



Pre-Budget Submission: 2012-13

January 2012

Contact:

Jacqueline Phillips
National Director

Email: Jacqui@antar.org.au

Phone: (02) 9564 0594

Fax: (02) 9564 0195

www.antar.org.au

PO Box 568

Dulwich Hill NSW 2203

About ANTaR

ANTaR is a national advocacy organisation working for Justice, Rights and Respect for Australia's First Peoples. We do this primarily through lobbying, public campaigns and advocacy.

ANTaR's focus is on changing the attitudes and behaviours of non-Indigenous Australians so that the rights and cultures of Aboriginal and Torres Strait Islander people are respected and affirmed across all sections of society.

ANTaR also seeks to persuade governments, through advocacy and lobbying, to show genuine leadership and build cross-party commitment to promoting rights and addressing disadvantage.

ANTaR works to generate in Australia a moral and legal recognition of, and respect for, the distinctive status of Aboriginal and Torres Strait Islander Australians as First Peoples.

ANTaR is a non-government, not-for-profit, community-based organisation.

ANTaR campaigns nationally on key issues including Constitutional Recognition, reducing Aboriginal imprisonment, the Northern Territory Emergency Response and health equality.

ANTaR has been working with Aboriginal and Torres Strait Islander organisations and leaders on rights and reconciliation issues since 1997.

Introduction

In this submission, ANTaR outlines key expenditure priorities for the 2012-13 Federal Budget. These recommendations are designed to promote community and economic development, advance human rights and address the disadvantage experienced by many Aboriginal and Torres Strait Islander communities.

In the 2011-12 Budget, the Federal Government invested an additional \$500 million / 5 years in new funds to designated Aboriginal and Torres Strait Islander peoples programs and initiatives.¹ These funds were divided between health (\$237.7 million), education and training (\$226.1 million), employment (\$100.4 million, linked to CDEP²), welfare reform and income management (\$34.0 million) and broadcasting (\$15.2 million).³

While we have sought to cost the Budget recommendations in this submission, we urge the Government to consult with affected Aboriginal and Torres Strait Islander peak bodies, organisations and other stakeholders before making final funding decisions.

Where possible, the Federal Government should seek to make multi-year funding commitments to provide certainty for affected Aboriginal and Torres Strait Islander organisations, as recommended by the Strategic Review into Indigenous Expenditure Report.

The discussion of Northern Territory (NT) community budget priorities draws heavily on ANTaR's recent paper, *A Better Way: Building healthy, safe and sustainable communities in the Northern Territory through a community development approach*.

Overview

The Federal Government has committed to restore the Budget to surplus in the 2012-13 Budget. ANTaR acknowledges this commitment, along with the current uncertainty about Australia's economic growth prospects, arising from the global economic downturn.

However, as advocates for social justice and equity for Aboriginal and Torres Strait Islander peoples, we are also concerned to ensure that this Budget contributes to a more equal and prosperous society by addressing the disadvantage experienced by many Aboriginal and Torres Strait Islander peoples. We are also aware that the level of need for infrastructure and services in many Aboriginal communities remains acute.

While we have not sought to offset all spending recommendations with savings measures, we strongly advocate for the creation of a Minerals Resource Rent Tax (MRRT) Future Fund for Aboriginal and Torres Strait Islander communities. Such a fund has been supported by a number of Aboriginal and Torres Strait Islander leaders and would recognise the fact that although Aboriginal communities have been more directly

¹ Dr Lesley Russell, *Commonwealth Indigenous Budget Bulletin*, Macroeconomics, June 2011 at 4.

² Community Development Employment Projects program.

³ Dr Lesley Russell, 2011, at 4.

affected by mining than any other communities, they have failed to receive commensurate benefit.

The MRRT is expected to raise \$10.6 billion over the next 4 years. The Government has announced that a \$6 billion Regional Infrastructure Fund will be established to fund infrastructure projects in regional communities. It is vital that remote Aboriginal communities receive their fair share of proceeds from this Fund.

We also believe that considerable savings could be achieved by reviewing existing programs with high administrative or bureaucratic overheads and minimal or questionable demonstrable benefit for communities. In particular, we highlight the high cost of the Government's compulsory income management scheme (at an estimated \$4400 per person per year or \$410 million/6 years in the NT alone) with no clearly discernable improvements for child health and wellbeing. We also highlight the high cost of Government Business Managers in NT communities, at \$190 million over 5 years (2007-8 to 2011-12). The Government proposes to maintain the role of these bureaucrats in the next stage of its Northern Territory remote community strategy, despite the high cost and questionable benefit.⁴ Concerns were flagged about the caliber of Australian Public Service (APS) officer being appointed to GBM positions in the Strategic Review report to Government, which noted that Government agencies were drawing from "a thin pool in trying to acquire adequately trained and experienced officers to fulfil these roles."⁵ In ANTaR's view, GBMs represent the expansion of 'government' in communities', at odds with the urgent need to build 'governance in communities' to support a community development approach.

1. Resetting relationships and respecting rights

The past year has seen significant progress towards achieving formal recognition of Aboriginal and Torres Strait Islander peoples in our nation's founding document, with a national consultation on Constitutional recognition conducted by an Expert Panel. The Panel handed its final report to Government on 19 January and made a number of recommendations for Constitutional reform to recognise the special status, identity and contribution of Australia's First Peoples and to remove racial discrimination from our nation's founding document.

The Panel is also recommended that "there should be a properly resourced public education and awareness program", supported by legislative change if necessary.⁶ This is critical, given the significant challenge of achieving popular support for Constitutional change.

The Expert Panel received \$11.2 million over two years to fulfil its Terms of Reference, drawn from within existing resources of the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) and the Attorney-General's Department.

⁴ Budget figures contained in the FaHCSIA Portfolio Budget Statement, and quoted in the Auditor-General's Audit Report No. 18 2010-2011, 'Government Business Managers in Aboriginal communities under the Northern Territory Emergency Response', accessed at http://anao.gov.au/~media/Uploads/Documents/2010%202011_audit_report_no18.pdf.

⁵ Department of Finance and Deregulation, 2010 at 358.

⁶ Expert Panel on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples, *Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution*, January 2012, recommendation (e).

However, the formal role of the Panel will conclude with the presentation of its final report to Government. There is a critical need for substantial resources to be allocated in the 2012-13 Budget for community education if the Referendum is to have a strong chance of success.

Recommendation 1: Fund the National Congress of Australia's First Peoples and Reconciliation Australia, to lead the referendum 'yes' campaign.

The National Congress of Australia's First Peoples and Reconciliation Australia are uniquely placed to lead the campaign towards a successful Referendum, in partnership with a range of other stakeholder organisations. These organisations cannot be expected to do so effectively without additional, designated resources.

Cost: \$ 2 million in 2012-13 (\$6 million/2 years)

Recommendation 2: Resource Constitutional Recognition community engagement and education program.

A Constitutional Recognition education and community awareness grants program should be established to support a range of organisations to deliver community education and engagement programs in the lead up to a referendum. The grants pool should be available to a range of civil society and community organisations and groups at the national, state and local level.

Cost: \$20 million in 2012-13 (\$60 million/2 years)

2. Creating safe and sustainable Northern Territory communities

ANTaR believes that ongoing action to create safe and healthy communities in the NT is vital. The Government is now at a critical juncture in planning for the future of remote communities in the NT with key Northern Territory Emergency Response (NTER) measures due to expire in mid-2012.

Since initial implementation, funding for NTER measures has been continued by the Federal Government under the 'Closing the Gap in the Northern Territory' National Partnership Agreement (some \$117 million in 2011-12, with a total Commonwealth contribution of \$807.4 million/3 years)⁷.

⁷ Lesley Russell, 2011 at 4.

Though not without problems, Government funding under the NTER has increased access to some basic services and housing through:

- Additional teachers and police in communities⁸;
- Expanded night patrol services and additional crisis accommodation⁹;
- Health checks for children and additional health workers;
- New crèches and playgroups;
- Drug and alcohol treatment workers; and
- Construction of some new houses and housing upgrades.¹⁰

However, with this funding due to expire in 2012, it is critical that there is a substantial budget allocation to infrastructure and services for Aboriginal communities in the NT. Despite additional spending under the NTER and related programs, the level of need in remote communities in the NT remains extremely high, particularly for housing and infrastructure. Homelands will fare particularly badly from the recent reforms, with a moratorium on new housing funding and very limited infrastructure investment likely to constrain community development and also to result in capital deterioration of existing housing despite significant past investment.

In our recent paper on the future of Northern Territory communities, ANTaR made a series of recommendations to build healthy, safe and sustainable communities in the Northern Territory through a community development approach. Key recommendations are outlined below.

Education

Education challenges are greatest in remote Australia. Many remote Aboriginal schools in the Northern Territory lack access to full-time teachers and basic school infrastructure.

The Federal Government has indicated that improving school attendance will be a core objective of future policy and programs in Northern Territory remote communities. To this end, it has announced the expansion of the School Enrolment and Attendance Measure (SEAM), which involves the suspension of income support payments to parents of children who are not attending school. ANTaR has some serious concerns about the potential harm that this policy is likely to cause for families and children. These concerns will be articulated in more detail in our forthcoming submission to the Senate Community Affairs Committee inquiry into the relevant legislation.

More broadly, we are concerned that without increased and sustained investment in education infrastructure and services in Northern Territory communities, educational attendance and outcomes will remain poor. According to the Combined Aboriginal Organisations of the NT, as of 2007, 94% of Aboriginal communities in the NT had no pre-school, 56% had no secondary school and 27% had a local primary school that is

⁸ Australian Government, *Stronger Futures in the Northern Territory Discussion Paper* reports that 62 additional police officers are being deployed, mostly in remote communities, and there is now a police presence in 18 communities which did not previously have one. Note the Themis study on the mixed impacts of these police in communities.

⁹ *Stronger Futures in the Northern Territory Discussion Paper* at 5.

¹⁰ The Government reports 310 new houses and 1400 upgrades. See *Stronger Futures in the Northern Territory Discussion Paper* at 1.

more than 50 kilometers away, with only 17% of communities having their own primary school.¹¹

The 2008 Social Justice Report found that ‘many remote Indigenous students receive a part-time education in sub-standard school facilities – if they receive a service at all.’¹²

‘If we are going to assess remote Indigenous students against all other Australian students then we have to do better than part-time education services of three days a fortnight delivered in a tin shed with a dirt floor. We have to do better in our commitment to working with local communities to decide the appropriate education services for the region. It is time to start looking closely at the inputs as well as the outcomes’.¹³

The Social Justice Commissioner made a number of recommendations to “assist governments to make education ‘available and accessible’ to remote Aboriginal students in line with their right to enjoy the full entitlements of Australian citizenship.”¹⁴

By 31 May 2011, funding under the Northern Territory Emergency Response (NTER)/ *Closing the Gap in the Northern Territory* strategy had employed an additional 191.9 FTE teachers, deployed through NT education providers.¹⁵ In addition, the Federal Government has provided \$44.3 million/ 3 years (2009-10 – 2011-12) under the Quality Teaching Package and Enhancing Literacy measures of the Closing the Gap in the Northern Territory National Partnership Agreement. This funding is designed to ‘develop career pathways for Indigenous staff, increase the number of Indigenous staff with education qualifications and provide support and programs to enable teachers and students to achieve improved outcomes in literacy and numeracy in 73 targeted remote communities.’¹⁶ The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) reports that schools have been progressively implementing site-based reforms during 2010. As at 30 June 2011, this funding had provided an additional 6 Teaching Multi-Lingual specialists to enhance English as a Second Language (ESL) teaching capacity and 19 Literacy and Numeracy and ESL Coaches.¹⁷ Additional resources are needed in order to meet the high level of need for ESL teaching.

¹¹ Combined Aboriginal Organisations of the Northern Territory, 2007, *A proposed Emergency Response and Development Plan to protect Aboriginal children in the Northern Territory: A preliminary response to the Australian Government’s proposals* at 18.

¹² Aboriginal and Torres Strait Islander Social Justice Commissioner, 2008, *Social Justice Report 2008*, Report No.1/2009 at 96.

¹³ Ibid at 143.

¹⁴ Ibid at 144.

¹⁵ Australian Government, ‘Closing the Gap in the Northern Territory Monitoring Report, January-June 2011, Part One’ at 8.

¹⁶ Australian Government, ‘Closing the Gap Monitoring Report – Part 2’, July 2010, available at: http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/ctg_monitoring_report_jan_Jul10/Documents/part2/sec2.htm#t3

¹⁷ Australian Government, ‘Closing the Gap in the NT Monitoring Report January – June 2011’ at 9.

In this submission, we make a number of funding recommendations to improve access and the quality of education received by children in remote NT communities.

Recommendation 3: Invest in NT remote community schools infrastructure to fund necessary capital works (new buildings, classrooms, repairs, maintenance)

Current infrastructure is inadequate to meet the needs of currently enrolled students, let alone the needs of all eligible students, and must be improved as part of efforts to improve attendance.

\$200 million in 2012-13 (\$500 million over 2 years)

Recommendation 4: Fund additional teachers for remote community schools

Funding for additional teachers must be maintained beyond the original NTER funding to maintain the educational workforce in the NT.

\$100 million in 2012-13 (recurrent)¹⁸

Recommendation 5: Increase the number of teachers with ESL training in remote community schools.

English is a second, third or fourth language for many Aboriginal children in remote NT communities. It is therefore vital to increase the ESL teacher workforce in order to improve English literacy and numeracy.

\$10 million 2012-13 (\$30 million over 2 years)

Recommendation 6: Increase funding for programs to engage Elders and communities in school education

This was a strong theme in the recent *Stronger Futures* consultations.

\$10 million in 2012-13/ (\$30 million over 2 years)

Housing

Recent reforms have severely undermined the Aboriginal community housing sector, with the loss of two-thirds of the Indigenous Community Housing Organisations (ICHO) in the NT since 2009. In its recent *Stronger Futures* Policy Statement, the Federal Government highlights its agenda to develop national community housing standards. It is now vital that the NT Aboriginal community housing sector is supported to increase its capacity to meet these standards and resume its important role in managing Aboriginal community housing.

¹⁸ Based on Australian Education Union costings for an additional 660 teachers, required to meet the needs of all NT children, including those not currently enrolled in schools. See AEU, 'Education is the key', 9 September 2007.

In the financial year ending 30 June 2011, the Federal Government reports that 257 new houses were built in the NT and 1248 refurbished, against targets of 250 new houses and 1,000 refurbishments respectively.¹⁹ However, although some progress has been made towards addressing housing need through the National Partnership Agreement on Remote Indigenous Housing, only a limited number of communities are currently scheduled to receive new housing and homeland communities have been excluded from any further new housing. As the Aboriginal Peak Organisations (APO) NT highlighted in its recent response to *Stronger Futures*, current housing funding extends only to 2013 and targets a small number of locations through the 'priority communities' model.²⁰ ANTaR seeks a bipartisan commitment to sustained investment in NT communities to meet housing needs, recognising that needs, if not met, will grow even more acute as the Aboriginal population grows. There is also a critical need for ongoing funding for the maintenance of existing housing stock. Without such funding, the deterioration in housing stock will present health and safety risks to residents and result in capital depreciation.

Research conducted on local community views of shire reforms and related issues noted that, with housing responsibility transferred to Territory Housing, community residents were no longer engaged in decision making on housing, tenancy related issues or rent models.²¹ The disempowerment of local Aboriginal communities and organisations as a result of housing reforms must be addressed in the next stage of the Government's remote communities strategy through a focus on capacity building.

Homelands provide social, cultural, health and economic benefits to residents and enable Aboriginal people to live on their traditional lands.²² These benefits have been highlighted in a range of reports and research studies.²³ Current NT and Federal Government policy settings threaten the future viability of homelands communities and have arguably 'deepen[ed] the challenges Aboriginal people face in remaining on their traditional lands'.²⁴

The Remote Services Delivery National Partnership Agreement (NPA) gives funding and service delivery priority to communities with significant populations and those deemed 'more economically sustainable', to the exclusion of smaller communities (particularly homelands). This will systematically deprive smaller communities of funding and service delivery improvements. Working Future, the NT Government's remote community policy framework, is also designed to direct future investment to larger 'growth' towns and to limit resources to homelands and outstations. Many organisations and communities

¹⁹ See the announcement from The Hon Jenny Macklin MP, 2011, Media Release: 'Remote Indigenous Housing Targets exceeded'. Accessed at: http://www.jennymacklin.fahcsia.gov.au/mediareleases/2011/pages/remote_indig_house_target_exceed_09082011.aspx, 29 August 2011.

²⁰ APO NT, Submission to Stronger Futures, 2011 at 37.

²¹ Central Land Council (CLC), 2010, *The governance role of local boards: A scoping study from six communities* at 52.

²² Aboriginal and Torres Strait Islander Social Justice Commissioner, 2009, *Social Justice Report 2009*, Report No. 1/2010 at 107.

²³ Central Land Council (CLC), 2009, *Briefing Paper: Keeping Homelands Alive: Evidence that supports the continued resourcing of dispersed settlements*. (Central Land Council, 2009c) Also see footnotes on p 125 of Social Justice Report 2009.

²⁴ Amnesty International Australia, 2011, *The Land Holds Us – Aboriginal peoples' right to traditional homelands in the Northern Territory*, Amnesty International Australia at 8.

have expressed serious concern about the homelands policy shift, predicting negative effects on more than 500 outstations or homelands, where thousands of Aboriginal people live on their traditional lands, as well as negative consequences for larger towns.

Under the current Memorandum of Understanding (MOU) between the Federal and NT Governments, all Federal funding for housing on homelands ceased in July 2008, with NT government housing funding targeted to larger towns and providing only very limited resources to homelands. The agreement identifies priorities for additional funding, with main urban centres at the top of the list, and outstations and homelands as 'third order priorities', with the added condition that 'no Australian Government funding will be provided to construct housing on outstations/homelands'. This is despite significant unmet need, a growing population and existing housing being left to deteriorate despite significant past investment.²⁵ Homelands also miss out on funding under the National Indigenous Reform Agreement (NIRA). As the recent Amnesty International Australia report, *The Land Holds Us*, highlighted, "Non-priority communities, including homelands, are being left behind."²⁶

Recommendation 7: Provide ongoing and sustained investment in housing infrastructure in remote communities, including homelands

Safe, affordable and culturally appropriate housing is a key factor in creating healthy and safe communities. To address historic underinvestment, this must be a priority area of expenditure over the next decade.

\$400 million in 2012-13 (\$2 billion/ 5 years)

Recommendation 8: Support Aboriginal community-housing organisations to strengthen governance and achieve compliance with national housing standards

Funding should provide organisations with governance and administration support in order to meet national standards.

\$10 million in 2012-13

Better health for NT communities

Stronger Futures states the Government's support for the 'continued expansion and reform of primary health care with a focus on regional, community-controlled health services'. It suggests some possible additional initiatives which ANTaR would strongly support, including:

- More alcohol and other drug treatment services;
- Better support for mental health and care for people with severe and debilitating mental illness (ANTaR strongly supports service delivery integrated with primary care through local community-controlled health services) ;
- Improved specialist and allied health care services for children;
- Improved therapeutic services for children who have been victims of child abuse.

²⁵ Greg Marks, 2008, *Submission 30* to Senate Select Committee on Regional and Remote Indigenous Communities at 6.

²⁶ Amnesty International, 2011 at 8.

Obviously all of these measures should be designed and implemented in partnership with Aboriginal communities and with a focus on expanding the Aboriginal health workforce.

In addition to these proposals, ANTaR supports the recommendations of APO NT in its recent response to *Stronger Futures*. In particular, we wish to highlight the need to continue current primary health care reforms under the coordination of the NT Aboriginal Health Forum. APO NT notes that NTER-related health funding provided significant additional resources, primarily through the Child Health Check Initiative (CHCI) and the Expanding Health Service Delivery Initiative (EHSDI).²⁷ While significant problems were identified with the CHCI, the EHSDI program was positively reviewed, having created an additional 251 FTE positions in the remote primary health care workforce.²⁸ However, with many of these positions administrative in nature, APO NT has raised concerns about the 30% decline in the Aboriginal Health Workforce over time, which must be addressed as a matter of urgent priority.

Alcohol and other drug services also received a funding boost under the NTER. In 2007-08, the Department of Health and Ageing invested \$8 million in Alcohol and Other Drug (“AOD”) measures. These included investment in hospital acute care services, expanded residential care places and sobering up facilities, the establishment of a number of outreach workers based in Aboriginal medical services, additional training and education and establishment of a Clinical Director position. In 2008-09, an additional \$2.6 million was allocated to enable continued funding of programs established as a result of the NTER AOD response. This funding, under the Closing the Gap – NT Indigenous Health and Related Services measure, ends in June 2012.

The APO NT Response to *Stronger Futures* highlights the 'patchy' nature of new AOD services. The scale of the problem demands a much more significant resource allocation to ensure services are available in most, if not all, communities. In addition, funding for AOD services has been directed towards discrete specialist services rather than integrated within a Primary Health Care model.²⁹

Under changes to the NTER, communities can now apply for an exemption from alcohol restrictions where they have developed their own responses to the issue. However, no resources have been provided to enable communities to make this case, or to support the kinds of culturally appropriate and accessible alcohol treatment programs likely to be effective.³⁰ Alcohol management plans developed by communities themselves have the best chance of reducing alcohol abuse and related family and community dysfunction. It's time to put communities back in the driving seat of alcohol management.

ANTaR suggests that the alcohol and other drug recommendations below could be partially offset by the imposition of a graduated tailored volumetric tax on all alcohol purchases, as recommended by the National Indigenous Drug and Alcohol Committee.³¹

²⁷ APO NT, Submission to *Stronger Futures*, at 27.

²⁸ Ibid.

²⁹ Ibid at 28.

³⁰ Aboriginal and Torres Strait Islander Legal Services and Aboriginal Peaks Organisations NT, 'The future of the Northern Territory Intervention – Issues Paper', November 2010.

³¹ *Addressing harmful alcohol use amongst Indigenous Australians*.

Recommendation 9: Sustain additional funding for holistic health care services delivered by Aboriginal community-controlled services in the NT, including integrated alcohol and other drug and mental health services within primary health care services.

This should include resources to grow the Aboriginal health workforce in the NT by at least 30% over the next decade.

\$100 million in 2012-13 (\$500 million/ 4 years)

Recommendation 10: Adequately resource communities to develop appropriate and effective solutions to alcohol misuse

Provide resources to enable communities to develop and advocate for community alcohol solutions and to support culturally appropriate and accessible alcohol treatment programs.³²

Cost: \$10 million in 2012-13 (\$40 million / 4 years)

Early childhood services in the NT

The Report of the Board of Inquiry into the Child Protection System in the Northern Territory 2010 made a series of recommendations to promote the safety and wellbeing of the Northern Territory's children. While most of these recommendations were directed to the Northern Territory Government, a number were directed to, or could have implications for, the Commonwealth Government. These included recommendations:

- That an **Aboriginal Child Care Agency or Agencies** be developed in stages, and that such an agency or agencies is funded by Government with a major role in child safety and wellbeing, with consultation to determine how the Aboriginal community should be represented. Alternatively, the agency functions may be developed as part of an existing Aboriginal controlled organisation. (4.2)

ANTaR has welcomed the allocation of resources to establish two new Aboriginal Child Care Agencies in the NT in response to the Board of Inquiry's report.

- That the Northern Territory Government explores with the Commonwealth the (trial) development (or expansion of) existing **infrastructure in remote areas** (e.g. women's safe houses, day care centres, health clinics) to provide on-community therapeutic residential options for mothers and small children where the latter have been identified as being at risk of removal into foster care because of 'failure-to thrive', neglect, or otherwise inadequate parenting. The trial of such options would need to include the development of a therapeutic intervention model and staffing /supervision options. (6.2)

To ANTaR's knowledge, this recommendation has not yet been fully implemented and we reiterate the need for resources to be allocated in 2012-13 Budget.

³² Aboriginal and Torres Strait Islander Legal Services and Aboriginal Peaks Organisations NT, 'The future of the Northern Territory Intervention – Issues Paper', November 2010.

Recommendation 11: Invest in infrastructure to support on-community therapeutic residential options for mothers and small children at risk

As per the Board of Inquiry recommendation 6.2, invest in remote community infrastructure to meet the needs of mothers and children at risk of removal.

Cost: \$10 million in 2012-13 (\$20 million / 2 years)

Building safer communities

The primary stated objective of the original NTER was to ensure the safety and protection of children in remote NT communities. In addition to the broader welfare, housing, health and other measures, a number of specific law enforcement measures were introduced to achieve this objective. This included additional police and police stations, the expansion of night patrols, safe houses and mobile child protection and family and community workers. The NT Government has also introduced reforms and additional resources to the child protection system in response to the *Growing them strong, together* report. Many of these measures have been broadly supported by communities, including the expansion of night patrols and safe houses.

Breaking criminal offending cycles by establishing community-based initiatives that support ex-prisoners, combat recidivism, provide alternatives to incarceration and focus on early intervention will create safer communities. Justice reinvestment emphasises the centrality of community context to the offending cycle and provides a framework for local law and justice groups, rather than centralised governments, to be empowered to decide how money should be allocated to create safer local communities. The Federal and NT Governments must support the development of meaningful structures that allow Aboriginal Elders and community leaders to play a significant role in community safety matters, in partnership with the key stakeholders of the mainstream justice system.

ANTaR advocates a justice reinvestment framework within which funding can be directed towards early intervention and diversionary initiatives to reduce the Aboriginal prison population (see national recommendations below). Within this framework, we advocate:

- Ongoing support for effective community safety initiatives, including night patrols;
- More support and resources to community-directed law and justice mechanisms;
- Programs and education to promote better understanding of Aboriginal culture among police, and a willingness to adopt community approaches to policing;
- Enabling Aboriginal communities to play a meaningful role in community safety and foster constructive partnerships with key stakeholders in the mainstream justice system.

Recommendation 12: Provide ongoing support for effective community safety initiatives

Funding of \$67.9 million over 3 years was provided in the 2009-10 Budget to continue night patrol services in the Northern Territory. This funding expires in mid-2012. Funding should be continued beyond this point, at least at the same level, and be provided on a

triennial rather than annual basis (as per the recommendation of the Australian National Audit Office for longer funding cycles for night patrol programs).³³

\$20 million in 2012-13 (\$70 million/ 3 years)

Food security

ANTaR advocates for the creation of fresh food tax and transport subsidies to improve the accessibility and affordability of fresh food in NT communities. We suggest that such a scheme could be modeled on a similar Canadian program, Nutrition North America (formerly the Food Mail Program), with the Canadian Government providing a transport subsidy to food providers in remote, isolated regions. Under the scheme, funding is based on the total weight of fresh food products shipped to eligible communities, who must then pass on the savings to consumers. The program receives \$60 million CA per year.³⁴

Recommendation 13: Introduce fresh food tax and transport subsidies to improve access to affordable, healthy food for remote communities.

Costings are approximate, and would depend on the final model adopted.³⁵

\$50 million per annum (recurrent)

Governance

The remote service delivery NPA includes a focus on capacity building and leadership training in communities. Despite this, the Coordinator-General has reported that 'across the board there is very little emphasis on developing the capacity of community organisations, which is a key objective of the National Partnership'.³⁶

Supplementary resources are required to provide adequate training and support for community-controlled governance models. This is essential to ensuring the development of community development strategies which reflect local Aboriginal community priorities and which are integrated with other policy planning processes.

³³ See ANAO, Audit Report 'Northern Territory Night Patrols', 2010-11, accessed at <http://www.anao.gov.au/Publications/Audit-Reports/2010-2011/Northern-Territory-Night-Patrols/Audit-brochure> on 12 January 2012.

³⁴ Nutrition North Canada, http://www.nutritionnorthcanada.ca/mr/faq_trns-eng.asp, accessed on 20.12.2011.

³⁵ The Cape York Centre is currently researching a possible food subsidy scheme for Australia, informed by the North Canadian experience.

³⁶ Coordinator General for Remote Indigenous Communities, 2011 at 18.

Recommendation 14: Build governance capacity in remote communities in the NT.

Funding should support community governance training and support for remote organisations, informed by the findings of the Indigenous Governance Research Project by Reconciliation Australia.³⁷

\$20 million in 2012-13/ (\$50 million over 2 years)

3. Education, early childhood and language

3.1 Early childhood services

Many Aboriginal and Torres Strait Islander people continue to miss out on a quality education.

Through COAG, the Federal, State and Territory governments have agreed to various targets relating to education, including:

- to ensure access to early childhood education for all Indigenous four years olds in remote communities by 2013;
- to halve the gap in reading, writing and numeracy achievements for children by 2018;
- to halve the gap for Indigenous students in Year 12 (or equivalent) attainment rates by 2020.

In pursuing these targets, in May 2011, the Council of Australian Governments (COAG) endorsed the *National Indigenous Education Action Plan 2010-2014* (the “Plan”) released by the Ministerial Council for Education, Early Childhood Development and Youth Affairs (“MCEECDYA”). The Plan sets out a framework for Aboriginal and Torres Strait Islander education across Australia and incorporates a number of action items – at national, systemic and local levels aimed at improving education outcomes for Aboriginal and Torres Strait Islander peoples.

Key education measures announced in Federal Budget for 2011-12 included:

- \$171.3 million to extend Indigenous education support programs funded under the Indigenous Education (Targeted Assistance) Act 2000 until the end of 2013³⁸. This measure was provided for in forward estimates.
- \$50.7 million over four years to 2014-15 to extend school based traineeships for students in targeted schools through a new Indigenous Youth Careers Pathways

³⁷ Research publications are available at:

<http://www.reconciliation.org.au/home/projects/indigenous-governance/indigenous-governance-research-project>

³⁸ Programs funded include the Sporting Chance Program, Indigenous Youth Leadership Program, the Indigenous Youth Mobility Program, The Parental and Community Engagement Program, Supplementary Recurrent Assistance for non-Government VET and Early Childhood and ABSTUDY Away-From-Base.

Program. This amount was funded by realigning existing resources of the Indigenous Employment Program.

- \$4.1 million over three years to 2013-14 to establish a pilot Indigenous Ranger Cadetship program, aimed at encouraging school retention and completion for Aboriginal students;

Overall, only \$15.4 million in additional funding was announced in the Federal Budget for 2011-12 to support measures incorporated in the Plan.³⁹ This seems modest given the ambitious COAG targets to close the education gap for Aboriginal and Torres Strait Islanders and ANTaR suggests that additional resources should be made available in this Budget to support the Plan.

See section 2 of this Submission for additional recommendations on education spending in the Northern Territory.

There is currently a clear lack of early childhood services in Aboriginal communities. Multifunctional Aboriginal Children's Services offer child care services within a holistic service model that includes mobile outreach programs, wellbeing programs for families and children, cultural awareness programs and parenting programs. ANTaR notes evidence which indicates that Multifunctional Aboriginal Children's Services (MACS) are a popular choice with many Aboriginal and Torres Strait Islander families due to a number of unique features, including:

- Affordability;
- Majority Aboriginal or Torres Strait Islander staff (approximately 65% of all MACS staff);
- Range of early childhood programs;
- Multifunctional, holistic approach; and
- Range of health programs.⁴⁰

We share SNAICC's concern about the inadequacy of current funding to MACS. We also note the need for additional resources for infrastructure, staff and workforce development and governance support for other Aboriginal and Torres Strait Islander community controlled early childhood services.

Recommendation 15: Rebuild and restore the 33 Multifunctional Aboriginal Children's Services (MACS)⁴¹

Rebuild and restore operation of the Multifunctional Aboriginal Children's Services (MACS) through a one-off capital upgrade, a 30% increase in recurrent funding to meet the projected costs of new standards and recurrent funding to be indexed annually.

\$33 million (\$1 million upgrade for each of the 33 MACS) in 2012-13

\$3 million in 2012-13 (recurrent - 30% increase in recurrent funding)

³⁹ Investing to Close the Gap Between Indigenous and non-Indigenous Australians, Statement by the Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, 10 May 2011, at p 17. The Plan relies primarily on funding from National Partnership Agreements, with \$155.5 million allocated for education related measures in 2011-12.

⁴⁰ SNAICC, Federal Election Briefing Paper, 2010 at 17.

⁴¹ SNAICC, Federal Election Briefing Paper 2010.

3.3 Revitalisation of Aboriginal and Torres Strait Islander Languages

Traditional languages provide Aboriginal and Torres Strait Islander peoples with a connection to their culture and their past, and a sense of identity and belonging. As noted by the Aboriginal Torres Strait Islander Social Justice Commissioner, language preservation and promotion engenders resilience, improved health outcomes and economic opportunities for Aboriginal and Torres Strait Islander peoples.⁴²

However, many Aboriginal and Torres Strait Islander languages are critically endangered. Whereas over 250 Aboriginal and Torres Strait Islander languages were spoken on the Australian continent at the time of colonisation, only 18 or fewer languages are currently considered strong. Over 100 languages are at advanced stages of loss.⁴³ Aboriginal and Torres Strait Islander languages continue to disappear in Australia at one of the fastest rates in the world.

Two years after the launch of the Federal Government's strategy for preserving Aboriginal and Torres Strait Islander languages, *Indigenous Languages – A National Approach 2009*, much remains to be done to arrest the decline of Aboriginal and Torres Strait Islander languages in Australia.

In 2011, the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs commenced an Inquiry into Language Learning in Indigenous Communities to consider, amongst other things,

- The effectiveness of the Commonwealth Government Indigenous languages policy in delivering its objectives and relevant policies of other Australian governments.
- The effectiveness of current maintenance and revitalisation programs for Aboriginal and Torres Strait Islander languages, and
- Measures to improve education outcomes in those Aboriginal and Torres Strait Islander communities where English is a second language.

ANTaR made a submission to the Inquiry, and also provided oral testimony to the Committee.

As noted in our submission, ANTaR believes that some of the key reasons for the lack of progress since the launch of the *National Approach* are as follows:

- the policy framework in Australia remains fragmented and uncoordinated, both across States and Territories and within them;
- there is no common set of core principles which underpins Aboriginal and Torres Strait Islander language policy at all levels of government;
- governments across the country have not sufficiently funded programs designed to achieve policy objectives;

⁴² Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2009*, Chapter 3, Australian Human Rights Commission: Sydney, 2010.

⁴³ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2009*, Chapter 3, Australian Human Rights Commission: Sydney, 2010. See also Australian Institute of Aboriginal and Torres Strait Islander Studies and the Federation of Aboriginal and Torres Strait Islander Languages, *National Indigenous Languages Survey Report 2005*.

- approaches to funding are inconsistent, hindering the effectiveness of programs and increasing complexity for those requiring funding.

A National Aboriginal and Torres Strait Islander Languages Centre

In the *National Approach*, the Commonwealth Government committed to undertake a feasibility study for a National Indigenous Languages Centre. However, to date, no meaningful steps appear to have been taken towards this objective.

Reflecting on the experiences of other nations (particularly, New Zealand's Maori Language Commission) ANTaR believes that the establishment of such a body is an essential step that goes hand-in-hand with the creation of an effective national policy framework. It would allow for:

- the development of a consistent policy framework;
- more effective use of the considerable expertise in Aboriginal and Torres Strait Islander languages across Australia;
- greater consistency in the administration of funding;
- improved quality control in the delivery of programs, and more effective, transparent monitoring of their effectiveness.

As noted by the Aboriginal and Torres Strait Islander Social Justice Commissioner, we need a single organisation which "*has its eye on the big picture and can apply expertise to a complex language environment*".⁴⁴

Recommendation 16: Establish and resource a National Aboriginal and Torres Strait Islander Languages Centre

Provide funding for the establishment and ongoing operation of a National Aboriginal and Torres Strait Islander Languages Centre with responsibility for:

- National Aboriginal and Torres Strait Islander languages policy and strategy, in coordination with State and Territory governments and regional language centres;
- administering Federal funding, and developing and implementing programs for Aboriginal and Torres Strait Islander language revitalisation.

\$7.5 million in 2012-13/ (\$12.5 million over 2 years)⁴⁵

⁴⁴ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2009*, Chapter 3, Australian Human Rights Commission: Sydney, 2010 at p72.

⁴⁵ 2012-13 figures include a one-time \$2.5 million establishment cost.

Funding for language revitalisation programs

At the Federal level, the Office of the Arts administers funding for Indigenous language programs through the *Maintenance of Indigenous Language and Records Program* ("MILR"). States and Territory governments have separate, and often fragmented, approaches towards funding for such programs.

In absolute terms, funding levels appear to be inadequate given the precarious position of many Aboriginal and Torres Strait Islander languages.

In the *National Approach*, the Commonwealth Government committed to investing \$9.6 million, through MILR, in revival and maintenance programs in 2011-2012. In the 2011-2012 funding round the Office of the Arts received 90 applications seeking approximately \$14.4 million in funding against the MILR budget. A total of 67 activities are being supported in 2011-12.⁴⁶ Similarly, in each of the two previous funding rounds for MILR, the level of applications for support significantly outstripped the level of funds granted.

The inadequacy of funding in absolute terms is compounded by the lack of policy coordination between the Commonwealth, State and Territory governments. This results in inconsistent approaches towards the funding of language revitalisation programs.

It also results in increased complexity for applicants seeking funding. Applicants are often required to seek multiple sources of funding from the government and private sector (such as through land use or royalty agreements), with different processes, timelines and assessment criteria. Further, a grants-based approach favours better resourced applicants, and does not necessarily reflect a strategic or regional analysis of language requirements, as could be led by a National Aboriginal and Torres Strait Islander Languages Centre.

We believe that securing national agreement on a renewed framework, and the establishment of an appropriately resourced National Aboriginal and Torres Strait Islander Languages Centre would go a long way towards addressing these issues.

Recommendation 17: Increase funding for the Maintenance of Indigenous Languages and Records Program

Increase funding for the Maintenance of Indigenous Languages and Records Program to account for current and anticipated demand.

\$15 million in 2012-13/ (\$35 million over 2 years)⁴⁷

⁴⁶ Including 10 multi-year activities that were approved in previous funding rounds. See <http://www.arts.gov.au/sites/default/files/pdfs/milr-funding-2011-12.pdf>.

⁴⁷ 2012-13 figures use the level of applications in the 2011-12 funding round as a proxy for demand, with a 25% increase for 2013-14 to account for increases in demand, assuming that the Inquiry and related government initiatives increase momentum for language revitalisation programs.

4. Protecting rights to land and resources

4.1 Native title reform

In March 2011, Senator Rachel Siewert from the Australian Greens introduced a private senator's bill – the Native Title Amendment (Reform) Bill 2011. The Bill sought to:

- require Australian governments to implement various principles set out in the United Nations Declaration on the Rights of Indigenous Peoples (the "Declaration"), including (amongst others) rights of Aboriginal and Torres Strait Islander peoples to self-determination, full and direct consultation and participation in decision-making, and to require free, prior and informed consent to decisions affecting them;
- remove a range of barriers that native title claimants face when making a case for recognition of native title rights, including by changing the burden of proof for native title claims which would create a rebuttable presumption of continuity of connection with land and waters;
- changes to the future acts regime, including amendments to require good faith negotiations in relation to future acts.

After holding consultations on the Bill, the Senate Legal and Constitutional Affairs Legislation Committee recommended that it not be passed.

ANTaR strongly believes that the *Native Title Act 1993 (Cth)* remains in need of reform in order to address significant obstacles it imposes on Aboriginal and Torres Strait Islander peoples' realisation of land rights.

ANTaR supports the recommendation of the Aboriginal and Torres Strait Islander Social Justice Commissioner for an independent inquiry on the native title system to explore options for reform and better align the system with the Declaration. The Federal Government should commission and fund such an inquiry within the forthcoming Federal budget.

Recommendation 18: Funding for an independent inquiry into the reform of the native title system

Commission and provide sufficient resources and funding for an independent inquiry, led by an appropriately qualified panel of experts, to consider reforms to the *Native Title Act 1993 (Cth)*, related legislation, regulations and procedures, to remove barriers to the fair and equitable recognition of native title claims, and to reflect the principles of the UN Declaration on the Rights of Indigenous Peoples.

\$1.56 million in 2012-13⁴⁸

⁴⁸ Costs have been estimated by using the midpoint of the costs of the Independent Inquiry into Australian Media (\$1.4 million, as announced in the 2011-12 Mid Year Economic and Financial Outlook) and the Commission of Inquiry into the Queensland Floods (\$1 million, announced in the 2011-12 Federal Budget), with a 30% contingency to account for the increased complexity of an

4.2 Native Title Representative Bodies and Prescribed Bodies Corporate

Native Title Representative Bodies (“NTRBs”)⁴⁹ and Prescribed Bodies Corporate (“PBCs”) are central to the recognition, management and administration of native title claims.⁵⁰

NTRBs currently receive very limited funding. There is currently no specific Commonwealth Government funding provided directly to PBCs, though some limited funding has been provided on an emergency basis from time to time.

Indeed, for more than a decade now, increased funding for NTRBs and PBCs has been consistently recommended not only by ANTaR, but by a range of reports and reviews from Government agencies, Commonwealth Parliamentary Committees, State Governments and industry groups – a point made by the Aboriginal and Torres Strait Islander Social Justice Commissioner five years ago in his 2005 *Social Justice Report*.⁵¹

In 2006, the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Account found that:

Evidence to the inquiry indicated that NTRBs are central to the native title process and as such inadequate resourcing of these bodies can have a significant impact on the extent of progress being made in native title processes. Most importantly, insufficient resources

inquiry into the native title system, and the need to conduct more extensive regional and remote consultations.

⁴⁹ NTRBs represent native title groups and have a range of functions including researching and preparing native title applications, assisting native title groups in mediations, negotiations, consultations, proceedings and dispute resolution and entering Indigenous Land Use Agreements (ILUAs) on behalf of native title holders.

⁵⁰ PBCs hold in trust or manage native title on behalf of native title holders. They have statutory duties and obligations under the *Aboriginal Councils and Associations Act 1976* and provide a variety of functions including administrative functions.

⁵¹ Reports cited by the Social Justice Commissioner in his 2005 *Social Justice Report* include: G Parker & o’rs, *Review of Native Title Representative Bodies*, ATSIC, Canberra, 1995; Senatore Brennan Rashid & Corrs Chambers Westgarth, *Review of Native Title Representative Bodies*, ATSIC, March 1999; Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, *Report on the Effectiveness of the National Native Title Tribunal*, December 2003, paras 4.19-4.44 and recommendation 6. See also the House of Representatives Standing Committee on Industry and Resources report, *Inquiry into resources exploration impediments*, August 2003, paras 7.42-7.51 and recommendation 19; and Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, *Report on Indigenous Land Use Agreements*, September 2001, para 6.83 and recommendation 4, *Ministerial Inquiry into Greenfields Exploration in Western Australia*, Western Australian Government report November 2002, recommendations 8-12; and *Technical Taskforce on Mineral Tenements and Land Title Applications*, Government of Western Australia, November 2001, pp103-106. More recently, see the Minerals Council of Australia 2010-11 Pre-Budget Submission at 43 and the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Account, *Report on the operation of Native Title Representative Bodies*, March 2006.

prevent NTRBs being active players in the native title process, thereby creating backlogs and causing significant delays.⁵²

The Committee also recognised the chronic under-funding of PBCs, concluding that:

The Committee considers that PBCs need to be adequately funded and resourced so that they can fulfil their important role in the native title system. Currently, many PBCs are unable to function effectively because of a lack of financial assistance from the Commonwealth. The Committee believes that the Commonwealth should examine appropriate ways of resourcing the core functions of PBCs. The Committee does not have a view as to whether this assistance should be provided directly to the PBC or via NTRBs.⁵³

The Office of Indigenous Policy Coordination (OIPC) within the Department of FaHCSIA currently provides resources to representative bodies.

The Federal Government is seeking to improve governance and accountability in the native title system to produce sustainable outcomes from native title agreement-making. NTRBs and PBCs have a critical role to play in achieving these outcomes but cannot do so on current funding levels. The Federal Government should consider adequate and sustainable funding for NTRBs and PBCs as an integral part of its native title reform agenda.

In 2009-10, the Commonwealth Government allocated an additional \$50.1 million to the Department of Families, Communities, Housing and Indigenous Affairs for the native title system, in addition to \$73 million included in prior forward estimates. This included \$69.3 million in funding for NTRBs and other native title service providers. In 2011-12, this amount increased to \$84.3 million, and was projected to increase to \$87 million and \$88.6 million in 2012-13 and 2013-14 respectively. Taking growth and indexation into account, ANTaR recommends an increase of 30% above current funding levels as justifiable and necessary, having regard to the central role of NTRBs in native title agreement-making.

Recommendation 19: Additional funding for Native Title Representative Bodies (NTRBs)

Provide additional resources to Native Title Representative Bodies to ensure they are adequately resourced to represent Aboriginal and Torres Strait Islander peoples in native title negotiations.

\$26 million in 2012-13/ (\$53 million over 2 years)⁵⁴

⁵² Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Account, *Report on the operation of Native Title Representative Bodies*, March 2006 at [3.20] at page 34.

⁵³ Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Account, *Report on the operation of Native Title Representative Bodies*, March 2006 at [5.82] on page 80.

⁵⁴ Figures based on a 30% increase in projected funding for the relevant financial years.

Recommendation 20: Increase resources for Prescribed Bodies Corporate (PBCs).

Provide core operational funding for PBCs on a needs basis, ensuring resources to enable PBCs to fulfil their responsibilities to manage their lands.

\$16 million in 2012-13 (\$32 million over 2 years)⁵⁵

Recommendation 21: Increase funding for the National Native Title Council.

The NNTC is a network alliance of member Native Title Representative Bodies (NTRB) and Native Title Service Providers (NTS) located across Australia. Additional funding would enable the NNTC to increase engagement with key and potential stakeholders, advocacy and lobbying activities and technical and structural policy advice.

\$100,000 in 2012-13 (recurrent)

5. Time to reduce imprisonment: A new approach to crime prevention that makes social and economic sense

Nationally, some \$3 billion is spent on imprisonment each year.⁵⁶ The majority of prisoners are serving short-term sentences and come from highly disadvantaged areas, with poor education and social backgrounds.⁵⁷ Aboriginal and Torres Strait Islander people are 'amongst the most imprisoned people in the world'⁵⁸ at a rate 13 times higher than non-Indigenous adults and juveniles 28 times more likely to be detained than their non-Indigenous counterparts.

Recent trends show that Aboriginal and Torres Strait Islander incarceration rates are increasing. Despite the high cost of imprisonment – at \$1309 per prisoner per week – recidivism rates are high (at about 73% for Aboriginal and Torres Strait Islander offenders). A 10% reduction in the Aboriginal and Torres Strait Islander prison population is estimated to result in savings of more than \$10 million per year.⁵⁹

It is time for a radical rethink of our approach to Aboriginal and Torres Strait Islander imprisonment.

This was confirmed by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs' report, *Doing Time: Time for Doing*, released this year. This report described the over-representation of Aboriginal and Torres Strait Islander peoples in prison as a 'national tragedy' and made 40 recommendations across a broad

⁵⁵ Calculated on the basis of the 80 PBCs receiving \$200,000 in core funding in each of 2012-13 and 2013-14.

⁵⁶ Steering Committee for the Review of Government Service Provision, Parliament of Australia, *Report on Government Services* (2010) 8.3.

⁵⁷ Eileen Baldry, 'Recidivism and the Role of Social Factors Post-Release' (2007) 81 *Precedent* 5.

⁵⁸ Harry Blagg, 'Restorative Visions in Aboriginal Australia' (2001) 44(1) *Criminal Justice Matters* 15.

⁵⁹ Donald Weatherburn et al, 'Prison Populations and Correctional Outlays: The Effect of Reducing Re-Imprisonment' (Report on Contemporary Issues in Crime and Justice No 138, NSW Bureau of Crime Statistics and Research, December 2009) 1.

range of areas designed to reduce youth contact with the criminal justice system. The report's first and overarching recommendation was that the Commonwealth Government should develop a National Partnership Agreement dedicated to the Safe Communities Building Block for presentation to COAG. The Committee then recommended a range of policy and program responses ranging from holistic youth and family services, sporting programs, accommodation, alcohol and other drug programs, hearing tests and criminal justice reforms. The Committee also expressed its support for the principles of justice reinvestment and recommended that 'governments focus their efforts on early intervention and diversionary programs and that further research be conducted to investigate the justice reinvestment approach in Australia.'

Justice Reinvestment is based on the principle that prevention pays dividends. Successfully trialed in the US and UK, it works by diverting a portion of the funds that would normally go to imprisonment to local communities where there is a high concentration of offenders to address the underlying causes of offending.

With a high proportion of Aboriginal and Torres Strait Islander prisoners, communities with predominant or significant Aboriginal and Torres Strait Islander populations are likely to benefit from a justice reinvestment approach. In an article on the application of justice reinvestment to Australian communities, Melanie Schwartz highlights the high costs of imprisoning people from Aboriginal and Torres Strait Islander communities – money that is diverted away from, rather than to, communities. She cites the example of Papunya, which had a prison population of 72 adults in 2007-8 (some 23% of the adult population) with a total corrections cost of approximately \$3.5 million per year for a community with less than 400 people.⁶⁰ The potential benefits to the community of a diversion of a proportion of this funding into capacity building, infrastructure and services are clear.

Justice reinvestment is an 'inherently flexible strategy', with 'programs falling within justice reinvestment as diverse as investments in education, job training, health, parole support, housing or rehabilitation' and extending to micro-finance schemes and 'family development loans' to consolidate debt or support home ownership.⁶¹ The model would need to be adapted to an Aboriginal community context, including by involving Elders in the justice process, for example through Community Courts and Law and Justice Groups, and providing culturally relevant case management programs to support rehabilitation and reintegration. While over time, Justice Reinvestment is likely to be revenue-neutral then saving (reusing existing funds, and, in the longer term, reducing incarceration costs), some initial funding is required for pilot programs and feasibility studies.

The inadequacy of funding to Aboriginal and Torres Strait Islander Legal Services (ATSILS) has a direct impact on individuals' experiences of the criminal justice process and the outcomes of that process. As Cunneen and Schwartz argue in their 2008 article on funding for ATSILS:

The issue of adequacy of legal representation for Indigenous people goes to the heart of access, equity and the rule of law. It represents the ability of Indigenous people to use

⁶⁰ Melanie Schwarz, 'Building Communities, not Prisons: Justice Reinvestment and Indigenous Over-Imprisonment', Vol 14, No. 1, *Australian Indigenous Law Review* 2010 at 2-17, page 5.

⁶¹ Ibid.

the legal system (both criminal and civil) to a level enjoyed by other Australians. Further, given the significant over-representation of Indigenous people in the criminal justice system, one might expect a level of funding to ATSILS to represent a serious commitment to remedying where possible this problem.⁶²

In the 2010-11 Budget, the Federal Government delivered an additional \$34.9 million/ 4 years for Aboriginal and Torres Strait Islander legal services (an average increase of \$8.7 million per year). While extremely welcome, the ATSILS remain grossly under-resourced, lagging significantly behind the resource levels of mainstream legal aid service providers. As a consequence, Aboriginal and Torres Strait Islander peoples receive a lesser level of service in the many places in which ATSIL services are the only services available.

The *Doing Time* report recommended that the Commonwealth Government increase funding for Aboriginal and Torres Strait Islander Legal Services to achieve parity per case load with Legal Aid Commission funding in the 2012-13 Budget, with appropriate loadings to cover additional costs in service delivery to regional and remote areas.⁶³ In its response to the Report, the Federal Government rejected this approach to funding, arguing that it was not possible to make comparisons between Legal Aid and ATSILS funding and that more evidence was needed about the extent and nature of unmet need for Aboriginal and Torres Strait Islander legal assistance. Although not rejecting the usefulness of additional evidence to more accurately measure unmet need, ANTaR argues that the inadequacy of funding to the ATSILS has been known for a long time, and the subject of findings and recommendations in a series of reports. A decision to increase funding should therefore not be delayed by a desire to seek further evidence.

Various attempts have been made to quantify the funding shortfall. In evidence to the 2009 Senate Inquiry, the Law Council of Australia suggested that the ATSILS had experienced a 40% decrease in real funding since 1997, without taking unmet and increased need into account. The Australian Human Rights Commission estimated the funding shortfall to be \$25.6 million per year.

Recommendation 22: Fund a National Partnership Agreement dedicated to the Safe Communities Building Block for inclusion in the Closing the Gap strategy.

Funding is required to support the implementation of policies and programs under the Agreement, which should include programs and services recommended in the *Doing Time* report.

\$300 million in 2012-13/ (\$700 million over 2 years)

⁶² Professor Chris Cunneen and Melanie Schwartz, 'Funding Aboriginal and Torres Strait Islander Legal Services: Issues of equity and access, (2008) 32 *Criminal Law Journal* 38 at 39.

⁶³ House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, June 2011, recommendation 26.

Recommendation 23: Fund Justice Reinvestment feasibility and scoping study

Fund scoping and feasibility study on Justice Reinvestment in Australia. This study should be conducted in partnership with Aboriginal and Torres Strait Islander stakeholders to determine applicability and inform the design of an appropriate model for the Australian context, based on comparisons with overseas experiences. An incarceration-mapping exercise should also be conducted to identify potential trial sites with high concentrations of offenders.

\$2 million in 2012-12 (\$6 million over 2 years)

Recommendation 24: Fund pilot Justice Reinvestment projects

Fund pilot Justice Reinvestment projects in targeted communities, with a view to rolling-out the scheme more broadly informed by evidence from these pilots. As this approach has yet to be applied in an Australian context, let alone in the context of Aboriginal or Torres Strait Islander communities, it is difficult to estimate cost. As an example, an analysis for the state of Wisconsin in the USA (with a population approaching 6 million people) suggests a reinvestment total of \$30 million per year (with net savings of \$212 million and growing).⁶⁴

ANTaR suggests that four or five pilot projects targeting identified communities in remote, rural, regional and metropolitan areas would provide a good basis for pilot projects. Determining what types of programs to (re)invest in would take some time, as they vary from place to place, and would be dependant on the views of stakeholders at community level. Properly planning the roll out of these pilot programs would mean that they would be unlikely to all be fully operational until the 2013-14 financial year.

\$5 million in 2011-12 (\$15 million over 2 years)

Recommendation 25: Increase funding to Aboriginal and Torres Strait Islander legal services (ATSILS)

Increase funding to Aboriginal and Torres Strait Islanders Legal Services to meet unmet need for legal services and ensure equal access to legal representation.

Cost: \$17 million in 2012-13 (\$68 million/4 years)⁶⁵

⁶⁴ Justice reinvestment in Wisconsin: "Analyses & Policy Options to Reduce Spending on Corrections and Increase Public Safety, Page 11. Accessed at: http://www.justicereinvestment.org/files/Wisconsin_Analyses_and_Policy_Options.pdf.

⁶⁵ Derived from AHRC suggested shortfall of \$25.6 million per year, less the \$8.7 million per year funding boost provided in the 2010-11 Federal Budget.

6. Supporting Aboriginal and Torres Strait Islander economic development

COAG has committed to halving the employment gap between Indigenous and non-Indigenous Australians by 2018.

The Government released its final Indigenous Economic Development Strategy (IEDS) on 19 October 2011. While ANTaR welcomed the potential for an overarching strategy to improve policy coordination and outcomes across a range of departments, sectors, programs and initiatives, we expressed concern that no new additional funding would be available for the implementation of this Strategy apart from funds already allocated to existing initiatives now under the IEDS umbrella. ANTaR recommends the creation of an Indigenous Economic Development Strategy funding pool to support the development of innovative community and economic development initiatives.

We note that these measures alone will not achieve the COAG employment target nor build a strong economic future for Aboriginal and Torres Strait Islander peoples. Governments must therefore continue to invest in opportunities for flexible, incentive-based employment and social enterprise development in regional and remote areas.

ANTaR supports the call by APO NT for the creation of a new employment and enterprises program which provides continued support for a range of productive activities in remote areas.⁶⁶ The program should provide a partial social security offset and be administered by community organisations as well as other appropriate organisations (for example, outstation resource agencies, Shires and land councils). This should build on the success of CDEP in the creation of jobs, the delivery of services and the development of enterprise.

Recommendation 26: Funding for new initiatives under the Indigenous Economic Development Strategy

Create an Indigenous Economic Development Strategy funding pool to support the development of new and innovative community and economic development initiatives under the overarching strategy. This should include local Aboriginal enterprises and land management as well as opportunities arising from the emerging carbon economy.

Cost: \$100 million in 2012-13

Recommendation 27: Support the creation of a new employment and enterprise scheme, with partial social security offset

As per the APO NT proposal outlined above. Program modelling and costing should be conducted once an appropriate design is agreed with key Aboriginal and Torres Strait Islander leaders and organisations.

\$TBC

⁶⁶ APO NT, 'Funding the Jobs Gap: A proposal for a new Community Employment and Enterprise Development Scheme (CEEDS) for regional and remote Indigenous Australia', December 2010.

7. Investing in community-controlled health services to Close the Gap and create jobs

The 10-17 year life expectancy gap between Aboriginal and Torres Strait Islander and non-Indigenous Australians is a stark indicator of Aboriginal and Torres Strait Islander health inequality.

ANTaR has worked with the Close the Gap campaign coalition to achieve Aboriginal and Torres Strait Islander health equality since 2007. More than 135,000 Australians have pledged support to Close the Gap.

In March 2008, the Prime Minister, the federal Opposition Leader and key Government Ministers signed the *Close the Gap Statement of Intent* with Aboriginal and Torres Strait Islander health leaders. In doing so, they committed to developing a plan for Aboriginal and Torres Strait Islander health equality within a generation and to working in partnership with Aboriginal and Torres Strait Islander peoples and their representatives. ANTaR congratulated the Government in November last year on its commitment to work in partnership with Aboriginal and Torres Strait Islander health leaders to develop a national plan for health equality.

In 2007, COAG agreed a range of 'closing the gap' targets, and some \$1.6 billion has been committed through COAG under the National Partnership Agreement on Closing the Gap in Indigenous Health Outcomes. This Agreement is due to expire on 30 June 2013 and certainty is needed about funding after that date.

The Department of Health and Ageing (DoHA) will spend \$782.6 million on Aboriginal and Torres Strait Islander health programs in 2011-12.⁶⁷ The 2011-12 Budget commits \$237.7 million / 5 years to specific Aboriginal and Torres Strait Islander initiatives, but more than a third is for continuing programs.⁶⁸ The 2011-12 Budget provided an additional \$113.4 million / 5 years for 15 new or expanded Aboriginal and Torres Strait Islander health clinics and 40 new renal dialysis chairs over 5 years, as part of the Health and Hospitals Fund Regional Priority Rounds.

In addition to the general population mental health funding of \$1.5 billion, \$34.9 million was provided in the 2011-12 Budget for Aboriginal and Torres Strait Islander mental health initiatives. The Close the Gap campaign responded by welcoming this investment, but calling on Government to ensure that Aboriginal and Torres Strait Islander peoples received an equitable proportion of the mainstream mental health funding, highlighting the higher rates of mental illness experienced across the age spectrum.⁶⁹

Although the Federal Government has allocated \$7.3 billion to the national health care reforms, none of this funding has been specifically targeted at Aboriginal and Torres Strait Islander health.

⁶⁷ Lesley Russell, 2011, 5.

⁶⁸ Lesley Russell, 2011, 9. This excludes funding delivered through National Partnerships for maternal and child health programs.

⁶⁹ Close the Gap campaign, Media Release, 11 May 2011, 'Indigenous health gains in Budget welcome, but Government must ensure Indigenous people benefit from new mental health money'.

Increased investment in the Aboriginal community-controlled health sector would produce significant social and economic benefits for Aboriginal communities. The Aboriginal community-controlled health sector is the 'single greatest non-government employer of Aboriginal people in Australia, with 70% of workers in 128 services nationally being Aboriginal employees' (this amounts to 2,500 full-time equivalent (FTE) staff, including over 700 Aboriginal Health Workers, 180 FTE doctors, and 230 nurses, spread across both urban and remote areas). However, the sector needs a substantial increase in resources to enable it to meet the needs of the Aboriginal and Torres Strait Islander population. Increased investment would also generate employment opportunities for local Aboriginal people, often in communities where there are few other employment options.

Recommendation 28: Commit funding to Close to Gap beyond 2013 and enhance the capacity of Aboriginal Community Controlled Health organisations to deliver culturally appropriate services

Substantial resources are needed to maintain momentum towards Closing the Gap once the NPA funding expires in 2013. Additional funding is also needed in the next financial year to expand the Aboriginal and Torres Strait Islander workforce, improve service infrastructure and provide mentoring and training programs. There is also a strong need to enable competitive wages and salaries for people working in this field to redress shortfalls and improve retention rates.

Cost: \$200 million/ (\$2 billion/ 5 years)

8. Sorry is the first step: reparations for the Stolen Generations

The 1997 *Bringing them home* report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families found that between 1 in 10 and 3 in 10 Aboriginal and Torres Strait Islander children were forcibly removed from their families and communities in the period from 1910 to 1970. This removal occurred as the result of official laws and policies aimed at assimilating the Aboriginal and Torres Strait Islander population into the wider community.

Research indicates that Aboriginal people removed from their families suffer from poorer outcomes across a range of socio-economic indicators. As a result, the Stolen Generations survivors, who number between 20 000 and 30 000, require a range of specific, targeted services and supports that comprehensively address their needs, as well as broader efforts to close the gap in Aboriginal and Torres Strait Islander life expectancy and health status.

The need to develop appropriate solutions that meet the needs of these Aboriginal and Torres Strait Islander people was outlined in the Stolen Generations Working

Partnership (SGWP) announced on 26 May 2010.⁷⁰ It is essential now for this working partnership to be implemented in all aspects of policy and program delivery to the Stolen Generations. This cannot be done effectively without extra funding. In the National Sorry Day Committee's (NSDC) 'Stolen Generations Scorecard – 6 month update', released in November 2011, the NSDC raised a number of key issues:

- The need for a new *Aboriginal and Torres Strait Islander Social and Emotional Wellbeing (SEWB) Framework* accompanied by an equitable and proportionate funding package, with contributions from Commonwealth, State and Territory Governments;
- The inadequacy of resourcing for Link Up Family reunification services;
- The need for a unique Stolen Generations "health access card" to improve access to health and social services; and
- The need for additional support to meet funeral expenses for members of the Stolen Generations.⁷¹

Link-Up and Bringing Them Home case worker and counsellor services are part of a suite of measures the Federal Government provides in recurrent funding by way of reparations due to the Stolen Generations. The Link Up program was independently evaluated in 2007 and found to be under-resourced and unable to meet high levels of demand. ANTaR welcomed additional funding of \$54.4 million / 5 years in the 2011-12 Budget for the continuation of the 'Bringing them Home' and 'Link Up' Programs for the Stolen Generations.

Without the dedicated work of the National Sorry Day Committee and the Stolen Generations Alliance over the past decade it is doubtful a national Apology would have ever been achieved. These organisations play a critical role in raising public awareness so that such violations can never happen again, as well as bringing to light the importance of just compensation. This work has been provided with only very basic financial support by the Australian government and should be receive secure and regular resourcing.

As the recent NSDC scorecard noted, '[s]eeking justice through monetary compensation for the harm incurred under past forced removal policies remains a priority for many members of the Stolen Generations.'⁷² The NSDC also noted the Federal Government's disappointing unwillingness to date to provide monetary compensation and its failure to show "much needed leadership" on this issue. Payment of reparations should be a joint state and Federal Government responsibility. The Tasmanian government has already acted in this regard. However, the Federal Government has the capacity to lead the states on this issue, including via the establishment of a Stolen Generations Reparations Tribunal which hears claims by people from states which have not established adequate schemes for redress. In addition, the Federal Government has direct responsibility for members of the Stolen Generations from the Northern Territory. The cost of the operations of a Tribunal and the providing of reparations could be met with the

⁷⁰ Stolen Generations Working Partnership
<http://www.fahcsia.gov.au/sa/indigenous/pubs/stolengenerations/Pages/StolenGenerationsWorkingPartnership.aspx>.

⁷¹ NSDC, Stolen Generations Scorecard – 6 month update', November 2011.

⁷² NSDC, Stolen Generations Scorecard – 6 month update', November 2011.

establishment of a Stolen Generations Fund, as outlined by the Public Interest Advocacy Centre.⁷³

Recommendation 29: Adequately resource the implementation of the Stolen Generations Working Partnership.

Translating the SGWP into action requires that it be integrated into the policy and program development processes. The effective participation of Stolen Generations in these processes will require resourcing, as will the monitoring and evaluation of partnership processes overall. Without extra resourcing, it is virtually impossible for the SGWP to address the priorities which have been outlined by the government.

\$2 million in 2012-13 (\$6 million / 3 years)

Recommendation 30: Establish a national Stolen Generations reparations scheme

ANTaR believes an initial establishment payment of \$20 million to establish the Fund would be sufficient to enable the Tribunal to commence operations. The Fund could be reimbursed and/or topped up by further payments from states, church and other organisations found to have been involved in forcible removal practices.

\$20 million 2012-13

Recommendation 31: Adequately support Stolen Generations peak organisations.

The National Sorry Day Committee and the Stolen Generations Alliance play a unique role and have operated largely on a volunteer basis for many years. Secure and ongoing resourcing is needed for both organisations to increase their capacity.

\$240,000 p.a. recurrent

⁷³ Restoring Identity: Final Report of the Moving Forward consultation project. Public Interest Advocacy Centre, 2009. Accessible at http://www.piac.asn.au/sites/default/files/publications/extras/RI_report_final.pdf.