paterson, APO NT Convenor on behalf of the APO NT Governing Group.

---

<sup>5</sup> Northern Territory Treaty Commission, Final Report, 29 June 2022, p.15

<sup>6</sup> Ibid. p.19

<sup>7</sup> Ibid.

<sup>8</sup> Northern Territory Treaty Commission | Final Report p 31

**Aboriginal Peak Organisations  
Northern Territory (APO NT)**

**Aboriginal Peak Organisations Northern Territory  
Submission**

## **APO NT Submission to the Legal and Constitutional Affairs References Committee**

**June 2022**

### **The application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia**

We welcome the opportunity to provide feedback on the application of the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration) in Australia to the Legal and Constitutional Affairs References Committee for inquiry and report. The eight members of Aboriginal Peak Organisations of the Northern Territory (APO NT) have and continue to advocate for the rights of Indigenous peoples, specifically for Aboriginal people in the Northern Territory of Australia.

#### **Introduction**

APO NT is an alliance of Aboriginal organisations working to promote and protect the rights of Aboriginal people living in the Northern Territory (NT). The APO NT alliance comprises the Central Land Council (CLC), Northern Land Council (NLC), Tiwi Land Council (TLC), Anindilyakwa Land Council (ALC), North Australian Aboriginal Justice Agency (NAAJA), Northern Territory Indigenous Business Network (NTIBN), Aboriginal Housing Northern Territory (AHNT) and the Aboriginal Medical Services Alliance of the NT (AMSANT). The member organisations of APO NT are united in their commitment to improving the conditions across the broader political, economic, social, and cultural determinants of health. Since APO NT's establishment in 2010, our members have been working to develop constructive policies on critical issues facing Aboriginal people in the NT, and strive to influence the work of the Australian and NT Governments.

Underlining our collective work is the right to self-determination, which is expressed in the United Nations Declaration of the Rights of Indigenous Peoples. The primacy of this cannot be understated. As representatives from peak organisations in the NT, we share the aim of protecting and advancing the wellbeing and rights of Aboriginal people and communities in several key areas. Local involvement, ownership and control underpins APO NT's work in advocating for practical and sustainable solutions for Aboriginal people. These are then predicated on policy conditions that support Aboriginal self-determination, including commitments to needs-based funding, building the community-controlled sector and centring Aboriginal decisions in how national strategies are implemented on the ground.

The connection of APO NT in relation to the Declaration is clear: APO NT members and staff have been delegates at different times throughout decades of activism, leading up to the development of the Declaration. APO NT staff played a prominent role in facilitating the Special Rapporteur on the Rights of Indigenous Peoples' visit to Darwin in 2017, organising meetings with service providers, community members and advocates. With the highest proportion of Aboriginal people in Australia of any jurisdiction, the lived experience of Aboriginal people in the NT provides strong evidence of the application of the Declaration in Australia. In this way the focus of our response highlights the impact of both Australian and Northern Territory Governments laws, policies and programs on Aboriginal people in the NT.

APO NT acknowledges the significance of this inquiry and specific Terms of Reference about the application of the Declaration in Australia. In this submission APO NT will focus on highlighting human rights issues of importance to Aboriginal people in the NT to demonstrate why and how the application of the Declaration is needed and can make a difference to the lives of Aboriginal people.

Drawing on *the Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Australia* from 2017, this submission will outline the application of the Declaration on the rights of Indigenous people in the Northern Territory context. It is clear from this report the significant failings of successive Australian Governments to implement the Declaration and the importance of the Declaration to improving the lives and wellbeing of Aboriginal people. APO NT calls on all governments to fully implement the Declaration through directly incorporating the instrument into legislation – this should primarily be done through Constitutional Recognition of Aboriginal peoples, a National Human Rights Act and state and territory human rights legislation that includes specific reference to the Declaration and includes proactive measures to promote respect for the rights of Aboriginal people.

### **1. Human rights legislative framework**

Australia has signed and ratified core international human rights treaties however these only become part of Australian law when incorporated into domestic legislation. Australia has no national overarching legal framework to protect human rights and instead there are multiple different forms of human rights protection in Australia that are haphazard and inconsistent in their application. A National Bill of Rights would significantly improve this situation by including a clear and comprehensive way to protect human rights at the national level.

Similarly, there is no Human Rights Act in the NT or other overarching legislation to recognise and protect human rights in the NT. The previous NT Government introduced parliamentary standing orders in 2017 that created a new human rights framework in parliament. It required that all draft legislation include a statement of compatibility with human rights that could be tabled in Parliament and considered through legislation scrutiny processes. There was no resourcing or commitment to train and develop understanding and awareness of human rights in the public sector about how to assess human rights compatibility and adequately scrutinise legislation. The scrutiny committees were subsequently abolished and there is little avenue for targeted, public scrutiny of human rights through current NT parliamentary processes.

An example of human rights protections lagging in the NT is the slow process to implement the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in the Northern Territory. This must include system-focused efforts to challenge disproportionate outcomes and overrepresentation of Aboriginal people in settings of ‘incarceration or under care and protection’. Moreover, the National Preventative Mechanism under OPCAT must embed and practice meaningful cultural safety. This will require full and transparent engagement with Aboriginal people, and prioritize the voices of Aboriginal people and leadership, to fulfill the intent of the Declaration.

APONT’s position is that a comprehensive legal framework that includes direct consideration of the Declaration is necessary for protecting Aboriginal people against daily, systemic racism and discrimination, and fulfillment of human rights more broadly.

**Recommendation 1:** the NT Government, in partnership with Aboriginal people from the NT, develops a Human Rights Act for the NT, specifically incorporating the Declaration.

**Recommendation 2:** the NT Government commit to functional independence for the National Preventative Mechanism and legislated measures for: transparency and accountability; participation of civil society; and Aboriginal leadership and participation in implementation of OPCAT.

## 2. Constitutional recognition, Treaty and truth commission

Members and staff of APO NT were involved in facilitating some of the First Nations Regional Dialogues and the National First Nations Constitutional Convention at Uluru. It has been disappointing to see the previous Australian Government fail to accept and act on the Uluru Statement from the Heart since its development 2017. APO NT supports the Uluru Statement from the Heart, including a First Nations Voice enshrined in the Constitution, and a process of agreement making and truth-telling.

**Recommendation 3:** The Australian Government implement the Uluru Statement from the Heart in full.

### a. NT Treaty

In 2016 the NT Government committed to a conversation with Aboriginal people in the NT about treaty. APO NT members, specifically all NT Land Councils, agreed to the Barunga Memorandum of Understanding (MOU) and at the time of writing this submission the NT Treaty Commission had delivered the final Treaty Report to the NT Minister of Aboriginal Affairs, for public release on 29 June 2022. Positively, references to the Declaration being implemented as best practice are made throughout the discussion paper published in July 2020.<sup>1</sup> It also highlights concerns over the legislative environment as the Australian Government can override NT legislation including the NT Treaty<sup>2</sup>. APO NT continues to consider all parts of this process and will support the wishes of our members and Aboriginal people in the NT.

**Recommendation 4:** the NT Government fulfil its commitment to Treaty, ensuring that Aboriginal people in the NT control their own affairs.

## 3. Racism and racial discrimination

In a Joint Submission from NAAJA and APONT the following statement was made about discrimination in Australia and the NT:

Within a general context, anti-discrimination laws in Australia have undergone significant change in recent decades and has developed new and refined standards and expectations. However, Australia, including the NT, has fallen behind other comparable jurisdictions in the protection against discrimination. For this reason, NAAJA and APO NT argues that Australia's discrimination laws 'are now in urgent need of renewal'.<sup>3</sup> This is particularly true in the NT, which has not kept pace with developments in other Australian jurisdictions such as Victoria that have introduced positive duties to eliminate discrimination, and therefore ensure that consideration is given to preventing discrimination before it occurs.

---

<sup>1</sup>Northern Territory Treaty Commission, Treaty Discussion Paper, 2020, [https://treatynt.com.au/\\_data/assets/pdf\\_file/0008/906398/treaty-discussion-paper.pdf](https://treatynt.com.au/_data/assets/pdf_file/0008/906398/treaty-discussion-paper.pdf), p.10

<sup>2</sup> Ibid., p. 65

<sup>3</sup> Neil Rees, Simon Rice and Dominique Allen, Australian Anti-Discrimination and Equal Opportunity Law (Federation Press, 3rd ed, 2018) [1.7.1].



**Recommendation 5:** that anti-discrimination legislation is amended to include proactive measures to prevent discrimination against Aboriginal Peoples.

**Recommendation 6:** that article 2 of the Declaration is incorporated into all Australian and NT anti-discrimination laws.

#### 4. Closing the Gap strategy

APO NT is concerned about the lack of progress in the first decade since the first iteration of the Closing the Gap policies and programs began. Responding to feedback in 2019, the Australian Government, included the Coalition of Peaks and Aboriginal peak bodies alongside government developed a refresh of Closing the Gap in the form of a National Agreement, that outlined structural Priority Reforms to improve a range of socioeconomic outcomes. APONT is a partner of the NT Implementation Plan (currently developing Implementation Plan two) and sits on the Partnerships Working Group and the Justice Policy Partnership. APO NT is also a member of the Joint Council. While there are positive developments in terms of commitment to Closing the Gap, there remain obstacles for real community control and self-determination.

**Recommendation 7:** the Australian Government implement an overarching policy framework that commits all parties to sustained investment and efforts and to enable the full realisation of priority reforms under Closing the Gap.

#### 5. Health services

The National Aboriginal and Torres Strait Islander Health Plan 2021-2031 was an improvement from the previous plan, acknowledging that at least 34% of the health gap is linked to social determinants of health.<sup>4</sup> The Plan acknowledges that the poorer health outcomes Aboriginal people experience are a direct result of colonisation, systemic racism and discrimination, and the structural determinants of health such as poverty.

The Northern Territory Emergency Response, known as the 'The Intervention' (including the reiteration through the Stronger Futures in the Northern Territory Act 2012) has had devastating impacts on Aboriginal people in the NT. It is APO NT's position that the Australian Government has failed to provide adequate support from the fallout of the Intervention and in particular the changes to alcohol legislation on the termination of this Act. In its absence, the NT Government has passed laws that require Alcohol Protected Areas to opt-in to continued alcohol restrictions. The NT Government has failed to co-ordinate timely consultations and support for communities impacted. Without adequate time to make decisions for their communities, the sunseting of these laws may have damaging impacts to affected communities and Aboriginal people in the NT.

---

<sup>4</sup> The Australian Department of Health, National Aboriginal and Torres Strait Islander Health Plan 2021–2031, 2021, [https://www.health.gov.au/sites/default/files/documents/2021/12/national-aboriginal-and-torres-strait-islander-health-plan-2021-2031\\_2.pdf](https://www.health.gov.au/sites/default/files/documents/2021/12/national-aboriginal-and-torres-strait-islander-health-plan-2021-2031_2.pdf), p. 20

**Recommendation 8:** the Australian Government continue to support and resource Aboriginal led solutions to the social determinants of health.

**Recommendation 9:** the NT Government commit to regular, transparent consultation on alcohol legislation with Aboriginal Communities, and that Aboriginal leadership is at the forefront of development and delivery of community alcohol management plans, including programs of harm minimisation and policing.

#### a. Food Security

The report from AMSANT's Food Summit 2021, on food security in the Northern Territory outlines that:

In the Northern Territory (NT) not all Territorians experience these social determinants in the same way, with issues and barriers around food security impacting on our Aboriginal communities at a greater rate than non-indigenous Territorians. This gap has continued for decades, with little progress towards improvements [2,3,4]. The food security gap is driven by the four domains;

1. The physical availability of food
2. Economic and physical access to food
3. The opportunity to utilise the food
4. The stability of the system and the three other domains

These domains are seen as a human right that all Australians should enjoy but are regularly not available to Aboriginal people in the NT.

In AMSANT's [Food Security consultation results and discussion paper](#), it states:

The major finding from these consultations showed that greater work is needed to support Aboriginal community members to be food secure and support community-led sustainable approaches to addressing community food security. Through this project it's hoped that a greater understanding of food security will help empower communities to identify local issues and advocate for improvements in their food security.

Traditional foods also played a role in supporting Aboriginal communities to be food secure, ensuring access to culturally appropriated foods that can be shared and that support health. Greater access to traditional foods, including those enshrined under the Declaration, should be duly recognised as vital to food security, and cultural heritage and expression, for Aboriginal people.

**Recommendation 10:** to implement the recommendations from the AMSANT [Report on the Food Summit](#)

## 6. Access to education

There has been no new iteration of the Australian Government's *National Aboriginal and Torres Strait Islander Education Strategy 2015* which has failed to address education outcomes for Aboriginal children in Australia. As identified in the Special Rapporteur's report, the biggest gap in education is between children living in urban areas compared with children living in remote areas. This is especially true for the NT with the highest rate of Aboriginal people living in remote and very remote locations. While positive steps have been made through the NT Education Engagement Strategy 2022-2031, there are no references to a human rights approach or endorsing of article 14 of the Declaration. APO NT has identified a vital need for an Aboriginal voice in education in the NT to provide leadership and promote greater engagement for Aboriginal people in education.

**Recommendation 11:** the Australian and NT Government to resource bilingual education, cultural activities, stronger community leadership/governance in schools, schools in homelands, fully independent Aboriginal controlled schools, Aboriginal teacher training, school-work pathways, employment of Aboriginal people in multiple roles across the school, as well as stronger cultural induction for non-Aboriginal staff and culturally- appropriate curriculum and pedagogy.

**Recommendation 12:** the Department of Education commits to employment targets of Aboriginal people at all levels ensuring all policy, program and activity developments are informed by Aboriginal voices.

**Recommendation 13:** that Aboriginal parents and families are actively involved in the governance of Aboriginal education.

## 7. Unemployment

The Northern Territory continues to have the largest employment gap in the country, and, using 2018-19 data, Australian Institute of Health and Welfare reported the lowest employment rate among Indigenous Australians, at only 37%. The gap is widening and far below the closing the Gap target to see 62% on Indigenous people working age employed by 2031. The socio-economic implications of these demographics underlie the structural nature of poverty in the NT, further hindered by the lack of long-term, meaningful welfare reform and the scarcity of consistent employment, especially in remote Aboriginal communities, compared to the 'fly-in, fly-out' workforce. As identified by the UN Special Rapporteur, the implementation of the 2015 Community Development Program (CDP) has had discriminatory effects on Aboriginal people in the NT who make up approximately 80% of recipients in Australia. The Intervention was particularly damaging for local community control. Local governments or councils are often the biggest employer of Aboriginal people in remote communities. Alongside punitive and onerous features of this program, an ongoing failure by all governments to create real jobs for Aboriginal people in the NT continues to disempower Aboriginal people in controlling and directing their futures.

APO NT has outlined a detailed proposal for a fairer and more effective remote employment and development scheme, presented in the Fair Work and Strong Communities report (2017).

**Recommendation 14:** That all Governments make a priority the creation and sustainability of real jobs for Aboriginal people, especially those living in remote communities.

**Recommendation 15:** that CDP is abolished and is replaced with the APO NT model outlined in 'Fair Work and Strong Communities: A proposal for a Remote Development and Employment Scheme'.

## 8. Housing

Housing, remote housing, lack of homelands infrastructure and maintenance funding and homelessness is a significant concern in the NT. This crisis has only been amplified with the COVID-19 pandemic, particularly for homelessness and overcrowding in Aboriginal communities. Housing maintenance and infrastructure including access to essential services of power and water has suffered from underfunding and neglect from all governments. The flow on effects of housing have impacts on poverty, health, safety, cultural connection to Country, cultural practice, education outcomes and employment outcomes for Aboriginal people.

**Recommendation 16:** that governments support AHNT's vision of Aboriginal Housing in Aboriginal Hands.

**Recommendation 17:** that all governments provide secure, sustainable funding to address the long-term neglect and increasing costs for Aboriginal housing.

**Recommendation 18:** that Aboriginal people lead and are engaged in all housing policies.

**Recommendation 19:** that both the Australian Government and NT Government develop an effective Aboriginal Housing model responsive to urban and remote housing needs.

**Recommendation 20:** that both governments commit to service level parity and compliance between urban public housing and housing in remote communities, homelands, outstations and town camps.

**Recommendation 21:** that both the Australian and NT Government adequately support and resource strengthening capabilities of Aboriginal Housing organisations.

## 9. Compulsory income arrangement

As per APO NT's submission to the Senate Community Affairs Legislation Community Affairs Legislation Committee Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, it is stated:

It is APO NT's view that compulsory income management is a vehicle for disempowerment, continuing the stigmatisation and trauma of Aboriginal people, 'rather than building capacity and independence, for many the program has acted to make people more dependent on welfare'<sup>5</sup>. At the time of writing the Minister for the Department of Social Services Hon Amanda Rishworth MP announced plans to abolish the Cashless Debit 'the Basics' Card. While income management remains in place for many people in the NT through the Basics Card, the Australian Government has suggested they will move away from broad-based compulsory income management.

---

<sup>5</sup> Bray et al. (2014). Evaluating New Income Management in the Northern Territory, pp xxii

**Recommendation 22:** APO NT recommends increased income support in remote communities due to higher and rising costs for basic needs.

**Recommendation 23:** APO NT recommends Centrelink service provision be strengthened in remote communities as distance and technology failure remain barriers for Aboriginal people to access welfare support.

## 10. Incarceration and the administration of justice

It is well documented the alarming rates of incarceration of Aboriginal and Torres Strait Islander people in Australia as well as the increasing rates of incarceration of Aboriginal women and children. APO NT is also concerned for the deaths of Aboriginal and Torres Strait Islander people in custody and the conditions in detention centres.

**Recommendation 24:** that the Australian Government fully implement the recommendations on the Royal Commission into Aboriginal Deaths in Custody.

**Recommendation 25:** that the Australian Government prioritises reducing the rates of incarceration of Aboriginal people by working with Aboriginal people to define and design solutions.

**Recommendation 26:** that NT Governments commit to resourcing solutions under existing agreements, including Aboriginal Justice Agreements.

### a. Juvenile Justice

For the week of starting 23 May 2022 an average daily number of Aboriginal youth in detention was 47.6 compared to 5.3 of non- Aboriginal youth<sup>6</sup>. This is also following periods that Aboriginal youth have made up 100% of young people in detention. In a joint report from APO NT and NAAJA on issues affecting Aboriginal children in the Northern Territory, it states:

Australian Governments have failed to raise the minimum age of criminal responsibility. Currently in Australia children as young as 10 are considered criminally responsible and can be subjected to criminal hearings and sanctions. This is out of line with the Committee's position, and standards upheld throughout the rest of the world where the median minimum age is 13.5 years.<sup>7</sup>

**Recommendation 27:** the Australian Government work with all jurisdictions to increase the minimum age of criminal responsibility to 14.

APO NT also support in principle the recommendations from The Royal Commission into the Protection and Detention of Children in the Northern Territory ([final report](#)) and reiterates the following recommendations:

---

<sup>6</sup> Department of Territory Families, Housing and Communities, Youth detention census: Average daily number in detention – by Aboriginal status, 2022 (accessed 9 June) <https://tfhc.nt.gov.au/youth-justice/youth-detention-census>

<sup>7</sup> APO NT, NAAJA, A joint report from the Aboriginal Peak Organisations of the Northern Territory (APO NT) and the North Australian Aboriginal Justice Agency (NAAJA) on issues affecting Aboriginal Children in the Northern Territory, 2018, <http://www.naaaja.org.au/wp-content/uploads/2018/11/APONT-NAAJA-Joint-Report-to-the-UN-Committee-on-the-Rights-of-the-Child.pdf>, p. 27

**Recommendation 28:** that the NT Government seeks community-led alternatives to detention.

**Recommendation 29:** that the NT Government raises the age of criminal responsibility.

**Recommendation 30:** that Aboriginal- led and managed Family Support services are resourced to provide support and deliver healing programs to families across the Northern Territory.

**Recommendation 31:** A paradigm shift accompanied by substantial systemic reforming youth justice to increase diversion and therapeutic approaches compared to incarceration.

**Recommendation 32:** Increase engagement with and funding of Aboriginal organisations in child protection, youth justice, detention and equity in prevention and early support services.

#### **b. Mandatory sentencing**

As stated in APO NT joint submission on the Northern Territory Law Reform Committee Inquiry into Mandatory Sentencing and Community-Based Sentencing Options, it states that:

Most importantly to APO NT, the regimes do not consider the intergenerational disadvantage and discrimination that Aboriginal people in the NT have experienced and continue to experience. In fact, there is reason to believe that mandatory sentencing regimes may add another layer of discrimination. For example, under the 1997 NT laws, Aboriginal people were 8.6 times more likely to be imprisoned under the regime than non-Aboriginal people<sup>8</sup>

APO NT restates the recommendations from its previous submission:

**Recommendation 33:** that the NT Government abolishes mandatory sentencing in the NT.

**Recommendation 34:** that a new sentencing system is developed for the NT. This new administration should better address the interests of victims and survivors, not unfairly discriminate against offenders, and provide for diversionary and therapeutic options that will ensure sentencing outcomes result in access to appropriate treatment and rehabilitation and a reduction in reoffending.

APO NT also notes the lack of Aboriginal representation in administering justice, particularly on juries.

**Recommendation 35:** better representation of Aboriginal people in administering justice such as jurors, judges, solicitors, and barristers.

---

<sup>8</sup> APONT, Aboriginal Peak Organisations Northern Territory submission to the Northern Territory Law Reform Committee Inquiry into Mandatory Sentencing and Community-Based Sentencing Options, 2020, p.3

## 11. Removal of children

APO NT is disturbed by the increasing rate of removal of Aboriginal and Torres Strait Islander children compared to non- Aboriginal and Torres Strait children. In a submission to the Royal Commission into the Protection and Detention in the Northern Territory AMSANT states:

There is an urgent need to focus on culturally sensitive early intervention and support, which increase in intensity according to need. All children and families at risk of entering the child protection system should be provided with targeted family support services, preferably provided by an Aboriginal primary health care service, with the primary aim to stop removal<sup>9</sup>.

APONT restates AMSANT's recommendations:

**Recommendation 36:** That all children and families at risk of entering the child protection system be provided with targeted family support services, preferably by an Aboriginal service provider. These services should also be provided if a child is removed on a temporary basis and continue post-reunification if necessary.

**Recommendation 37:** That the Northern Territory Government fund Aboriginal organisations in each NT region to have the responsibility for recruiting, training and supporting kinship and foster carers and supporting all placements of children. Family Group Conferencing and Aboriginal Family-led decision-making be reinstated so that kinship care is given absolute priority. Adequate reimbursement and support be provided for Aboriginal kinship carers.

## 12. Stolen Generations and reparation

Since the Special Rapporteur report in 2017 the Australian Government has implemented the Territories Stolen Generations Redress Scheme through the National Indigenous Australians Agency. The scheme provides financial payments, healing trauma by giving survivors the choice to tell their story in recognition the harm and trauma experienced by the Stolen Generations in the Northern Territory. APO NT supports this development but will continue to monitor the effectiveness of this scheme.

**Recommendation 38:** that the Australian Government remove barriers that may exist for Aboriginal people from the Stolen Generation to access and navigate the redress scheme.

---

<sup>9</sup> AMSANT, AMSANT Submission to the Royal Commission into the Protection and Detention of Children in the NT, 2017, [https://www.amsant.org.au/wp-content/uploads/2018/06/170420-AMSANT-Royal-Commission-submission\\_FINAL.pdf](https://www.amsant.org.au/wp-content/uploads/2018/06/170420-AMSANT-Royal-Commission-submission_FINAL.pdf), p.14

### 13. Family violence

Family violence has been inadequately and often inappropriately addressed by the Australian Government and mainstream services. In response to the Draft National Plan to End Violence against Women and Children, APO NT in its submission states:

The prevalence and incidence of family violence in the Northern Territory are particularly stark, and have been detailed extensively, using a range of data sources (including AIHW1 and more recently, data reflecting the heightened risk setting of the COVID pandemic). Importantly, the impacts of family violence in the NT disproportionately affect Aboriginal families 3,4, which indicates an increased need for investment into Aboriginal services that provide holistic healing and support. APO NT has consistently called for this in a number of submissions related to broader risk factors associated with family violence, including issues of housing, child protection, alcohol and other drug misuse, justice, and incarceration.<sup>10</sup>

**Recommendation 39:** That the term ‘family violence’ is used in the NT instead of ‘violence against women and children’ as it better reflects Aboriginal family and kinship systems.

**Recommendation 40:** Intergenerational trauma must be recognised as a causal factor in family violence in the NT. Healing and violence prevention programs, based on context-specific cultural health and healing modalities, must be adequately resourced by governments.

**Recommendation 41:** that the Government provide on-going support for Aboriginal Community Controlled Health Services and Aboriginal legal services to deliver holistic, healing programs for Aboriginal people as effective and valuable mechanisms to address domestic and family violence.

**Recommendation 42:** that the Government provide funding for community legal education on domestic and family violence in across the Northern Territory, using ‘both ways’ approaches, to incorporate both traditional and Western knowledge systems to create a new path forward in the space of family violence, based on the completed evaluations and list of recommendations. This education should be provided by Aboriginal organisations, where possible.

**Recommendation 43:** Approaches to addressing family violence need to encompass measures to help prevent future violence, in particular the rehabilitation of both perpetrators and those damaged by violence, and provision of assistance for their families and communities

**Recommendation 44:** The Government needs to provide support for both women and men with gender specific culturally appropriate support services, including programs, safe places, and counselling services, from which they can exert their agency. The community should be building self-directed responses by providing families with skills and coping strategies and meaningfully use in their lives

**Recommendation 45:** The needs of children should feature prominently in violence reduction strategies to reduce intergenerational violence.

**Recommendation 46:** Aboriginal men to be respected and empowered in combatting family violence

<sup>10</sup>APO NT, Draft National Plan to End Violence against Women and Children 2022-2032, 2022, p.5



## 14. Political participation

Political participation remains of significant concern regarding Aboriginal and Torres Strait Islander people, particularly in the Northern Territory due to living in remote and very remote locations. The NLC has highlighted that the Australian Electoral Commission fails to ensure people living in remote Aboriginal communities and homelands are on the electoral roll. It has been reported in the recent federal election that only two thirds of people in the seat of Lingiari, cast a ballot, making it the lowest turnout in the nation and for the seat.<sup>11</sup> APONT echoes NLC's call to 'Stop Discriminating against Aboriginal people in the NT because of where we live'<sup>12</sup>

**Recommendation 47:** the Australian government review the AEC program in the Northern Territory and implement changes to ensure all Aboriginal people are enrolled and supported to vote, as is their democratic right as citizens.

**Recommendation 48:** Resource appropriate programs and initiatives such as education on voting rights, local people as interpreters, mobile teams promoting awareness prior to the election and a focus on young people being enrolled.

## 15. Indigenous water rights

Successive NT Government have failed to deliver healthy, safe and reliable water supplies uniformly across the Northern Territory, particularly in remote Aboriginal communities. Adequate and safe drinking water is key to human health, life and the viability of communities, yet this right is under threat from decades of government neglect, renewed calls for water-intensive development in northern Australia, and climate change. Drinking water provision in remote Indigenous communities remains largely unprotected, unregulated and unaccountable.<sup>13</sup> In 2020, CLC joined the three other NT Land Councils in calling for the Northern Territory Government to enact a Safe Drinking Water Act that provides regulatory protection and accountability for the provision of safe and adequate drinking water for all Territorians.<sup>14</sup>

Alongside the failures of the NT's regulatory regime to protect the rights of Indigenous people living in remote communities to safe and adequate drinking water, the NT Government's governance regime for water fails to adequately protect Aboriginal people's cultural values, or uphold their rights and interests in water planning, decision-making and management.

---

<sup>11</sup> Thompson, J, Prime Minister Anthony Albanese promises action to improve remote voting after Lingiari turnout hits all time low, 2022, (accessed 8 June 2022) <https://www.abc.net.au/news/2022-06-08/nt-anthony-albanese-lingiari-aec-review-low-election-turnout/101131382>

<sup>12</sup> NLC, NLC calls for a fair go for Aboriginal Territorians at the 2022 election: 'Stop discriminating against us because of where we live!', 2022 (accessed 8 June 2022) <https://www.nlc.org.au/media-publications/nlc-calls-for-a-fair-go-for-aboriginal-territorians-at-the-2022-election-stop-discriminating-against-us-because-of-where-we-live>

<sup>13</sup> See CLC's submission to the Productivity Commission's Inquiry into National Water Reform, 21 August 2020 (including specific incidents outlined on p.10).

<sup>14</sup> For discussion of the range of challenges concerning water supply, water quality and drinking water infrastructure experienced by Aboriginal people in the NT's remote communities, see CLC's submission to the Productivity Commission's Inquiry into National Water Reform, 21 August 2020 (including specific incidents outlined on p.10).

**Recommendation 49:** The Northern Territory Government enact a Safe Drinking Water Act that provides regulatory protection and accountability for the provision of safe and adequate drinking water for all Territorians, including Indigenous people living in remote communities.

**Recommendation 50:** The Northern Territory Government substantively reform water governance to ensure the protection of Indigenous cultural values, and the rights and interest of Indigenous people’s rights and interests in water planning, decision-making and management.

## List of Recommendations

**Recommendation 1:** the NT Government, in partnership with Aboriginal people from the NT, develops a Human Rights Act for the NT, specifically incorporating the Declaration.

**Recommendation 2:** the NT Government commit to functional independence for the National Preventative Mechanism and legislated measures for: transparency and accountability; participation of civil society; and Aboriginal leadership and participation in implementation of OPCAT.

**Recommendation 3:** The Australian Government implement the Uluru Statement from the Heart in full.

**Recommendation 4:** That the NT Government fulfil its commitment to Treaty, ensuring that Aboriginal people in the NT control their own affairs.

**Recommendation 5:** that anti-discrimination legislation is amended to include proactive measures to prevent discrimination against Aboriginal Peoples.

**Recommendation 6:** that article 2 of the Declaration is incorporated into all Australian and NT anti-discrimination laws.

**Recommendation 7:** the Australian Government implement an overarching policy framework that commits all parties to sustained investment and efforts and to enable the full realisation of priority reforms under Closing the Gap.

**Recommendation 8:** The Australian Government continue to support and resource Aboriginal led solutions to the social determinants of health.

**Recommendation 9:** the NT Government commit to regular, transparent consultation on alcohol legislation with Aboriginal Communities, and that Aboriginal leadership is at the forefront of development and delivery of community alcohol management plans, including programs of harm minimisation and policing.

**Recommendation 10:** to implement the recommendations from the AMSANT Report on the Food Summit

**Recommendation 11:** the Australian and NT Government to resource bilingual education, cultural activities, stronger community leadership/governance in schools, schools in homelands, fully independent Aboriginal controlled schools, Aboriginal teacher training, school-work pathways, employment of Aboriginal people in multiple roles across the school, as well as stronger cultural induction for non-Aboriginal staff and culturally-appropriate curriculum and pedagogy.

**Recommendation 12:** Department of Education commits to employment targets of Aboriginal people at all levels ensuring all policy, program and activity developments are informed by Aboriginal voices.

**Recommendation 13:** that Aboriginal parents and families are actively involved in the governance of Aboriginal education.

**Recommendation 14:** That all governments make a priority the creation and sustainability of real for Aboriginal people, especially those living in remote communities.

**Recommendation 15:** That CDP is abolished and is replaced with the APO NT model outlined in 'Fair Work and Strong Communities: A proposal for a Remote Development and Employment Scheme'.

**Recommendation 16:** that governments support AHNT's vision of Aboriginal Housing in Aboriginal Hands

**Recommendation 17:** that all governments provide secure, sustainable funding to address the long-term neglect and increasing costs for Aboriginal housing

**Recommendation 18:** that Aboriginal people lead and are engaged in all housing policies.

**Recommendation 19:** that both the Australian Government and NT Government develop an effective Aboriginal Housing model responsive to urban and remote housing needs

**Recommendation 20:** that both governments commit to service level parity and compliance between urban public housing and housing in remote communities, homelands, outstations and town camps

**Recommendation 21:** that both the Australian and NT Government adequately support and resource strengthening capabilities of Aboriginal Housing organisations

**Recommendation 22:** APO NT recommends equitable income support in remote communities due to higher and rising costs for basic needs.

**Recommendation 23:** APO NT recommends Centrelink service provision be strengthened in remote communities as distance and technology failure remain barriers for Aboriginal people to access welfare support.

**Recommendation 24:** that the Australian Government fully implement the recommendations on the Royal Commission into Aboriginal Deaths in Custody

**Recommendation 25:** that the Australian Government prioritises reducing the rates of incarceration of Aboriginal people by working with Aboriginal people to define and design solutions

**Recommendation 26:** That NT Governments commit to resourcing solutions under existing agreements, including Aboriginal Justice Agreements.

**Recommendation 27:** The Australian Government work with all jurisdictions to increase the minimum age of criminal responsibility to 14.

**Recommendation 28:** that the NT Government seeks community-led alternatives to detention.

**Recommendation 29:** that the NT Government raises the age of criminal responsibility.

**Recommendation 30:** that Aboriginal- led and managed Family Support services are resourced to provide support and deliver healing programs to families across the Northern Territory.

**Recommendation 31:** A paradigm shift accompanied by substantial systemic reforming youth justice to increase diversion and therapeutic approaches compared to incarceration.

**Recommendation 32:** Increase engagement with and funding of Aboriginal organisations in child protection, youth justice, detention and equity in prevention and early support services.

**Recommendation 33:** that the NT Government abolishes mandatory sentencing in the NT.

**Recommendation 34:** that a new sentencing system is developed for the NT. This new administration should better address the interests of victims and survivors, not unfairly discriminate against offenders, and provide for diversionary and therapeutic options that will ensure sentencing outcomes result in access to appropriate treatment and rehabilitation and a reduction in reoffending.

**Recommendation 35:** better representation of Aboriginal people in administering justice such as jurors, judges, solicitors, and barristers.

**Recommendation 36:** That all children and families at risk of entering the child protection system be provided with targeted family support services, preferably by an Aboriginal service provider. These services should also be provided if a child is removed on a temporary basis and continue post-reunification if necessary.

**Recommendation 37:** That the NT Government fund Aboriginal organisations in each NT region to have the responsibility for recruiting, training and supporting kinship and foster carers and supporting all placements of children. Family Group Conferencing and Aboriginal Family-led decision-making be reinstated so that kinship care is given absolute priority. Adequate reimbursement and support be provided for Aboriginal kinship carers.

**Recommendation 38:** that the Australian Government remove barriers that may exist for Aboriginal people from the Stolen Generation to access and navigate the redress scheme.

**Recommendation 39:** That the term 'family violence' is used in the NT instead of 'violence against women and children' as it better reflects Aboriginal family and kinship systems.

**Recommendation 40:** Intergenerational trauma must be recognised as a causal factor in family violence in the NT. Healing and violence prevention programs, based on context-specific cultural health and healing modalities, must be adequately resourced by Governments.

**Recommendation 41:** that the Government provide on-going support for Aboriginal Community Controlled Health Services and Aboriginal legal services to deliver holistic, healing programs for Aboriginal people as effective and valuable mechanisms to address domestic and family violence.

**Recommendation 42:** that the Government provide funding for community legal education on domestic and family violence in across the Northern Territory, using 'both ways' approaches, to incorporate both traditional and Western knowledge systems to create a new path forward in the space of family violence, based on the completed evaluations and list of recommendations. This education should be provided by Aboriginal organisations, where possible.

**Recommendation 43:** Approaches to addressing family violence need to encompass measures to help prevent future violence, in particular the rehabilitation of both perpetrators and those damaged by violence, and provision of assistance for their families and communities

**Recommendation 44:** the Government needs to provide support for both women and men with gender specific culturally appropriate support services, including programs, safe places, and counselling services, from which they can exert their agency. The community should be building self-directed responses by providing families with skills and coping strategies and meaningfully use in their lives

**Recommendation 45:** the needs of children should feature prominently in violence reduction strategies to reduce intergenerational violence.

**Recommendation 46:** Aboriginal men to be respected and empowered in combatting family violence

**Recommendation 47:** the Australian Government review the AEC program in the Northern Territory and implement changes to ensure all Aboriginal people are enrolled and supported to vote, as is their democratic right as citizens.

**Recommendation 48:** Resource appropriate programs and initiatives such as education on voting rights, local people as interpreters, mobile teams promoting awareness prior to the election and a focus on young people being enrolled.

**Recommendation 49:** The NT Government enact a Safe Drinking Water Act that provides regulatory protection and accountability for the provision of safe and adequate drinking water for all Territorians, including Indigenous people living in remote communities.

**Recommendation 50:** The NT Government substantively reform water governance to ensure the protection of Indigenous cultural values, and the rights and interest of Indigenous people's rights and interests in water planning, decision-making and management.