



Submission to the NIAA Remote Housing Audit

Prepared by the North Australian Aboriginal Family Legal Service (NAAFLS)

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About the North Australian Aboriginal Family Legal Service

The North Australian Aboriginal Family Legal Services (NAAFLS) is an independent Family Violence Prevention Legal Service. We have an offices in Darwin, Nhulunbuy and an office in Katherine and service 46 remote communities spanning from the Tiwi Islands down to Borroloola and over to Lajamanu.

Our legal team provides culturally competent and trauma informed legal representation and advice to Aboriginal and Torres Strait Islander people in remote Top End communities who have experienced domestic, family and sexual violence. Our practise areas include child protection, family law and Domestic Violence Orders. Our client support officers provide holistic and culturally appropriate non-legal supports to our clients.

Acknowledgment of Country

NAAFLS acknowledges the Traditional Custodians of the land on which we work and live. We recognise their continuing connection to land, water and community. We pay respects to Elders past, present and emerging. NAAFLS recognises that sovereignty has never been ceded.

Overcrowding in remote Top End communities

Most remote Top End community members live in Government housing. There is very little private housing available. Further, due to the lack of employment opportunities in remote communities, many members rely on social security payments and would be unable to afford private housing. Accordingly, Government housing is their only option.

According to the NT Government Accountability website, 54.5% of houses in remote communities are overcrowded and there is an average of 1.60 occupants per bedroom.¹ In our experience, most, if not all, of the remote community members we meet report living in an overcrowded house. Our clients regularly report 15 plus people living in a three-bedroom home. This is the common experience across all the remote and very remote communities we visit.

Aboriginal communities tend to have broader kinship groups than Western communities. Accordingly, it may be expected and desirable in Aboriginal communities for large family groups to

¹ Department of Territory Housing, Families and Communities, *Our Communities, Our Future, Our Homes, Program Progress Overview* (2021), <https://ourfuture.nt.gov.au/accountability-and-reporting/program-progress#/>, 25 November 2021.

live together. The current situation however is not due to this aspect of Aboriginal cultures. In general, our clients would like bigger homes to adequately house their family, or for less people to live in their house with them.

The National Partnership for Remote Housing NT has been in place since 2008 and was renewed in 2018. We have not seen significant progress made to address the crisis that is overcrowding in remote and very remote communities.

Uninhabitable conditions

In addition to overcrowding, many of our clients report that the housing provided by the Government is in disrepair and is in some instances uninhabitable. A snapshot of Indigenous Housing published by the Australian Institute of Health and Welfare on 16 September 2021 states 20% of Indigenous households were living in dwellings that did not meet an acceptable standard; 46% of Indigenous households in remote areas were in dwellings with at least one major structural problem; 9.1% had no access to working facilities for food preparation, 4.5% had no access to working facilities to wash clothes or bedding and 2.8% had no access to working facilities to wash themselves.² These statistics are nationwide, not Territory specific. Based on conversations with clients however we would estimate the conditions in remote Top End communities to be the same if not worse.

Flow on effects of overcrowding

Overcrowded housing is not a stand alone issue. It creates and contributes to a wide array of issues.

Structural damage to houses causes or contributes to poor health outcomes. For example, rainwater may get into a crack in the wall causing dampness and mould which can directly cause serious health concerns. Overcrowding exacerbates health issues such as infections, skin conditions and gastroenteritis. It contributes to food insecurity which leads to stress and tension in the household as well as poor physical health.

Overcrowding causes feelings of insecurity and lack of control. It increases the risk of domestic and family violence in the home. Tensions can run high in an overcrowded house. Household members do not have room to separate themselves from difficult situations or find a safe place within their dwelling. In remote communities, people have limited safe spaces outside of their own house as most houses are overcrowded. Through Domestic Violence Orders, people experiencing family violence can ask the Court to order the perpetrator to leave the house. In our experience, Courts are reluctant to make such an order in remote communities for fear of the perpetrator becoming homeless. Even when orders are made, Police are reluctant to enforce this order as they too do not want to cause someone to become homeless. This leaves victim-survivors of family violence with few options to seek safety when the perpetrator is a household member.

All these factors contribute to the rate of removal of Aboriginal children from family and community by the Department of Families, Housing and Communities. Just as people struggle to find a safe place in their homes, parents may struggle to find space to protect and shelter their children from arguments, violence and drug and alcohol abuse in the house. Children also experience the impacts of overcrowding on their health and wellbeing.

² Australian Institute of Health and Welfare, *Indigenous Housing* (2021), <https://www.aihw.gov.au/reports/australias-welfare/indigenous-housing>, 28 November 2021.

While the kinship assessment process by the Department of Territory Families, Housing and Communities is not transparent, chronic and widespread overcrowding likely contributes to the Department's frequent decisions to place Aboriginal children with non-Indigenous foster carers in Darwin rather than in kinship placements in community. 89% of children in out-of-home care in the NT are Aboriginal or Torres Strait Islander children. As of 2018, only 33% of Aboriginal and Torres Strait Islander children in out-of-home care in the NT were placed with kin or other Aboriginal and Torres Strait Islander carers. This is well below the national average and often has devastating and long-term impacts on the health and wellbeing of the Aboriginal or Torres Strait Islander young person. Properly addressing overcrowding in remote Top End communities would likely have direct and significant flow-on effects to the rate of child protection intervention.

In the context of COVID-19, overcrowding poses even greater risk to the health of remote community members. Where houses do not have adequate washing facilities, people will be unable to maintain adequate hand hygiene to prevent transmission. COVID-19 has reached some remote communities in the Northern Territory. People were confined to their homes under hard lockdown in overcrowded conditions. If COVID-19 reaches communities with lower vaccination rates, it is likely that transmission will be widespread and devastating.

Response to the audit questions

1. Does the NIAA effectively coordinate Australian Government funding for Remote Indigenous Housing in the Northern Territory?
2. Does the NIAA effectively monitor the implementation of the National Partnership for Remote Housing in the Northern Territory?

It is not clear what action the NIAA is taking to monitor the implementation of the Partnership or what responsibility the NIAA has to coordinate the Commonwealth funds. The delivery of Commonwealth funds is determined by an events schedule, agreed to by the Commonwealth and Territory Governments. Accordingly, it is difficult to directly respond to the audit questions.

The goals of the Partnership, as outlined on the NIAA website, are as follows:

1. Reduce overcrowding by increasing the standard and supply of housing;
2. Ensure a role for Land Councils in the governance of the Partnership;
3. Provide transparency about how money is spent;
4. Ensure to the maximum extent possible, works are delivered by local Indigenous Territorians and businesses.

Reducing rates of overcrowding

The NT Government's Accountability Website provides a break down of funds spent in each remote community in the NT. Despite the urgency of the problem, the implementation of the program is lagging. We are almost three years into the five-year program (2018-2023). At the time of writing, of the 2,704 homes approved under the HomeBuild and Room to Breathe schemes, only 654 homes have been completed. NT Government can claim the cost of up to 1,950 bedrooms from the Commonwealth if they're completed by June 2023. At the time of writing, only 363 bedrooms have been funded by the Commonwealth. Due to the slow progress of the NT Government, Commonwealth funds are not being used to build urgently needed houses in remote communities.

We recognise under the agreement of the Partnership, the coordination of Commonwealth funds may be hamstrung by the actions of the NT Government. It is a responsibility however of the NIAA to

liaise with the Territory Government and influence policy to improve service delivery for Aboriginal and Torres Strait Islander people. Overcrowding in remote communities is an urgent issue. If the delivery of the program is held up by the structure of the Partnership agreement, perhaps the agreement needs to be reviewed.

Works delivered by local Indigenous Territorians and businesses

The NT Government has responded to criticisms of slow progress by saying that it was always their intention to ramp up construction towards the end of the program. They've said this approach will maximise the numbers of contracts awarded to local Aboriginal Territorians and businesses. It is our understanding however that since February 2020, in some cases prefabricated houses have been constructed in Darwin or Alice Springs and transported to remote communities by truck. The companies contracted to build these homes are not Aboriginal owned. The cost of construction, transport and installation of a prefabricated three-bedroom home is more than the NT Government's target cost of \$500,000. It is our understanding the prefabricated houses have been funded by the Commonwealth's contribution. This approach has potentially taken jobs away from local Aboriginal businesses and does not seem to have sped up the implementation of the Partnership.

Standard of housing

We're pleased to see that one of the goals of the program is to improve the standard of housing. Our clients frequently report that their houses are in disrepair and poor condition. In 2020, in an appeal by Santa Theresa residents about the conditions of Government Housing, the Supreme Court ruled that the NT Government's obligation to provide 'habitable' housing under the *Residential Tenancies Act* should not only include consideration of the health and safety of tenants but also the humaneness, suitability and reasonable comfort of the property. We understand the NT Government is appealing the ruling, including this particular decision. It is disappointing that the NT Government does not want to consider the reasonable comfort and humaneness of the housing they are providing the country's most vulnerable citizens. We find it difficult to see how the standard of homes in remote communities can be adequately improved when this is the approach of the NT Government.

Transparency

The NT's Accountability and Reporting website details the number of homes and rooms constructed as well as the amount of money spent. It is pleasing to see this information is easily accessible. We are concerned however that the Government's estimate of the average number of occupants per bedroom is 1.60. As outlined above, we would consider this a significant underestimate. We are concerned that if the true extent of the overcrowding is not recognised, it cannot be adequately addressed.

Land Councils

We understand the Land Councils participate in the governance of the Partnership through the Joint Steering Committee. The meeting communiques published on the NT Government website are not detailed, accordingly we are unable to comment on whether this goal is being met.