NT Shelter Submission

in response to
the Federal Senate
Standing Committees on Community Affairs'
call for submissions re the:

- **Social Security Legislation Bill 2011**
- **Stronger Futures in the Northern Territory (Consequentional and Transitional Provisions) Bill 2011**
- **Stronger Futures in the Northern Territory Bill 2011**

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PO Box 1577, Nightcliff, NT 0814

for any enquiries to this submission please contact
Central Australian Policy Officer: David Havercroft
T: (08) 8952 6975; E: ca@ntshelter.org.au

About NT Shelter

NT Shelter is an independent non-government peak body that works towards a just and fairer housing system by highlighting the housing needs of disadvantaged groups.

As the peak NT housing and homelessness body, NT Shelter advocates for adequate and appropriate housing for all members of the community particularly low income households and those with special needs.

Our Mission

NT Shelter works towards a just and fairer housing system in the NT. We aim to ensure appropriate and affordable housing is available to everyone, especially disadvantaged groups and those on low incomes in the NT.

NT Shelter cooperates closely with Shelter organisations in other State and Territory jurisdictions, National Shelter, of which we are a member, and other bodies such as Homelessness Australia.

Further information on NT Shelter can be found at: http://www.ntshelter.org.au/

Scope of this Submission

NT Shelter has prepared this submission in response to a call by the Senate Standing Committees on Community Affairs with relation to the following Federal Government bills, as introduced to the Federal Parliament in November 2011:

- ***Stronger Futures in the Northern Territory Bill 2011***[1]
- ***Stronger Futures in the Northern Territory (Consequentional and Transitional Provisions) Bill 2011***[2]
- ***Social Security Legislation Bill 2011***[3]

We note with regret that the timing of the Committees' call for submissions did not allow us to seek input from Aboriginal people that will be directly impacted by the introduction of the proposed legislation, nor the organisations that represent them, in preparing this

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[1] refer: http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;orderBy=alphaAss;page=0;query=(Dataset%3Abillhome%20SearchCategory_Phrase%3A%22bills%20and%20legislation%22%20Dataset_Phrase%3A%22billhome%22)%20Stronger%20Futures;rec=1;resCount=Default (accessed January 2012)

[2] refer: http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;orderBy=alphaAss;page=0;query=(Dataset%3Abillhome%20SearchCategory_Phrase%3A%22bills%20and%20legislation%22%20Dataset_Phrase%3A%22billhome%22)%20Stronger%20Futures;rec=0;resCount=Default (accessed January 2012)

[3] refer: http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;orderBy=alphaAss;page=1;query=(Dataset%3Abillhome%20SearchCategory_Phrase%3A%22bills%20and%20legislation%22%20Dataset_Phrase%3A%22billhome%22)%20Social%20Security%20Legislation%20Amendment%20Bill%202011;rec=1;resCount=Default (accessed January 2012)

submission. We particularly recognise the considerable expertise of Aboriginal land councils with regard to land tenure issues.

This submission is principally focused on addressing ***Part 3 – Land Reform*** of the ***Stronger Futures in the Northern Territory (*'NT'*) Bill 2011***, reflecting NT Shelter's remit around housing-related issues.

We leave it for other organisations submitting to the Senate Committees to address issues with income management, alcohol management, etc. where they may relate to housing - for example, the Australian Council of Social Service (ACOSS) submission[4] notes:

(i) the prospect of income management measures being introduced for social housing tenants who fall in arrears with rental payments; the discrimination that this would entail is clear, impacting only on social security recipients;

(i) with the introduction of 'SEAM' measures, there is the ready prospect for a family whose social security payments have been suspended to get into financial hardship, falling into arrears with rental payments, and through that be at risk of homelessness.

Such measures will clearly negatively impact on the key role that secure access to affordable, culturally appropriate housing has for all households and their long term viability.

It is also not within the scope of this submission to provide a detailed overview of issues around home ownership for Aboriginal and Torres Strait Islander households. Nonetheless, concerns NT Shelter highlighted in our 2010 submission to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) on Aboriginal and Torres Strait Islander Home Ownership[5] continue to provide a lens through which any land tenure reforms should be considered.

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[4] Refer: http://www.aph.gov.au/senate/committee/clac_ctte/strong_future_nt_11/submissions.htm (accessed January 2012)

[5] NT Shelter (2010) *Aboriginal & Torres Strait Islander Home Ownership - NT Shelter Submission in response to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) Indigenous Home Ownership Issues Paper*. Darwin; refer: http://ntshelter.org.au/uploads/1010%20NT%20Shelter%20FaHCSIA%20Indigenous%20Home%20Ownership%20submission.pdf (accessed January 2012)

Commentary

NT Shelter holds that self-determination is essential to ensuring the wellbeing of Aboriginal and Torres Strait Islander communities – any moves to reform land tenure models must work through a policy setting that acknowledges Aboriginal and Torres Strait Islander peoples' rights to self-determination and dignity.

In July 2010 representatives from Aboriginal and Torres Strait Islander and mainstream housing organisations and peak bodies met in Brisbane under the auspices of National Shelter. National Shelter's August 2010 policy statement 'A Way Forward for Housing Indigenous Peoples in Australia'[6], documents responses to key issues cited during this forum. A further, similar meeting was held in May 2011 in Brisbane to progress developments around agreed issues.

The policy statement notes that **'programs need to be developed to support Indigenous peoples to better access the housing market, including home ownership and private rental, and to address discrimination'** as one of the key measures that must be addressed by the tiers of Government and the Australian community in order to successfully deliver better housing outcomes for the broad Aboriginal and Torres Strait Islander population. This aligns with the broadly stated, land & housing-related intentions of the Australian Government.

NT Shelter's 2010 submission to FaHCSIA on Aboriginal and Torres Strait Islander Home Ownership[7] noted this point as a principal tenet for any consideration of housing provision by Governments, at the same time recognising the following imperatives:

- More resources need to be urgently directed to producing the needed 20,000 dwellings in Aboriginal and Torres Strait Islander communities Australia-wide;
- Aboriginal and Torres Strait Islander community housing providers ('CHP's) must be supported to play a central role in meeting this need, and in developing the skills and ability to continue meeting the housing needs of Aboriginal and Torres Strait Islander peoples into the future;
- Aboriginal and Torres Strait Islander peoples need to be closely involved in all aspects of the response, from developing high level Aboriginal and Torres Strait Islander housing policy to on the ground housing and service delivery and management.

NT Shelter recognises the considerable initiatives of the Rudd and Gillard Governments in addressing issues of housing Aboriginal and Torres Strait Islander people since 2007 through the National Partnership Agreement on Remote Indigenous Housing ('NPARIH').

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[6] Refer: http://www.shelter.org.au/archive/rpt1008atsihousing.pdf (accessed January 2012)

[7] NT Shelter (2010)

However we hold that the Federal Government's support of 'the importance of a secure and healthy home as a basis for improving Aboriginal people and Torres Strait Islander life outcomes'[8] does not, ipso facto, translate to the need for a dramatic push for increased Aboriginal and Torres Strait Islander home ownership and the land tenure reforms that the ***Stronger Futures in the NT Bill 2011*** proposes. Rather, it is recognised that these outcomes will be best achieved through 'strength based approaches', with a long-term commitment to genuine engagement with communities.

Furthermore, the introduction of the bills in their extant form contravene the Federal Government's obligations under the ***United Nations Declaration of the Rights of Indigenous Peoples*** ('UNDRIP'), and contradict its stated aim of working in the spirit of the ***Racial Discrimination Act*** (1975). The proposed legislation continues to bear aspects of racial discrimination when one considers that it is principally Aboriginal & Torres Strait Islander households upon which the proposed legislation negatively impacts – this is certainly true of ***Part 3 – Land Reform*** of the ***Stronger Futures in the NT Bill 2011***.

With regard to land reforms, we are concerned that the proposed legislation may not be adequately formed by the free, prior and informed consent of parties who are directly impacted by the proposed legislation. The Government's stated predisposition in favour of 'mainstreaming' of social housing management, and championing of individual household home ownership, when combined with the legislation's land tenure reform, has the very ready potential to negatively impact on the long term social fabric of town camps and community living areas.

Further to these points, NT Shelter is particularly concerned that:

(i) ***Stronger Futures in the NT Bill 2011***: **Section 34(8)** be modified to reflect that the Minister must obtain agreement from the head lessee of the Special Purpose Lease/Crown Lease (e.g. Housing Association board) prior to making regulations for the use, subdivision, dealings, planning, infrastructure or any other matter related to the use of the land;

(ii) ***Stronger Futures in the NT Bill 2011*: Section 34(9)** be removed from this section, thus ensuring proper consultation with all parties to the leasing arrangements, including Aboriginal stakeholders to that land;

(iii) ***Stronger Futures in the NT Bill 2011*: Section 35(5)** be removed from this section, thus ensuring proper consultation with all parties to the leasing arrangements, including Aboriginal stakeholders to that land.

[8] FaHCSIA (2010) *Indigenous Home Ownership Issues Paper*. Canberra: Commonwealth Government. refer: http://www.facs.gov.au/sa/indigenous/pubs/housing/indig_home_ownership/Pages/default.aspx (accessed January 2012)

NT Shelter contends that home ownership and short to long-term leasing arrangements are possible on town camps and community living areas without the land reforms already undertaken and further proposed by Government.

Furthermore the imposition of the proposed ***Stronger Futures*** land reforms, in conjunction with the Australian Government's extant, long-term leaseholds on town camps and community living areas, runs counter to the sense of 'living environment' order and continuity needed by individuals for their emotional and social wellbeing, and the related positive health outcomes associated with community control of land, of which housing is an indivisible part.

In NT Shelter's submission to FaHCSIA on Aboriginal and Torres Strait Islander Home Ownership[9] we made the following recommendations noted as Recommendations 'A' – 'D' below; we continue to commend these in light of the proposed ***Stronger Futures*** bills. These address compliance with the ***UNDRIP*** and the Government's social inclusion direction with regard to the town camps and community purpose leaseholds impacted by the bills, and have been used to inform Recommendations 1-4 at the end of this submission:

Recommendation A

Government support existing, re-established and newly established Indigenous Community Housing Organisations [these could be referred to as Aboriginal and Torres Strait Islander CHPs], acting alone or as consortia, to deliver housing and allied services to Aboriginal and Torres Strait Islander communities.

[Further to this recommendation, NT Shelter notes the substantial role that ICHOs can play in assisting households to achieve home ownership]

Recommendation B

On *community-title land* [*amend to include community living areas and town camps on Special Purpose Leases and Crown Leases], Government immediately end current land reform arrangements that devolve decision making from Aboriginal and Torres Strait Islander peoples.

Through consultation with traditional owners and community members, Government support the use of existing land tenure models and alternative models, such as community land trusts:

- to allow for the development of home ownership models where appropriate; and
- in order instigate new housing works, both for individual home ownership where appropriate and social housing

[9] NT Shelter (2010). p. 4-5

Recommendation C

On *community-leasehold land* [*amend to include community living areas and town camps on Special Purpose Leases and Crown Leases], Government immediately end current land reform arrangements that devolve decision making from Aboriginal and Torres Strait Islander peoples.

Through consultation with traditional owners and community members, Government support the development of means through which existing land tenure models can be amended:

- to allow for the development of home ownership models where appropriate; and
- in order instigate new housing works, both for individual home ownership where appropriate and social housing.

These could include the instigation of alternative models such as community land trusts.

Recommendation D

That government assist communities on community-owned and controlled land to sub-divide community allotments and to normalise the provision of utilities to these so that they may be suitable for long term leases to parties suitable for individual home ownership.

Further to *Recommendation D*, NT Shelter recognises the broad, positive benefits of cadastral surveying required by government to 'mainstream' land tenure to community living areas and town camps. In line with *Recommendations A-C*, this surveying affords communities the opportunity to review both the ownership and leasing arrangements of land. However, the implementation of cadastral surveying should not impact upon the security of tenure for housing associations and residents, both in the short and longer term.

NT Shelter is concerned that cadastral surveying must be afforded more broadly to Aboriginal communities so that they may have similar economic opportunities to those currently named to the ***Stronger Futures in the NT Bill 2011***, and the NT Government nominated 'Growth Towns'.

Recommendations

Recommendation 1

That the ***Stronger Futures in the Northern Territory Bill 2011***, ***Stronger Futures in the Northern Territory (Consequentional and Transitional Provisions) Bill 2011***, and ***Social Security Legislation Bill 2011*** be withdrawn so that they may be reviewed and redrafted to ensure compliance with the ***United Nations Declaration of the Rights of Indigenous Peoples*** ('UNDRIP') and other such rights-based statutes to which the Australian Government is a signatory.

Recommendation 2

Further to Recommendation 1, that any proposed legislation is developed in accordance with the Australian Government's social inclusion principles of using a 'strength based approach', with a commitment to genuine engagement with communities; such commitment will ensure free, prior and informed consent with community members impacted by the legislation.

Recommendation 3

Further to Recommendation 1, that the Australian Government's development of any such proposed legislation in relation to land tenure, as currently detailed to ***Part 3 – Land Reform*** of the ***Stronger Futures in the NT Bill 2011***, allow for:

(i) Government support, including through investment, the application of alternative models of housing and land tenure to the described land, while maintaining the primacy of continuing Aboriginal agency over that land. This could include allowance for community land trusts and other models that allow for the development of home ownership models and social housing, as appropriate.

It is critical that changes to land tenure do not imperil households' access to secure, affordable housing and socio-cultural connections to land;

(ii) Government support in existing, re-established and newly established Aboriginal community housing providers ('CHP's), acting alone or as consortia, to deliver housing and allied services to Aboriginal communities; this includes through investment in governance & capacity building.

This accords with the Council of Australian Government ('COAG')'s Housing Ministers stated intent of the Commonwealth, states and territories 'to develop, over time, a large scale community housing sector in Australia comprising up to 35% of social housing by 2014'.[10]

Recommendation 4

Further to Recommendation 1, that government support, including through investment, communities on town camp and community living area leaseholds to sub-divide these leaseholds, and to normalise the provision of utilities to these, so that they may be suitable for long term leases, as well as for individual home ownership.

[10] COAG (2009) *Implementing the National Housing Reforms: a Progress Report to the Council of Australian Governments from Commonwealth, State and Territory Housing Ministers*; Melbourne: Victorian Government Department of Human Services on behalf of the Housing Ministers' Conference. p.26