DESERT KNOWLEDGE CRC

The Working Paper Series

From community housing to public housing in Northern Territory remote Aboriginal communities: the policy context

Rae Porter

Centre for Appropriate Technology

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AUSTRALIA

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Citation

The Desert Knowledge Cooperative Research Centre is an unincorporated joint venture with 28 partners whose mission is to develop and disseminate an understanding of sustainable living in remote desert environments, deliver enduring regional economies and livelihoods based on Desert Knowledge, and create the networks to market this knowledge in other desert lands.

Acknowledgements

For additional information please contact

Abstract

Indigenous Community Housing Organisations (ICHOs) had a prominent role in the delivery of housing services to remote Aboriginal communities in the Northern Territory. On 1 July 2008, this role ended for all but a handful of ICHOs that were independently incorporated, when nearly 60 Aboriginal community councils were amalgamated into eight shire councils. Community rental housing has been replaced by a remote public housing model managed by Territory Housing. This paper explores the national and NT context for this radical change of housing policy direction.

Acknowledgements

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List of shortened forms

ALRA	*Aboriginal Land Rights (Northern Territory) Act 1976*
AHURI	Australian Housing and Urban Research Institute
ARIA	Australian Remote Indigenous Accommodation (Program)
ARHP	Aboriginal Rental Housing Program
ATSIC	Aboriginal and Torres Strait Islander Commission
BBF	*Building a better future: Indigenous housing to 2010*
CAT	Centre for Appropriate Technology
CHIP	Community Housing Infrastructure Program
COAG	Council of Australian Governments
CSHA	Commonwealth State Housing Agreement
CSO	Community Service Obligation
DKCRC	Desert Knowledge Cooperative Research Centre
FACS	Department of Family and Community Services
FaHCSIA	Department of Families and Housing, Community Services and Indigenous Affairs
FHBH	Fixing Houses for Better Health
GM	government business managers
ICHO	Indigenous Community Housing Organisation
IHA	Indigenous Housing Agreement
IHANT	Indigenous Housing Authority of the Northern Territory
HOIL	Home Ownership on Indigenous Land
HMAC	Housing Minister's Advisory Council
MoU	Memorandum of Understanding
NAHA	National Affordable Housing Agreement
NIHIIC	National Indigenous Housing Information Implementation Committee
NSDS	National Skills Development Strategy
NTER	Northern Territory Emergency Response
NTIHAB	Northern Territory Indigenous Housing Advisory Board
NT	Northern Territory
OID	Overcoming Indigenous Disadvantage
SCIH	Standing Committee on Indigenous Housing
SIHIP	Strategic Indigenous Housing and Infrastructure Program
SOMIH	State Owned and Managed Indigenous Housing
SHA	State Housing Agency

Introduction

This working paper is part of research for Desert Knowledge Cooperative Research Centre (DKCRC) Core Project (CP) 5 'Desert Services that Work: Demand Responsive Services for Desert Settlements'. An aspect of CP5 research in the Northern Territory (NT) is 'the implementation of new NT models of housing tenancy and asset management and their interface with tenant demand'.[1] Field research is being conducted in two Aboriginal communities (Lajamanu and Ali Curung) to explore the fit of the NT Government's remote public housing model with capacities and conditions in the two communities.

This working paper[2] examines the context and motivations for the policy change, from a community rental housing model in 73 remote Aboriginal communities of 100 people or more[3], to a public housing model whereby construction and upgrades of housing stock, asset maintenance, repairs and maintenance, and tenancy management will all be under the control of Territory Housing, the NT Government's housing agency[4]. This 'mainstreaming' of Aboriginal-controlled community housing is a significant change of policy direction in at least two respects.

First, prior to 2008 *all* Aboriginal-specific housing funds in the NT were channelled into housing stock that was managed by Indigenous Community Housing Organisations (ICHOs). A stock of approximately 6000 housing units housed 63 per cent of NT Aboriginal adults (ABS 2008) in remote conditions. The NT Government chose not to put any housing funds into State Owned and Managed Indigenous Housing (SOMIH). The ICHOs managed a higher number of dwellings than Territory Housing's approximately 5392 public housing units located in the main centres of the NT (CoA 2007, p. 72).

Second, the Housing Minister's *Building a better future: Indigenous housing to 2010* (BBF) document recognised the difficulties of housing provision in remote communities and advocated 'a sustainable and active Aboriginal community housing sector acting in partnership with governments' (HMAC Standing Committee on Indigenous Housing 2001). The BBF community-housing platform has never been repudiated. The policy change from a community to a public housing model occurred without public debate or Aboriginal consultation and without an evidence base that government housing agencies can do a better job of providing remote Aboriginal housing.

Community rental housing and government rental housing are housing tenures where the capital expense is paid for by government and rent is paid by tenants relative to income. These forms of housing provision are often collectively called 'social housing' as they are targeted at lower-income households and generally require a subsidy to meet the shortfall between the cost of provision and the ability of tenants to pay; that is, a subsidy provided to meet government 'social' objectives. The difference between community rental housing and public rental housing is that in community rental the housing stock is vested in and managed by community (both Aboriginal and non-Aboriginal) organisations whereas in public rental housing the stock is owned and managed by a state housing agency (SHA). Public rental housing has mainly been located in cities and towns and is managed according to a uniform/universal set of rules. Community rental housing has to meet certain regulations in order to receive government capital funding but generally has more scope to be flexible in meeting the needs of its particular client group (for more on Aboriginal community rental see Sanders 2006).

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[1] CAT 2008, Desert Knowledge CRC CP5 Northern Territory Research Plan 2008–2009.

[2] A second DKCRC working paper will examine how the new housing arrangements are being implemented in the NT.

[3] This paper does not address housing on the approximately 500 outstation communities. The CHIP moratorium (that was in place until 30 June 2008) on the funding of new houses and infrastructure on outstations has been surpassed by the statement that 'no Australian Government funding will be provided to construct housing on outstations/homelands' (2007 MoU, para.17).

[4] Territory Housing is a Government Business Division that is responsible to and directed by the NT Government through the Department of Local Government and Housing.

Section 1 of this working paper examines the five broad areas of change in Commonwealth –Northern Territory fiscal and governing arrangements that provide the context for the remote Indigenous housing approach. Section 2 draws on research/reports on ICHO sustainability and financial viability to compare Aboriginal community housing with public housing viability. Section 3 summarises and concludes the working paper.

A second working paper that describes the NT remote Indigenous housing approach through the use of a schematic diagram identifying the roles of Territory Housing, the Strategic Indigenous Housing and Infrastructure Program (SIHIP), shires, traditional owners and housing reference groups in housing delivery will complement this working paper. It attempts to identify areas where Aboriginal values and practices should be 'recognized/ translated' and outcomes negotiated for the approach to be demand-responsive: where people are active participants and housing services are hybridised to contribute to longer-term sustainable outcomes.

1. Context for the NT Government's remote Indigenous housing approach

Five broad areas of change in Commonwealth – Northern Territory fiscal and governing arrangements provide the context for the new remote Indigenous housing approach. These are:

1. The Council of Australian Governments (COAG) framework that includes: bilateral arrangements for Aboriginal affairs; the 2001 Housing Ministers 10-year statement (the BBF); COAG whole-of-government trials; and Closing the Gap on Aboriginal Disadvantage.
2. The Community Housing and Infrastructure Program (CHIP) review
3. The Northern Territory Emergency Response (NTER).
4. The memorandum of understanding between the Commonwealth and the Northern Territory governments in respect of Indigenous housing, accommodation and related services of September 2007 (2007 MOU).
5. The restructure of local government in the NT.

1.1 The COAG framework

At its inaugural meeting in 1992, COAG endorsed the *National commitment to improved outcomes in the delivery of programs and services for Aboriginal people and Torres Strait Islanders*. The commitment highlighted the need for the *rationalisation of policy, programs and funding between the Commonwealth and the states and territories* (See 1.1.1 Indigenous Housing Agreements)

In November 2000, COAG reaffirmed the commitment document in a *Reconciliation framework* which emphasised outcomes, program coordination, flexibility and partnerships with Aboriginal communities. COAG called for ministerial councils to drive the changes with action plans and performance reporting strategies (See 1.1.2 Building a Better Future for Indigenous Housing).

In 2003, COAG went a step further in attempting coordination across portfolios and levels of governments with a 'whole-of-government' approach. This approach was trialled in eight Aboriginal communities with the aim of improving the way that governments interact with each other and with communities. However, evaluation of the trials in 2007 indicated significant difficulties on the government side, including insufficient cultural awareness and sensitivity, and an increase, rather than a decrease, in red tape. Marks (2008, p. 15) reports that the new arrangements lacked effective engagement with the communities and the opportunity for their meaningful participation.[5]

In December 2007 COAG established a Working Group on Indigenous Reform to achieve 'closing the gap on Aboriginal disadvantage' with respect to life expectancy, child mortality, access to early childhood education, educational attainment and employment outcomes. All COAG working groups, Australian and state/territory agreements, national partnerships etc. have been tasked with ensuring proposals address the Aboriginal disadvantage gap. *Closing the gap on Indigenous disadvantage: a generational plan of action* contains the Northern Territory's vision and objectives for the future socioeconomic wellbeing of Aboriginal Territorians and sets targets for the next five, 10 and 20 years. This plan commits the NT Government to a program of remote housing reform. In February 2009 the NT Government announced a new Indigenous Affairs Advisory Council that will provide advice on implementing *Closing the gap*.[6]

Australia's attempts at measuring and reporting Aboriginal wellbeing are represented by the concepts and indicators that make up the annual *Overcoming Indigenous disadvantage* (OID) report (produced

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[5] See Greg Marks 2008 for an analysis of the 'coercive governance' and the failed promise of the 'whole of government mantra'.
[6] See <http://newsroom.nt.gov.au/adminmedia/mailouts/5088/attachments/IAAC%20announcment.pdf>.

on a biannual basis by the Productivity Commission). This framework is a product of COAG and represents the pursuit and measurement of statistical equality between the standard of living of Aboriginal and other Australians in the areas of health, housing, education and employment.

1.1.1 Indigenous Housing Agreements

Indigenous Housing Agreements were negotiated, with the NT Government being the first to sign in June 1995 an agreement that specified the roles and responsibilities of the Commonwealth and NT governments in the provision of housing. The agreement created the Indigenous Housing Authority of the NT (IHANT), with representation from the Aboriginal and Torres Strait Islander Commission (ATSIC; nine elected NT ATSIC members), the NT Government (seven) and Commonwealth Government (one), to be responsible for improved Aboriginal housing outcomes. All available funds (ATSIC-CHIP; Commonwealth–State Housing Agreement (CSHA) – Aboriginal Rental Housing Program (ARHP)) and the NT Government contribution to Aboriginal housing were pooled and channelled through IHANT.

The agreement allowed for all the pooled Aboriginal housing monies to be directed toward community housing, meaning that Territory Housing would not own and manage any housing in Aboriginal communities (that is, they would have no SOMIH stock), but they would provide Aboriginal families access to public housing in the major centres of the NT[7]. In effect there were two distinct housing administrations: IHANT for Aboriginal community rental in remote areas, and Territory Housing for public housing in the main centres.

ATISC Regional Plans determined infrastructure developments, including housing, and monies were allocated via IHANT to ICHOs according to the Regional Plan. During IHANT's first four years of operation policies were developed and implemented in: (i) environmental health standards for remote communities; (ii) repairs and maintenance; (iii) rent policy (with subsequent rental income increases); and (iv) minimum standards for housing management.

The proportion of Aboriginal *households* living in Aboriginal community housing in the NT is 41.2 per cent. This increases to 62.6 percent when converted to a proportion of all Aboriginal adult (over 15 years) *persons*, the difference reflecting the higher number of adults living in community housing dwellings. Rates of overcrowding were found in 61 per cent of households in Aboriginal community housing – the highest in Australia (ABS 2008, Sanders 2006). There can be an up-side to having several adults living in a household: when all adults are numerated and charged a flat rent of $40 per fortnight the rental cost is spread wider, with no single adult or adult couple required to pay the full assessed rental obligation. Where this rent payment method is adopted the housing costs are more affordable per person. When adult occupancy rates per household decline or are forcibly reduced by the application of occupancy rules, as tends to be the case in public and private rental tenures, rental affordability also declines.

The initial bilateral agreements became invalid in 2004 after the abolition of ATSIC. The regional planning function that ATSIC had performed was lost also and ICHOs were required to submit an annual application for housing monies. This increased their workloads and reduced their capacity to forward-plan against regional needs. Furthermore, when the results of a successful funding submission were not notified until well into the financial year, housing contractors had to be organised and housing delivered at short notice. This resulted in what Seeman et al (2008, p. 8) refer to as the 'conveyor belt scenario' whereby houses built at the lowest cost crash off the end of the belt into communities.

In April 2005 an *Overarching Agreement on Indigenous Affairs between the Commonwealth of Australia and the Northern Territory of Australia 2005–2010* was signed by the prime minister and the chief minister of the NT. The agreement expressed the *National Framework Principles for Service Delivery to Indigenous Australians* – endorsed by COAG in June 2004 – that abolished ATSIC and

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[7] At November 2008, 37 per cent of public housing households were classified as Indigenous.

'mainstreamed' previous ATSIC programs. The agreement noted that Aboriginal Australians constitute nearly 30 per cent of the NT's population and that 72 per cent of Aboriginal Territorians reside on Aboriginal land in remote communities. Schedule 2.1 to the agreement was on sustainable Indigenous housing whereby the parties agreed that all existing Aboriginal housing program funds would continue to be pooled and streamlined. In 2005 the NT Indigenous Housing Advisory Board (NTIHAB) was formed to replace IHANT and to provide *advice* (as distinct from being an administrative body for Aboriginal housing) on Aboriginal community housing issues. This new board was disbanded in 2007.

1.1.2. *Building a better future* for Aboriginal Housing

In 2001, housing ministers endorsed a 10-year statement, *Building a better future: Indigenous housing to 2010* (referred to as BBF). The vision of the BBF was three pronged: access to appropriate, affordable well-maintained housing; a sustainable and active Aboriginal community housing sector acting in partnership with governments; and Aboriginal housing policies and programs developed and administered with Aboriginal communities. A 'Common Reporting Framework' was developed by ATSIC and the Department of Family and Community Services (FaCS). The framework required, among other things, states and territories to report against Aboriginal-specific programs: SOMIH and Aboriginal Community Housing. Reporting requirements became an important part of the bilateral Indigenous Housing Agreements.

Under the BBF initiative the housing ministers established a Standing Committee on Indigenous Housing (SCIH) to oversee the implementation of, and reporting on, the BBF and a number of working groups, including the National Skills Development Strategy (NSDS) Implementation Working Group and the National Indigenous Housing Information Implementation Committee (NIHIIC).

The NSDS was aimed at the development of training and skills for Aboriginal community housing management practitioners and the NIHIIC on Aboriginal data development to enable better monitoring of housing need and outcomes regarding health and housing for Aboriginal people. The only capital program initiative to come from BBF was $9 million over four years for Fixing Houses for Better Health (FHBH) using the 'Housing for Health' (Pholeros 2008) approach.

The housing minister's SCIH estimated the need for 7600 houses in remote communities and 10 400 in urban areas by 2009. The Ministers' for Housing and Indigenous Affairs meeting in 2006 announced that there would be a new system of Aboriginal housing with a strong Commonwealth policy role and a centralisation of housing responsibility to state and territory governments (Fien et. al 2008, p. 12). This marked a policy retreat away from community housing even though the community housing platform contained in the BBF document was never repudiated. The new policy direction was announced without any public debate or Aboriginal consultation. Subsequently, the CHIP review provided the rationale and practical direction to the 'new system' announced by the Ministers.

1.2 The Community Housing and Infrastructure Program review

The Community Housing and Infrastructure Program (CHIP) funded the provision of housing and related infrastructure for essential services (water, power, sewerage and transport access) and some municipal services for Aboriginal communities mainly in remote areas. CHIP and the CSHA Aboriginal Rental Housing Program (ARHP) funds were channelled through government departments, state housing agencies, private contractors and ICHOs to meet the housing needs of Aboriginal people unable to access mainstream housing tenures. The CHIP was administered by ATSIC and then transferred to the (then) Department of Family and Community Services when ATSIC was abolished in 2004.

In their Review of CHIP, PricewaterhouseCoopers (2007, p. 16) identified a number of problems facing Aboriginal Australians needing accommodation:

- a lack of public housing, little or no private rental housing, and limited opportunity for home ownership
- a series of failures of Aboriginal housing programs resulting in poorly targeted and inappropriate housing
- CHIP funding being used as a substitute for mainstream public housing in urban and regional areas
- poor construction of new houses and lack of maintenance of existing housing
- a fragmented and inconsistent ICHO sector
- the constraints caused by community title over land and housing

As well:

- The current system is vulnerable to incidents of financial and operational mismanagement, nepotism and favouritism.
- Inadequate rent collection restricts the amount of money available for maintenance on housing stock which leads to the deterioration of buildings, and a downward spiral develops.
- Significant funds are wasted through administrative costs, overheads, bureaucratic red tape, poor governance and expensive, poorly designed houses unsuited to the needs of their occupants.

The overall conclusion of the review was that (PricewaterhouseCoopers 2007, p. 16).:

> *The housing needs of Indigenous Australians in remote areas have not been well served and interests and expectations of taxpayers have not been met. CHIP in its current forms contributes to the policy confusion, complex administration and poor outcomes and accountability of government funded housing, infrastructure and municipal services. The Community Housing and infrastructure Programme should be abolished.*

Following the PricewaterhouseCoopers Review the CHIP was abolished.

If we examine this list of problems identified by the review it becomes evident that they are not a problem of Aboriginal community housing or individual ICHOs per se (other than inadequate rent collection where state housing authorities suffer the same failing (see Section 2 on Financial Viability); rather, they point to a broader policy and implementation failure by national and state/territory governments to meet the needs of Aboriginal people in remote communities. This failure has been underscored by other commentators such as Dillon and Westbury (2007, p. 4 quoted in Marks 2008):

> *It is not Indigenous people who are the* primary *cause of their own problems, but rather, a longstanding lack of coherent policy engagement by governments at all levels, underpinned by the absence of determination and political will to make a difference.*

Nevertheless, despite the failure of 'government governance', it was greater government control that the PricewaterhouseCoopers Review recommended. It was never publicly declared that FaCSIA (the federal Department of Families, Housing, Community Services and Indigenous Affairs) had accepted the CHIP review recommendations; however, the 2007 Commonwealth budget statement announced the end of CHIP (being inefficient and wasteful) and its replacement with the Australian Remote Indigenous Accommodation (ARIA) Program with funding targeted at land tenure reform, mainstream public housing, private home ownership and better value for money (Brough 2007). The implication being that the problem was with Aboriginal community controlled housing. The message delivered by this exercise is clear: the answer to the failure of 'government governance' is to mainstream services; that is, give more responsibility to the very governments that have consistently failed Aboriginal people whilst ensuring that any notions of self-determination are thoroughly discredited.

In 2008 the Australian Government introduced the ARIA Program as a replacement for CHIP. Key stated (NT Government 2008a, p. 2) features of ARIA are:

(a) that Indigenous people should expect the same levels of service and face the same obligations in relation to rental payment and maintenance as non-Indigenous people living in similar locations

(b) housing investment to be concentrated in priority remote communities to achieve greater improvements in living standards, differing from CHIP's so-called 'scattergun' approach

(c) additional funds will be provided for home ownership and for financial management and living skills programs to help Indigenous people to buy new or existing homes or enter into 'rent to buy' arrangements

(d) modifications to land-tenure arrangements to increase opportunities for home ownership on community-owned land

(e) greater focus on innovative housing designs and construction techniques aimed at delivering good quality housing at a significantly lower cost

(f) incentives for Indigenous community housing organisations to transfer ownership of their houses to state public housing authorities or to offer houses for purchase to residents of their community.

Within two weeks of the May 2007 budget a funding agreement had been signed with the NT Government to begin implementation of these changes. The MoU relating to this funding is discussed in Section 1.4.

1.3 Northern Territory Emergency Response

In June 2007 the Australian Government, using its constitutional powers over the NT to take control of Aboriginal affairs, proposed a move referred to as the Northern Territory Emergency Response (NTER, or the 'Intervention'). I do not intend covering all aspects of the Intervention but will focus on compulsory leases over prescribed communities, an aspect of the Intervention that is closely related to the Aboriginal housing developments that are central to this working paper.

Housing problems were seen as one of the causes of family and sexual violence that put children at risk. The *Little children are sacred* report (Wild & Anderson 2007, p. 31) endorsed the CHIP recommendations as a means of improving housing outcomes.

Under the *NTER Act 2007* the Australian Government compulsorily acquired statutory five-year leases over all 'prescribed townships' – Aboriginal communities of more than 100 people. Most of these communities are on land granted to Land Trusts as inalienable freehold title under the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA). The ALRA already allowed for long-term leasing of land subject to traditional owner consent and ministerial approval through Section 19. This provision was not well used as leases need to be over a particular lot of land and permission, subdivision, survey and registration of single land lots was difficult and expensive. The Australian Government wanted to have head-leases over entire 'townships' in order that they could issue subleases to those interested – government agencies, non-government organisations, businesses, individual families etc. – thereby creating a land/lease market and a rates base for local government revenue. In fact the ALRA was amended in 2006 to provide for township leasing for a 99-year period for this purpose and some saw the five-year leases as a precursor to government negotiating 99-year leases under the new Section 19A to support their vision of communities becoming townships with businesses, services, accommodation, shops, no permits, home ownership, etc. (see Dalrymple 2007 and Dodson & McCarthy 2006 for in-depth discussion of these issues).

Soon after the Intervention came the announcement of the Strategic Indigenous Housing and Infrastructure Program (SIHIP) that would refurbish existing houses in 57 communities and construct new houses in 16 communities. The Australian Government committed $414.2 million and the NT Government $100 million over four years for new construction, repairs and up-grades.[8] It is estimated that this sum will deliver around 750 new houses including new subdivisions; over 230 new houses to

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[8] Total funding from the Australian Government was $793 million but out of this sum was deducted existing commitments of $279.2 million and new commitments of $99.6 million, leaving $414.2 million for new construction, repairs and up-grades (MoU 2007, paras 2–3).

replace houses to be demolished; over 2500 housing upgrades; and essential infrastructure to support new houses.[9] Reduced overcrowding was the main criteria for the allocation of SIHIP funds to new housing stock in 16 communities.

A longer-term objective of the Intervention acquisition of compulsory leases was to make future funds for Aboriginal housing dependent on the grant of a long-term lease by the Aboriginal owners (see Section 1.4 on MoU 2007). In communities where a long-term head-lease has not been agreed with the Australian Government, but the community is one of the 16 prioritised for major capital works under SIHIP, Territory Housing will acquire a 'precinct lease' or housing sublease over the area of land on which new housing will be built. Compensation/rent will not be paid to traditional owners for housing subleases as 'the Government is fundamentally opposed to paying rent to Aborigines just so it can build them houses' (Toohey 2009, p. 17). Where a community is scheduled to get upgrades to existing housing stock the current five-year Australian Government compulsory lease is considered sufficient protection until such time as a longer-term lease is negotiated.

In December 2008, three 80-year *township* leases were signed between the Anindilyakwa Land Council (Angurugu and Umbakumba communities on Groote Eylandt and Milyakburra on Bickerton Island) and an Australian Government entity called the Office of Township Leasing under Section 19a of the ALRA. (Knight and Snowden Joint Media Release 16 December 2008). In January 2009 Nguiu, the biggest town on the Tiwi Islands, also signed up.[10] The traditional owners can negotiate the terms of the head-lease with the government, but once the lease is signed it is the Office of Township Leasing that will decide who will be granted subleases. Leases can be for 40 years, but with a government option to renew for another 40 years; so in effect an 80-year lease. Traditional owners will be compensated/paid rent for the head-lease.

In February 2009 it was announced that 40-year *housing* leases had been granted to the NT Government in the Top End communities of Galiwin'ku, Gunbalanya, Maningrida and Wadeye. The four communities will receive around $159 million of housing and infrastructure work that will provide approximately 300 new houses and 250 existing houses refurbished (Knight and Snowden Joint Media Release 12 January 2009).

The 2007 NT Planning Scheme provides a framework for town planning across the NT. The Indigenous Community Land Use Planning section of Strategic Planning is now preparing Area Plans for townships on Aboriginal Land with work being prioritised according to those identified to receive major capital works under SIHIP. The plans are to be scheduled in the *Northern Territory Planning Scheme (12.2 Towns on Aboriginal Land)*.

Whilst some communities have signed a head-lease and others have signed housing subleases it could take some time for all 73 large communities to be covered by leases. This is due to the complex framework of customary and legislative land rights, with no clear alignment between traditional owners and settlement patterns, which will have to be unravelled in communities. Furthermore, traditional owners have not been part of the policy and planning decisions that require their consent. These realities mean that the Land Councils representing traditional owners will have an enormous workload to ensure informed consent is given by traditional owners to the housing subleases required before capital works can begin.

1.4 2007 Memorandum of Understanding

On 17 September 2007 a *Memorandum of Understanding between the Australian Government and the Northern Territory Government on Indigenous Housing, Accommodation and Related Services* (MoU

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[9] A separate project called the Southern Shires Housing Project will receive $20 million of upgrades outside of SIHIP. The communities are Willowra, Yuelamu, Imanpa, Kaltukatjara, Papunya and Santa Teresa.

[10] Toohey says that 'Brough went to work on Nguiu and Groote because these islands were controlled by the two smallest land councils and would be easier to deal with' (2009, p. 16).

2007) was signed by representatives of the two governments. The MoU related to the application of $793 million in program funding to the NT for the financial years 2007/08 (CHIP) through to 2010/11 (ARIA) (see endnote 9 above).

The money was made available to the NT Government on the basis that the 'Australian Government will have no further responsibility for the delivery of Indigenous housing, municipal, essential and infrastructure services in the Northern Territory from 1 July 2008' (MoU 2007, para. 6).

Paragraph 18 states that 'the Australian Government will work to facilitate the establishment of Section 19A leases under the Commonwealth Aboriginal Land Rights Act (ALRA) and put in place 99-year leases.' Paragraph 19 states that 'For all communities, access to the ARIA funds for repairs and upgrades will be dependent on those communities agreeing to the transfer of their housing to publicly owned Territory Housing on the completion of the repairs and upgrades.'

The bizarre situation is that whilst the Australian Government has pulled out of delivery of Aboriginal housing and infrastructure services they have simultaneously become the 'landlord' in the 73 Intervention communities: initially for five years, but with the intention of increasing this to 40+40 years through a head-lease. Furthermore, the NT Government 'has an expectation that the "landlord" … will make arrangements for an amount equivalent to local government rates to be remitted to Northern Territory local government for the provision of local government services associated with the Indigenous housing' (MoU 2007, para. 22).

The principles agreed between the two governments with regard to 'A New Housing System for the Bush' (MoU 2007: para.13) include:

- all new remote Indigenous housing will be publicly owned by Territory Housing
- leases will be able to be established over properties
- existing housing will transfer to publicly owned Territory Housing when it meets the remote public housing framework standard
- the Northern Territory *Residential Tenancies Act* (RTA) will apply to tenancy agreements and will govern the rights and responsibilities of both landlords and tenants
- best practice housing management approach covering tenancy management, property management and client support
- a strong government framework that embeds local regional housing advisory bodies
- strategic asset management, including planned maintenance, regular inspections and audits and appropriate urgent responses
- the application of an affordable rent structure
- independent, fair and equitable housing allocation policies that take account of focal family structures and location needs
- priority waiting list for Indigenous community residents who are employed
- a strategic assets repairs and maintenance plan
- the ability for residents to move to home ownership
- access to the Territory Housing Appeals Mechanism.

This new 'housing system for the bush' does not extend to outstation/homeland communities. As the MoU para. 17 makes quite clear: 'No Australian Government funding will be provided to construct housing on outstation/homelands'.

Outstation/homeland communities are expected to access Housing on Indigenous Land (HOIL) program funds. HOIL is a program to provide families living on Indigenous land with access to affordable home loan finance, discounted purchase price of houses, and money management training and support. How appropriate HOIL will be to the needs and circumstances of its target group has yet to be tested (NT Government 2008b).

1.5 Restructure of NT Local Government

The restructure of local government in the NT was announced in October 2006 and formally implemented on 1 July 2008. The key feature is the amalgamation of 60 primarily Aboriginal community councils into eight large shire councils. Three smaller shires and five municipalities supplement this arrangement. The local government reform provides for three tiers: a regional tier (e.g. Barkly, Central Desert and McDonnell shires form a region) that will provide for regional planning and management; a shire council tier; and service centres located on a number of Aboriginal communities and managed by Shire Service Managers with maintenance and essential services staff.

Shire councillors were elected in October 2008 through a ward system. Each councillor will be provided with a modest allowance to attend local board meetings held in the communities of his/her ward. Each community will have a local board (unpaid positions with no financial delegation) constituted on the recommendation of the community.

The impact of the restructure of local government on housing is twofold. In the first instance around 75 per cent of ICHOs were constituted by or closely intertwined with Aboriginal community councils. The abolition of the community councils simultaneously abolished the majority of ICHOs. Secondly, the majority of the new shire local governments are being funded (commercial contracting arrangements are being developed) by Territory Housing to undertake repairs and maintenance and/or tenancy management of housing in Aboriginal communities. Around eight ICHOs that were constituted independently of local community councils are funded by Territory Housing to provide housing services. One ICHO is engaged by a shire council.

The future role of shire councils in housing repairs and maintenance and/or tenancy management functions will be made on a case by case basis according to their capacity and preparedness to provide commercial services outside of their local government core functions. These decisions should be made by shire councillors newly asserting their decision-making powers, not the shire chief executive officers who, prior to the election of councillors, had the run on decision-making. If a shire council decides not to contract the housing functions then Territory Housing will manage them directly or contract other housing service providers.

2. The comparative viability of social housing

The previous section outlined the policy context for the housing changes in the NT. However, they do not inform us of the reasons for the reversal of the Housing Ministers' *Building a better future* agenda to improve partnerships and the viability of ICHOs and more generally to build Aboriginal governance, management and employment opportunities in remote locations. The change in housing direction raises the question: Could ICHOs have remained community housing providers with the application of the improvements in housing funding, contracting and construction that are currently being applied in the SIHIP approach, and appropriate support to improve housing management systems and skills? Or were ICHOs fundamentally flawed and non viable? In order to answer these questions this section draws on studies of ICHO viability and then compares the results with studies of SHA provided housing (SOMIH and public) viability.

2.1 ICHO Viability

Three studies of national ICHO viability (Spiller et al. 1998, AHURI 2006 and PricewaterhouseCoopers 2007) concur that insufficient rent revenue is a key driver of operating deficits. Scale (economies of scale) is considered the key issue for low revenue collection as nearly 95 per cent of all ICHOs managing 70 per cent of the total stock have less than 100 dwellings (AHURI 2006). The consequence is lack of financial capacity to provide adequate maintenance; this leads to stock deterioration, resulting in shorter housing life cycles, overall stock numbers do not grow, and there is little capacity to support effective housing management. The average operating deficit per dwelling for ICHOs in remote and very remote locations is estimated at $2400 and $3800 respectively (AHURI 2006, p. 1).

Further adding to the difficulties in the NT is that:

- ICHOs are located in what are classified as remote and very remote communities
- new stock additions averaged less than 85 dwellings per annum across the entire NT
- overcrowding occurs in 61 per cent of households, leading to high wear and tear and shortened housing life spans
- 25 per cent of repairs are due to faulty construction and materials outside the control of ICHOs (PricewaterhouseCoopers 2007, p. 64)
- the costs of materials and qualified tradespeople is high
- the ability to retain people with skills to manage the housing stock and tenancies is compromised by low salaries.[11]

The problems are undoubtedly substantial. However, many of them are not to do with ICHOs per se but with the long-term failure to adequately provide for Aboriginal populations in remote communities. For example, substantial stock additions, improved procurement and construction procedures, quality assurance on construction completion and so on would improve the situation regardless of the housing manager. Sustained support to professionalise Aboriginal housing organisations and building an Aboriginal housing sector, as has occurred in the non-Aboriginal community housing sector over the past two decades, did not occur – providing another example of the failure of 'government governance' in relation to Aboriginal services.

Further to the above comment, it is important to note that 'there was little criticism of ICHOs amongst most stakeholders interviewed as part of this [CHIP] Review' (PricewaterhouseCoopers 2007, p. 62)

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[11] After 2000, IHANT provided annual grants of $1700 per house to each ICHO that collected rent (fair rental targets were established) and achieved the IHANT minimum standards for housing management. The need for a systematic strategy for improving housing management was recognised and was being acted upon when IHANT was abolished (Jardine-Orr et al. 2004, p. ii).

and that rent, though low compared to private rental rents, was regularly collected and did meet the ceiling set by the former IHANT.

In a recent survey of government business managers (GBMs) related to the impact of the Intervention (n=71 Aboriginal communities), the following question was asked: 'Since arriving in the community, has there been a reaction within the community to information about the changes to the management of community housing?' In response 31 per cent of GBM respondents answered: Yes – positive reaction; 32 per cent said Yes – negative reaction; 30 per cent had no reaction; and 7 per cent said no changes occurred/flagged to occur. A common preferred arrangement is for the community to manage its own housing, whereby the community allocates and manages houses, including employing a community member to undertake the repair work, maybe in conjunction with an annual visit by a qualified trades person (Australian Government 2008).

2.2 SOMIH financial viability

How do state housing authorities fare with the financial viability of their State Owned and Managed Indigenous Housing (SOMIH) dwellings? Territory Housing does not have any SOMIH stock as it channelled all previous Aboriginal housing program funds into community rental (see previous Section 1.1.1) managed by ICHOs and therefore is not part of the AHURI study. The study found the average annual operating deficit was $2,415 per SOMIH dwelling. Further (AHURI 2006, p. 1):

> On average, the current operating revenues for SOMIHs are insufficient to meet their normal operating expenses, even before provision for debt servicing, dwelling depreciation and upgrades, This has led to a progressive backlog in replacing and upgrading existing dwellings in poor condition.

The operating deficit identified for SOMIH is an *average* figure – therefore favourably influenced by the fact that the houses are mainly concentrated in major cities and urban areas. Where a state, such as Western Australia, does have a higher concentration of dwellings in remote and very remote locations there are higher recurrent cost pressures due to the significant difference in maintenance costs, higher defaults in rent payment and a higher percentage of tenants being dependent on social security payments that constrain rental streams.

Taking account of the predominantly remote and very remote location of ICHO stock, the operating deficit of $2400 and $3800 respectively per dwelling per annum is comparable with that of the average SOMIH dwellings at $2415. If the cost of providing housing to Aboriginal people is comparable between ICHOs and SHA Aboriginal-specific programs, how do these operating deficits compare with mainstream public housing?

2.3 Public housing viability

AHURI research has tracked operating deficits in public housing based on information up to and including 2000/01 (Hall & Berry 2004) and between 2001/02 and 2005/06 (Hall & Berry 2007). In summary, the overall picture is that, during the 1990s, state housing authorities moved from operating surpluses into deficits. This was largely as a result of greater targeting to those most in need (low-income families, the aged, single people, often with multiple support needs)[12], which increased the

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[12] The 1996 Commonwealth State Housing Agreement provided state housing authorities with greater flexibility in untied grant money; capital expenditure was not required but the authorities had to provide outcomes against the Productivity Commission's targeting indicators.

number of rent-rebated tenancies to 88 per cent of all tenancies. The downside was a reduction in rental income to support operations. Two strategies to reduce the deficits were commonly employed. The sale of public housing stock reduced the number of households provided with assistance and helped reduce the deficits; public housing stock has declined from 382 000 in 1996/97 to around 375 000 in 2000/01 and to 364 900 in 2005/06. Increasing the rent paid by rebated tenants to around 25 per cent was another strategy to reduce deficits. On the expenditure side there were increased maintenance costs (as grants were used for revitalisation of assets), increased overheads (salaries, administration and non-housing support services), and increased expenditure on rates.

The situation in the NT is particularly grim, as Table 1 deficit figures illustrate.

Table 1: Operating deficits in Territory Housing

Year data	Operating deficit/surplus <u>excluding</u> net interest and depreciation per dwelling per annum	Operating deficit <u>including</u> net interest and depreciation per dwelling per annum
1990/91	+ $981	− $2300
2000/01	− $1504	−$1846
2005/06	− $1929	Greater than −$6000

The key reasons for the decline in Territory Housing's financial viability are:

- an increase in rent-rebated tenancies as government employees have been replaced by tenants in greater need, particularly aged and single households
- an increase in operating expenses to provide better tenant services
- requirement for cyclical maintenance (rather than responsive maintenance) on housing stock built after Cyclone Tracy
- outstanding debt that requires interest payments
- the high cost of maintenance in small towns due to capacity and contractor availability.

Hall and Berry (2004, 2007) outline an alternative to selling stock to improve viability. This is the recognition and separate funding of a 'community service obligation' (CSO) as is applied to New Zealand housing and, for example, electricity supply in Queensland. A CSO recognises the difference between the commercial price of a good and the concessional amount paid by the recipient of that good and is fully funded by government to the authority providing the service (2007, pp. 7–8). If this approach was applied in Australia all state housing authorities except Tasmania and the NT would eliminate their deficits and remain viable. Unfortunately, the NT needs a CSO payment *and* the elimination of its debt servicing liabilities to be viable.

It is apparent that social housing providers, whether they are government or non-government, Aboriginal or non-Aboriginal, cannot bridge the gap between the cost of housing provision and affordable rents (and we could add here landlords in the private rental market, as governments offer incentives to accommodate low-income tenants in addition to the rental assistance paid directly to tenants by Centrelink). The NT Government raised this issue with the Australian Government during negotiations on the MoU 2007. Paragraph 23 states:

> *Even with reasonable rent being paid by tenants, there will be a shortfall between the full operational costs of running the system and the rents being received. Consideration of this shortfall is an issue that can be taken up as part of future CSHA negotiations.*

On the 29 November 2008, COAG released a communiqué announcing the new National Affordable Housing Agreement (NAHA) which will replace the former CSHA. The NAHA includes a stream

called 'Remote Indigenous Housing' that will be delivered by states and territories. The communiqué states that (COAG 2008, p. 31; emphasis added):

> *Governments have agreed to consider further social housing reforms, supply shortfalls and **possible payment of Commonwealth funding assistance through a per dwelling subsidy**, such as Commonwealth Rent Assistance.*

The viability of all social (public and community) housing may now be addressed. For Aboriginal community housing in the NT (and soon in the other states), the recognition by the Australian Government that social housing is unviable without a CSO or equivalent payment, comes too late. Ideological decisions have already been taken and public housing is the preferred model. The added benefit of the public housing model for those who want to mainstream remote Aboriginal communities is that it can provide pathways to home ownership via, for example, direct purchase or lease-purchase schemes. This strategy, as it has been previously applied by state housing authorities, both reduces operational deficits and reduces the number of households that are being assisted in the long term. Moreover, expanded Aboriginal home ownership underpins financial engagement in the imagined future economies of Aboriginal townships.

The pitfalls of home ownership – debt and obligation on a low income and within a bounded housing market – have not been seriously debated, despite the previous mortgage foreclosure experiences state housing authorities had with 'innovative' financing instruments designed to push low-income public housing households into home ownership.

3. Conclusion

Since the 1960s there have been grant programs to fund housing provision and related infrastructure in remote Aboriginal communities. In the absence of mainstream public housing, a private rental market or homeownership (and the various government subsidies they attract), community rental housing managed by ICHOs became the mainstream housing service to NT remote Aboriginal communities.

NT ICHOs (excluding those running town camps) tended to be small as they operated within a single community, had difficulties maintaining houses as rental income was low and maintenance costs high, experienced rapid stock deterioration and, consequently, overall housing stock did not grow in number. Other factors connected with remote Aboriginal conditions and geography, meeting cultural imperatives and lack of housing management training, added to the difficulties of providing housing services.

These difficulties were recognised in the housing minister's *Building a better future: Indigenous housing to 2010* (BBF) document and a framework for more structured support for community housing viability and sustainability was planned. However, this support for community housing was abruptly overturned in 2006 when it was announced by the Ministers' for Housing and Indigenous Affairs that the Australian Government would set policy and the states and territories would centralise housing responsibility to their own housing agencies.

The CHIP review report *Living in the sunburnt country: Indigenous housing – findings of the Review of the Community Housing and Infrastructure Program –* provided a convenient platform for the Australian Government to announce the abolition of CHIP and its replacement with the Australian Remote Indigenous Accommodation Program that contained the key elements for a shift from community housing to public housing and homeownership on Aboriginal land.

The Intervention enabled the Australian Government to use its constitutional powers over the NT to take control of Aboriginal affairs and move the remote Aboriginal housing agenda forward through the compulsory acquisition of leases over all 'prescribed townships'. The funding for SIHIP provided the Australian Government leverage to assert its policy directives in the September 2007 MoU on Indigenous Housing, Accommodation and Related Services signed with the NT Government. The first priority for SIHIP funds being the larger Aboriginal communities that will receive new and upgraded housing stock once agreements have been reached on long-term head leases and/or housing subleases.

ICHOs operated in a difficult set of circumstances that undermined their ability to significantly improve the housing outcomes of remote community residents. Changes have now been made to address the capital shortfall, unsatisfactory procurement and contracting for construction arrangements, which previously existed. Territory Housing, as the manager of remote Aboriginal housing, is set to benefit from these changes. Territory Housing still faces the challenges of developing both a repairs-and-maintenance model and a sustainable tenancy management model that can be contracted out to service providers.

Numerous press releases both announcing and reporting on subsequent SIHIP developments have connected SIHIP with closing the gap on Aboriginal disadvantage. For example, the following from Knight and Snowden (2009):

> *SIHIP is a joint Australian and Northern Territory Government program to improve housing in Northern Territory Indigenous communities. It is one of the largest investments by government in Indigenous housing and is central to the Australian and Northern Territory Government's commitment to closing the gap on Indigenous disadvantage.*

The importance of 'closing the gap' on disadvantage cannot be disputed; however, the way it is approached and managed by governments denies expression of Aboriginal aspirations that lie outside government categorisations (e.g. for housing/shortage of bedrooms, life expectancy, English literacy).

This has been termed by Scott (1998) as 'seeing like a state', whereby governments make a population more 'legible' or 'knowable' (measuring outcomes with individual statistics on life expectancies, literacy, housing etc.) but simultaneously we know more and less. More about results of effort/expenditure against government-targeted outcomes, and less about Aboriginal perspectives on criteria that are essential for their wellbeing. The outcome is that Australian governments pursue goals in Aboriginal policy that merely aim to eliminate disadvantage as defined by government's own categorisations. Taylor explains this phenomenon in relation to UN global frameworks for the wellbeing of Aboriginal people: 'By focusing solely on gaps with mainstream majority populations, they implicitly downplay the significance of unique Indigenous priorities and world views' (2008, p. 115). Aboriginal indicators of success may be more aligned with living on country, fulfilling social relations and culture than individual prosperity. Or, as Walker (2007; Walker et al. 2008) has described this approach: it is a game of deficit reduction rather than a philosophy of investment and development of a people.

Providing public housing standardised tenancy management in geographically, linguistically and culturally diverse remote communities is a policy response best explained by the 'deficit reduction' approach: every person meeting Territory Housing's income eligibility requirements will get the same generic product, and by definition a gap is closed on the standard of housing delivered throughout the NT. While all tenants would surely welcome improvements in repairs and maintenance on dwellings, the option of retaining community control over the management of housing and benefiting from a new commitment to improve remote Aboriginal housing conditions was not an option offered.

Another illustration of the 'deficit reduction' approach is provided by the announcement that the new 'housing system for the bush' will not extend to outstations/homelands. Housing investment will only be made in the larger communities where residents have access to other health and educational facilities. The Australian Government defends this decision by maintaining that 'housing is critical to children's health, education and wellbeing and to functioning communities' (CoA 2008, p. 27). Whilst no-one will deny that this is true, it has been shown in a number of studies that living on country, having livelihood options, having control over one's life, also leads to positive health and wellbeing and education outcomes (Rowley et al. 2008; Campbell et al. 2008; Davies 2008; Burgess & Johnston 2007). Walker (2007) noted that it is unfortunate that the effort to improve housing in the major Aboriginal communities comes at a policy and financial cost to outstation/homeland communities that have shown locational choice can be a significant contributor to closing the gap outcomes. A broader regional development framework might have been a more appropriate driver for the location of the substantial housing investment dollars.

Arguably, the most telling paragraph of the 2007 MoU is number 29. This paragraph states that:

> *Communications with Indigenous communities, and more generally with the Northern Territory public, about the new funding offered under ARIA, the changed delivery arrangements and the priorities for the delivery of housing in different communities, will be jointly developed and delivered by the Australian and Northern Territory Governments.*

Radical changes in the delivery of housing services were agreed between governments with little prior consultation with Aboriginal communities and housing service providers. This lack of consultation on the mode of delivery of an important service does not provide Aboriginal NT citizens equal treatment with other Australian citizens and underscores Cornell's (2008, p. 126) statement that:

> *One of the biggest gaps we have to close is the gap between our understanding of each other, the gap between the respect we demand that others give to our institutions and the respect we are willing to give to theirs.*

Finally, it is well to be reminded, as Tess Lea does with such skill, that government categorisations are only governing abstractions and that (2008, p. 151):

In the magical circularity of interventionary perception, it is natural to believe that our past failures to be fair about resource allocation and other matters of policy necessitate greater (if more enlightened and reformed) government intervention in the present. When governmental categories [education, health services, housing, unemployment] are imagined as making up everything that matters for a life, it is a small step to assume that the only way forward is more governance. This is the magic of intervention.

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