

Senate Standing Committees on Community Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
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5 March 2019

Dear Colleagues,

**Submission to the Senate Community Affairs References Committee  
Inquiry into the ParentsNext program**

Thank you for the opportunity to make a submission relating to the ParentsNext program.

We submit that:

1. The ParentsNext Targeted Compliance Framework (TCF) should immediately cease.
2. A culturally safe, place-based approach is needed for the ParentsNext program in Broome and the East Kimberley if the program continues.
3. Research in and with communities in the Kimberley is needed to assess and guide about the suitability of the ParentsNext program logic in the light of principles of cultural safety, self-determination and a strengths-based approach. The research should be culturally appropriate, locally relevant, locally accountable, and participatory - focusing on realistic supports to increase opportunities for economic inclusion and improved wellbeing among Aboriginal people.
4. Assuming that the ParentsNext program continues, the cost of providing the program in Broome to a high standard should be established, taking into account the actual needs of the intended participants.
5. In consultation with relevant NGO peaks and service sectors, the federal Government should establish standards regarding access to legal help in relation to social security and income support with particular emphasis on those in remote, regional and rural areas in Australia.
6. The Government should provide dedicated funding for on the ground specialist social security legal help in the Kimberley.

Please contact us if further information would assist.

Yours sincerely

Karen Grove  
Principal Solicitor (West Kimberley)

## Submission by Kimberley Community Legal Services Inc. to the Senate Community Affairs References Committee inquiry into ParentsNext

Date of this submission: 5 March 2019

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*We acknowledge that we work on Aboriginal land, traditionally the home of the Yawuru people of the  
West Kimberley. I pay respect to all elders past and present.*

## 1. Kimberley Community Legal Services Inc

KCLS is a non-profit community legal service with offices in Broome and Kununurra and the only generalist community legal service in the Kimberley. The other non-profit legal services in the Kimberley are:

- The Aboriginal Family Law Service WA (AFLS) has an office in Broome and Kununurra - AFLS targets legal help to Aboriginal people at risk of family violence<sup>1</sup>
- The Aboriginal Legal Service of WA (ALSWA) has an office in Broome and Kununurra - ALSWA provides legal help to Aboriginal people with a particular focus on criminal law<sup>2</sup>
- Marninwarnitkura Women's Resource Centre is located in Fitzroy Crossing and has a Family Violence Prevention Legal Service among its programs. The FVPLS targets legal help to Aboriginal people at risk of family violence.<sup>3</sup>
- The Western Australian Legal Aid Commission has an office in Broome and Kununurra - WA LAC targets legal help to Aboriginal and non-Aboriginal people in the Kimberley, the majority of assistance provided is in criminal law, other assistance is available subject to guidelines and resources in civil law<sup>4</sup>

The KCLS service area is the whole of the Kimberley and Aboriginal people are over 80% of KCLS clients.<sup>5</sup> KCLS concentrates on civil law justice issues including:

- child protection
- consumer law
- discrimination
- employment law
- family law
- family violence
- historical injustice
- human rights
- personal injuries
- social security
- superannuation
- tenancy
- wills and estates

Many KCLS clients have multiple legal problems related to the ongoing impacts of social, economic and structural disadvantage. These legal problems often stem from, and worsen, other difficulties including

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<sup>1</sup> Aboriginal Family Law Services <<https://www.afls.org.au/>>.

<sup>2</sup> Aboriginal Legal Service of Western Australia <<https://www.als.org.au/>>.

<sup>3</sup> Marninwarnitkura Women's Resource Centre <<https://mwrc.com.au/>>.

<sup>4</sup> Legal Aid Western Australia <<https://www.legalaid.wa.gov.au/>>.

<sup>5</sup> Kimberley Community Legal Services, 'Annual Report 2017-2018' (Annual Report, 2018) 9 <<https://static1.squarespace.com/static/56aae0e04d088e4dfa68396f/t/5c04a035575d1f312ead5d69/1543807208559/Annual+Report+2018.pdf>>.

health problems, poverty, family violence and housing problems including overcrowding and very poor living conditions.<sup>6</sup>

KCLS aims to help advance the rights of disadvantaged individuals and groups to address problems and injustices in their lives.

People in need of legal help can approach KCLS directly or be referred. Other legal services, health and other community services in the Kimberley are regularly involved in making referrals. KCLS provides legal advice, legal representation and casework and undertakes community legal education and law reform. KCLS focuses on culturally appropriate service delivery, client and community empowerment.

## 2. ParentsNext in the Kimberley

Broome is the only location at which ParentsNext is currently operating in the Kimberley. There is one provider namely Kullari, an Aboriginal organisation with a membership which includes about 80 Aboriginal community based organisations in the region.<sup>7</sup>

The ParentsNext contract with Kullari is for three years (1 July 2018 - 30 June 2021) for \$728,460 total.<sup>8</sup> If annualised the figure would be about \$243,000 pa.

The ParentsNext *Hotspot Maps by Employment Region* for Broome, included in the 2018 request for tenders (below), indicated that about 95% of the anticipated 195 ParentsNext participants would be Indigenous people.<sup>9</sup>

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<sup>6</sup> Christine Coumarelos et al, 'Legal Australia Wide Survey: Legal Need in Australia' in Access to Justice and Legal Needs Volume 7 (Monograph, Law and Justice Foundation of New South Wales, August 2012) xvi, 111.

<sup>7</sup> For background see the Kullari Regional Communities Indigenous Corporation see the General Report dated 22 January 2019, available on the Office of the Registrar of Indigenous Corporations web site <<http://register.oric.gov.au/document.aspx?concernID=4202983>>.

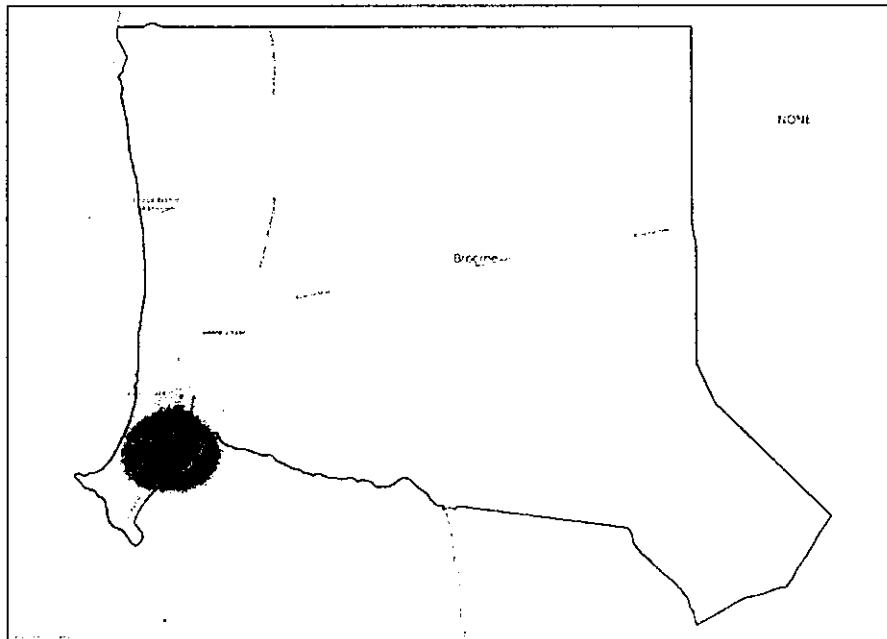
<sup>8</sup> AusTender, *Contract Notice View - CN3514507*

<<https://www.google.com/url?q=https://www.tenders.gov.au/?event%3Dpublic.cn.view%26CNUUID%3DA7F901C2-ECBF-EB87-A7F88469CF534DFB&sa=D&ust=1549428772158000&usg=AFQjCNHtetw8C3hccUXC0CuFyEgZiAp5Mw>>.

<sup>9</sup> P. 42, Departmental note on the cover page: 'This document provides Hotspot Maps that highlight areas with concentrations of expected ParentsNext Participants, to assist Respondents to the ParentsNext Request for Tender to select sites to locate their service....The Department makes no guarantees about that the concentrations in the hotspot maps, or the estimated caseload figures in the tables, will eventuate.'

## Western Australia

### Broome



Employment Region Data

|                 | Non-Indigenous | Indigenous | Total |
|-----------------|----------------|------------|-------|
| Intensive Total | 13             | 182        | 195   |
| Broome          | 13             | 182        | 195   |
| Total           | 13             | 182        | 195   |

The ParentsNext Evaluation, relating to the period April 2016 to June 2017, noted that:

'ParentsNext is a grant-funded, project-based program administered by the Department of Jobs and Small Business (the department). A free specialised support service to help parents with children under six years to plan and prepare for their future employment, ParentsNext began initial operation through contracted project providers in 10 Local Government Areas (LGAs) across Australia in April 2016. These contracts ceased on 30 June 2018 and the program expanded nationally from 1 July 2018, with some adjustments to eligibility criteria and funding rules. This evaluation presents analysis of the early impact of ParentsNext Projects operating in the 10 LGAs, with a future evaluation to examine the national program.'

<sup>10</sup>

During the period covered by the Evaluation, 11% of participants were Aboriginal and/or Torres Strait Islander people.<sup>11</sup>

<sup>10</sup> Department of Jobs and Small Business, 'ParentsNext Evaluation Report' (11 October 2018) <[https://docs.jobs.gov.au/system/files/doc/other/final\\_parentsnext\\_evaluation\\_report.pdf](https://docs.jobs.gov.au/system/files/doc/other/final_parentsnext_evaluation_report.pdf)>, 9.

<sup>11</sup> Ibid, Appendix D, p. 64

The expansion from 1 July 2018, for the first time included Broome.<sup>12</sup> While the Evaluation included 10 Local Government Areas (shown below), these locations were not comparable to Broome or the Kimberley.

| <b>Local Government Areas (LGAs) included in the ParentsNext evaluation<sup>13</sup></b>  |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Bankstown, NSW</li> <li>• Shellharbour, NSW</li> <li>• Wyong, NSW</li> <li>• Greater Shepparton, VIC</li> <li>• Hume, VIC</li> </ul> | <ul style="list-style-type: none"> <li>• Logan, QLD</li> <li>• Rockhampton, QLD</li> <li>• Playford, SA</li> <li>• Kwinana, WA</li> <li>• Burnie, TAS</li> </ul> |

The Indigenous population of the Broome Local Government area is estimated at 28.18% of the total population.<sup>14</sup> This is a dramatically higher than any of the LGAs in the ParentsNext Evaluation. That is:

| <b>Location (LGA)</b>   | <b>Indigenous Population (% of total population)<sup>15</sup></b> |
|-------------------------|---|
| Broome, WA              | 28.18%  |
| Bankstown, NSW          | 0.37%   |
| Shellharbour, NSW       | 2.84%   |
| Wyong, NSW              | 6.26%   |
| Greater Shepparton, VIC | 3.42%   |
| Hume, VIC               | 1.59%   |
| Logan, QLD              | 2.89%   |
| Rockhampton, QLD        | 7.50%   |
| Playford, SA            | 2.18%   |

<sup>12</sup> Department of Jobs and Small Business, 'ParentsNext Evaluation Report' (11 October 2018) <[https://docs.jobs.gov.au/system/files/doc/other/final\\_parentsnext\\_evaluation\\_report.pdf](https://docs.jobs.gov.au/system/files/doc/other/final_parentsnext_evaluation_report.pdf)>, 11.

<sup>13</sup> Ibid, 24.

<sup>14</sup> Total population for the Broome LGA in the 2016 Census was 16,222 of whom 4,571 were identified as Aboriginal and/or Torres Strait islander. Figures from Table G07 from the 'General Community Profile' for Broome. Australian Bureau of Statistics, '2016 Census of Population and Housing: General Community Profile' (2016), Table G07.

<sup>15</sup> Figures from Table G07 from the 'General Community Profile' for each of these Local Government Areas. Australian Bureau of Statistics, '2016 Census of Population and Housing: General Community Profile' (2016), Table G07.

|             |       |
|-------------|-------|
| Kwinana, WA | 3.61% |
| Burnie, TAS | 4.70% |

Approximately 84 per cent of the Kimberley is determined native title land, with further positive determinations likely.<sup>16</sup> The Yawuru people hold native title in relation to the town of Broome.<sup>17</sup> About 20 Aboriginal languages are spoken in the Kimberly.<sup>18</sup> Broome is the West Kimberley regional hub and the regional hub for the Kimberley.

The following is a quote from the Kullarri submission to the 2016 federal *Consultation on Changes to the Community Development Program*:

"To put a human perspective on aboriginal disadvantage In the Kimberley region, the sense of despair is played out daily;  
The highest rate of suicide in Australia, predominantly Kimberley aboriginal persons.  
Highest rate of children in State care.  
High rates of Incarceration of aboriginal males.  
High rates of Chronic Disease.  
High rates of substance abuse  
Sustained Intergenerational Trauma.  
Government threats to withdraw services / resources,  
Close aboriginal communities.  
Imposed barriers to Income Support < Strangled in Red Tape, Bureaucracy."<sup>19</sup>

The combined effects of multiple forms of disadvantage can be seen a range of health statistics. On average non-Aboriginal people in the Kimberley live around ten years longer than Aboriginal people.<sup>20</sup> Aboriginal people compared to non-Aboriginal people in the Kimberley, are:

- half as likely to report excellent or very good health
- 3.5 times more likely to report having diabetes
- 1.2 times more likely to report having cardiovascular diseases
- 2 times more likely to report having asthma
- 2 times more likely to report kidney disease<sup>21</sup>

<sup>16</sup> 'Native Title Overview,' *Kimberley Land Council* (Web Page) <<https://www.klc.org.au/native-title-overview/>>.

<sup>17</sup> For an overview, see: <https://www.yawuru.com/our-culture/native-title-determination/>

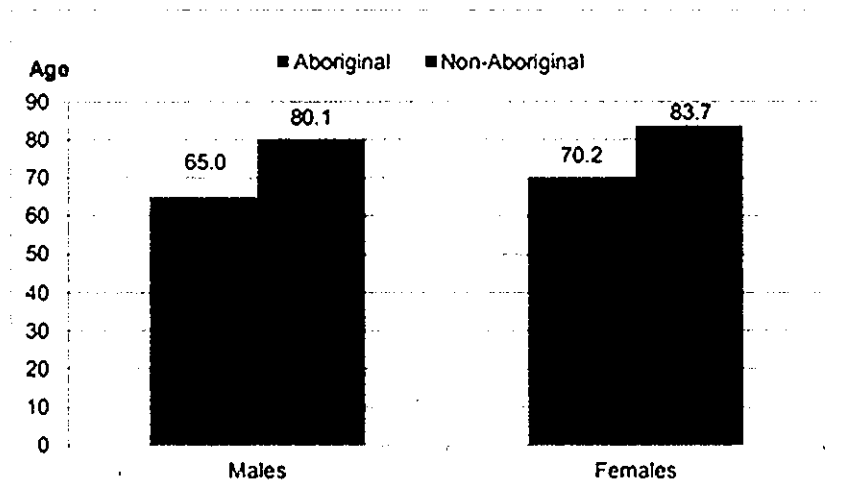
<sup>18</sup> 'About the Kimberley,' *Regional Development Australia* (Web Page) <<https://www.rdakimberley.com.au/about/about-the-kimberley/>>.

<sup>19</sup> Kullarri Regional Communities Inc., CDP Reforms – Consultation Paper, "GET A JOB" The reality In the Kimberley, Western Australia. – Submission by Kullarri Regional Communities Inc to the Prime Minister and Cabinet Consultation on Changes to the Community Development Program (Prime Minister and Cabinet 2016), <<https://www.pmc.gov.au/indigenous-affairs/employment/consultation-changes-community-development-program>>

<sup>20</sup> Western Australian Primary Health Alliance, *Kimberley - Population and Health Snapshot* (2016) 7 <<https://www.wapha.org.au/wp-content/uploads/2015/12/Regional-Profile-2016-Kimberley-population-and-health-snapshot-FINAL.pdf>>.

Aboriginal people in Western Australia have a significantly lower life expectancy compared with non-Aboriginal people. The gap in 2010-2012 was estimated by ABS to be 15.1 years for males and 13.5 years for females.<sup>22</sup>

**Figure 24: Western Australian life expectancy at birth by Aboriginality, 2010-2012**



Source: ABS Life Tables<sup>xxxx</sup>

Mortality rates have fallen State-wide and in Australia overall from 2005 to 2015. The Australian Aboriginal death rate however, remained steady during this 10-year period (Table 33).<sup>xxxx</sup>

However, data from Mortality Over Regions and Time (MORT) Books,<sup>23</sup> show that the median age of death of persons in the Kimberley is around 20 years lower than the median age of death of persons in the urban areas of Western Australia.

The following table shows the median age at death in years in 2016 in the four LGAs in the Kimberley.

| Kimberley LGAs       | Median Age at Death |
|----------------------|---------------------|
| Halls Creek          | 60.5                |
| Derby-West Kimberley | 60.1                |

<sup>21</sup> Western Australian Primary Health Alliance, *Kimberley - Population and Health Snapshot* (2016) 4 <<https://www.wapha.org.au/wp-content/uploads/2015/12/Regional-Profile-2016-Kimberley-population-and-health-snapshot-FINAL.pdf>>.

<sup>22</sup> Department of Prime Minister and Cabinet, Parliament of Australia *Aboriginal and Torres Strait Islander Health Performance Framework 2014 Report* (2015), 63.

<sup>23</sup> Australian Institute of Health and Welfare, *MORT (Mortality Over Regions and Time) Books: Local Government Area (LGA), 2012-2016* (2018) <<https://www.aihw.gov.au/reports/life-expectancy-death/mort-books/contents/mort-books>>.



|                        |      |
|------------------------|------|
| Wyndham-East Kimberley | 61.0 |
| Broome                 | 63.0 |

| Metropolitan Areas of WA | Median Age at Death |
|--------------------------|---------------------|
| Perth                    | 81                  |
| Bunbury                  | 83                  |
| Greater Geraldton        | 76                  |

The nature Aboriginal disadvantage in Broome and in the Kimberley, requires a highly contextualised place-based approach. This includes a tailored design, funding and implementation of income support and jobs related programs to avoid mistargeting much needed support and, crucially, to avoid compounding disadvantage.

Substantial changes are needed to re-cast ParentsNext so that it becomes a flexible and responsive place-based initiative designed with and for local Aboriginal people in Broome.

These issues are taken up further below.

### 3. ParentsNext Targeted Compliance Framework should cease

***Recommendation 1: The ParentsNext Targeted Compliance Framework (TCF) should immediately cease.***

Although ParentsNext is providing more resources for programs and opportunities in Broome, the TCF, instituting compulsory participation, is a major overreach.

Social security measures must be human rights compliant. We note that the Committee has received submissions highlighting that the TCF is not human rights compliant. This includes a submission by the Australian Human Rights Commission<sup>24</sup> and a submission by the Human Rights Law Centre, with the

<sup>24</sup> Australian Human Rights Commission, Submission No 16 to Senate Community Affairs References Committee, *ParentsNext, including its trial and subsequent broader rollout*, 1 February 2019.

Secretariat for National Aboriginal and Islander Child Care (SNAICC) and the National Family Violence Prevention Legal Services Forum<sup>25</sup>

Additionally, the use of this TCF in Broome will cause severe hardship for the individuals concerned, their children and others due to a web of extended family and cultural relationships.

The high majority of KCLS clients are Aboriginal people who experience severe financial hardship. Through the services KCLS provides, including financial counselling, we are aware that a high proportion of Aboriginal people who are eligible to receive social security in the Kimberley, have no financial resources to fall back on.

In Broome, financial penalties or suspensions arising from the TCF will result in local services and agencies becoming involved in a harm minimisation response. This is because:

- People are likely to fall behind, or further behind, with their rent, utility payments, store credit and other debts,
- There will be an increased need for food vouchers and emergency relief, and
- Less money for food and transport will impact on children's school attendance and increase contact between families and the Department of Child Protection.

Non-profit legal services including the Broome office of the Aboriginal Family Law Service WA, Aboriginal Legal Service WA and Kimberley Community Legal Services will be impacted.

The women's shelter, Broome Circle (which provides financial counselling and other services), Broome Aboriginal Medical Services and other health facilities and organisations like the Red Cross, will experience increased requests for help.

For these reasons, as indicated above, the TCF should cease.

#### 4. Culturally safe place-based approach for ParentsNext in Broome

***Recommendation 2: A culturally safe place-based approach is needed for the ParentsNext program in Broome and for the Kimberley if the program continues***

***Recommendation 3. Research in and with communities in the Kimberley is needed to assess and guide about the suitability of the ParentsNext program logic in the light of principles of cultural safety, self-determination and a strengths-based approach***

***The research should be culturally appropriate, locally relevant, locally accountable, and***

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<sup>25</sup> Human Rights Law Centre (HRLC), Secretariat National Aboriginal and Islander Child Care (SNAICC) and National Family Violence Prevention Legal Services, Submission No 29 to Senate Community Affairs References Committee, *ParentsNext, including its trial and subsequent broader rollout*, 5 February 2019.

***participatory - focusing on realistic supports to increase opportunities for economic inclusion and improved wellbeing among Aboriginal people.***

On 7th February 2019 the WA Coroner handed down her findings in the Kimberley Inquest into Aboriginal Youth Suicide. The inquest related to 13 suicides over a 3 year period. The deceased were aged 10 to 24 years old, all died by hanging. Two of the deceased, aged 17 and 24, passed away in Broome.<sup>26</sup>

KCLS acted in the inquest in relation to 9 of the 13 deaths, in several of these - jointly with the Aboriginal Legal Service WA (ALSWA). The Coroner heard from experts in various fields, from a range of Aboriginal leaders and received a video submission from Yawuru youth in Broome.

The Coroner's findings and recommendations underscore the critical importance of principles of self-determination and empowerment in initiatives, policies and programs relating to Aboriginal people in the Kimberley. The Coroner's recommendations in this regard are applicable to the state and federal level, including social security and employment program initiatives. The Coroner's final recommendation was:

Recommendation 42:

I recommend that:

- The principles of self-determination and empowerment be given emphasis in initiatives, policies and programs relating to Aboriginal people in Western Australia and that the Western Australian Government introduce measures to enable Aboriginal people and organisations to be involved in setting and formulating policy that affects their communities;
- That in developing such measures, consideration be given to negotiating mutually agreed outcomes, with service delivery responsibilities as between the Western Australian Government and Aboriginal people and organisations; and
- The Western Australian Government develop a statewide Aboriginal cultural policy that recognises the importance of cultural continuity and cultural security to the wellbeing of Aboriginal people in this State.<sup>27</sup>

At this stage ParentsNext is an example of an externally designed and controlled initiative which, for compulsory participants, risks worsening their circumstances being the reverse of the intended effects.<sup>28</sup>

In the ParentsNext program the accountabilities are vertical within the federal bureaucracy in distant places rather than horizontally within the local community and to participants themselves.

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<sup>26</sup> State Coroner R V C Fogliani, Coroner's Court of Western Australia, *Inquest into the deaths of Thirteen Children and Young Persons in the Kimberley Region, Western Australia*, (7 February 2019) 96-7, 111.

<sup>27</sup> Ibid, 372.

<sup>28</sup> Mark Moran, *Serious whitefella stuff: when solutions became the problem in Indigenous affairs* (Melbourne University Publishing, 2016).

Cultural safety, self-determination and a strengths-based approach are centrally relevant to social and economic inclusion and wellbeing of Aboriginal people in Broome and in the Kimberley. Below is a copy of the Forward and Introduction to *'Community Wellbeing From the Ground Up: A Yawuru Example'*<sup>29</sup>:



Forward by Senator Patrick Dodson in *Community Wellbeing From the Ground Up: A Yawuru Example*:

*'As Stanner observed of the great Australian silence, the written history of this country very seldom begins with the Aboriginal perspective. The British relied upon the doctrine of terra nullius to dispossess Aboriginal peoples of their land without compensation. Aboriginal people were never given a chance to espouse any doctrine to support their own ownership, occupation, and institutional ways. There was no consent obtained and none was given by the Aboriginal people for the occupation and settlement of their lands by the British. There was certainly no dialogue between equals to arrive at an accommodation of each other's presence. While Mabo overturned the legal fiction of terra nullius, it did not deal with the issue of settlement without consent. The courts of the settler state have stated that it is beyond their scope and jurisdiction to deal with the matter of sovereignty. Nevertheless, in the hearts and minds of many Aboriginal nations, sovereignty and treaty still remain live issues. Certainly the sovereignty of the Yawuru have never been ceded.*

*For the Yawuru people, our history begins with the Bugarrigarra. The Bugarrigarra encompasses the time well before western philosophy, religion and laws reached our lands. The Bugarrigarra is associated with events that created our world, deep at the beginning of time, yet it transcends time and space, to inform and give meaning to contemporary Yawuru life. It is the spiritual force that shapes our cultural values and practices, our relationship with our country, and the responsibilities and obligations that we have to each other as Yawuru people.*

*The Bugarrigarra is the essence of Yawuru native title and informs the process of rebuilding our nation in the main areas of knowing our country, knowing our story and knowing our culture whilst building and sustaining economic prosperity for our people. All these elements are critical for Yawuru to maintain good clear liyan within the modern, ever changing world. In doing this, Yawuru have had to consider how to forge a middle way, that uses the benefits of modernity to underpin the ongoing cultural survival of our people. Our challenge is to balance development with our obligations to take care of our community and country, and to provide a sense of stewardship for the next generation of Yawuru people.*

*As I see it, there is a need for a new framework, for a new narrative, which articulates how Indigenous people intend to assert their place and sovereignties as peoples in the modern world. This narrative has to be informed by what I term an 'Indigenous Doctrine'. Such a doctrine must be defined from local Indigenous perspectives and it must fundamentally reflect and assert the values that indigenous peoples identify and aspire to. And it must of course, be crafted and driven by indigenous peoples themselves.*

*This can serve to challenge the old philosophical and intellectual frameworks of assimilation and opens up a dialogue for a post-colonial response where Indigenous people contemplate the nature and substance of a*

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<sup>29</sup> Mandy Yap and Eunice Yu, *Community Wellbeing From the Ground Up: A Yawuru Example* (Bankwest Curtin Economics Centre Research Report No. 3/16, August 2016)

*decolonised existence. The challenge for Indigenous peoples and for the Yawuru will be to define, what that existence is, who we are, what we aspire to and how we are going to achieve this.*

*This Yawuru Knowledge Project, the Yawuru Wellbeing Project and the findings from the Yawuru Wellbeing Survey offer one of the ways for Yawuru to articulate and define what the Indigenous doctrine, a Yawuru doctrine might look like.<sup>30</sup>*



Introduction by Peter Yu in *Community Wellbeing From the Ground Up: A Yawuru Example*:

*'The recognition of native title in Australian law should never be seen simply as a symbolic act. It is profoundly an important foundation of justice to reconcile and to heal. The recognition of Yawuru people's native title in 2006 led to a wide ranging global agreement between Yawuru and the State of Western Australia.*

*Yawuru see that agreement as the beginning of a long journey to reconstruct our community after more than a century of domination and colonisation by western power. We do not see native title as a measure to "close the gap" or "overcome economic and social disadvantage". Improved housing, more jobs and building capacity must be seen in terms of re-building Yawuru people's cultural and social foundation.*

*Central to the Yawuru development agenda is our sense of liyan; how we feel about ourselves and the people we are connected to as family and community. Yawuru's quest for mabu liyan – so eloquently described in this report – is intricately linked to our native title rights. In Yawuru's traditional world, prior to western colonisation, mabu liyan was at the heart of our cultural and social existence. Obligations, family and community nurturing, reconciling differences and sharing were all part of an elaborate system of connectivity to inculcate mabu liyan both individually and collectively.*

*Colonisation shattered that existence and healing the wounds from that legacy is a monumental challenge to Yawuru as it is for Indigenous people everywhere. Yawuru people, collectively and individually, are drawing on our cultural heritage to build resilience and purpose and forge a new relationship with those who once colonised us. We are part of an emerging ethos of Aboriginal modernity where our participation in the global economy is not subordinate to the established tenets of exploitation and assimilation. In the Broome regional economy and wider society Yawuru is instilling values of respect, recognition and inclusion; celebration of an extraordinary shared heritage and innovative and sustainable environmental practices.*

*..... In 2011 Yawuru commissioned the most comprehensive survey ever undertaken in an Australian Indigenous urban environment to determine Broome's complex socio/cultural demography. This led to other innovative shared initiatives such as geospatial mapping incorporating the human and physical geography of Yawuru country; now a critical tool in Yawuru's commitment to free, prior and informed consent principles of engagement.....<sup>31</sup>*

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<sup>30</sup> Ibid 10-11.

<sup>31</sup> Ibid 14-15.

## Cultural Safety

Cultural safety involves ensuring a positive, nurturing environment that demonstrates regard for the historical, cultural and socio-economic realities of Aboriginal and Torres Strait Islander peoples.<sup>32</sup> The concept operates as a framework for improved service delivery based on the rights of Aboriginal people.

The WA Department of Health's *WA Aboriginal Health and Wellbeing Framework 2015-2030* which was developed in consultation with Aboriginal groups, is an example of a wide ranging approach to cultural safety.<sup>33</sup> Cultural safety highlights how power imbalances maybe entrenched in problematic norms and hierarchies<sup>34</sup> and how alternatives which empower Aboriginal people and communities can enable Aboriginal people to have more control over their lives and lead change.<sup>35</sup>

## Strengths-based approach

A strength-based approach refers to concepts and themes such as: an asset-based approaches, resilience, cultural appropriateness, social determinants of health and ecological theories, protective factors, empowerment, holistic approaches, wellness and wellbeing, strengths-based counselling approaches and positive psychology, and decolonisation.<sup>36</sup> A strengths-based approach places emphasis on building on positives. This contrasts with a *deficit-based approach* which refers to 'disempowering patterns of thought, language and practice that represent people in terms of deficiencies and failures.'<sup>37</sup> Deficit-based approaches can treat affected individuals and communities as being responsible for problems they are experiencing, while overlooking the broader socio-economic and systemic issues in which they are embedded. Often, the effect of the deficit-based approach is that these problems and negative traits are reinforced and become incorporated into the identity of the affected individuals and communities.<sup>38</sup>

Indigenous people have been subject to deficit-based approach and discourse since colonisation, by often being portrayed as 'primitive' and backwards. Today, deficit discourse about Indigenous people is influenced by negative race-based stereotypes that focus on failure and dysfunction and is often

<sup>32</sup> June Jones, 'Going Back to the Source: Cultural Safety in Diverse Societies', (2017) 24 *Whitireia Nursing and Health Journal* 9, 9.

<sup>33</sup> Department of Health (WA), *WA Aboriginal Health and Wellbeing Framework 2015-2030* (2015) <[https://www2.health.wa.gov.au/~media/Files/Corporate/general%20documents/Aboriginal%20health/PDF/12853\\_WA\\_Aboriginal\\_Health\\_and\\_Wellbeing\\_Framework.pdf](https://www2.health.wa.gov.au/~media/Files/Corporate/general%20documents/Aboriginal%20health/PDF/12853_WA_Aboriginal_Health_and_Wellbeing_Framework.pdf)>.

<sup>34</sup> June Jones, 'Going Back to the Source: Cultural Safety in Diverse Societies', (2017) 24 *Whitireia Nursing and Health Journal* 9, 10.

<sup>35</sup> Ted Wilkes quoted in The Kimberley Community Legal Service, Submission to the West Australian Coroner's Court, *Coronial Inquest into Youth Suicide in the Kimberley*, 16 February 2018, 46.

<sup>36</sup> William Fogarty, et al, 2018, 'Deficit Discourse and Strengths-based Approaches: Changing the narrative of Aboriginal and Torres Strait Islander health and wellbeing', Lowitja Institute, <[https://www.lowitja.org.au/sites/default/files/docs/deficit-discourse-strengths-based\\_0.pdf](https://www.lowitja.org.au/sites/default/files/docs/deficit-discourse-strengths-based_0.pdf)>

<sup>37</sup> The Lowitja Institute, 2018, 'Deficit Discourse and Aboriginal and Torres Strait Islander Health Policy: Summary report', <<https://www.lowitja.org.au/sites/default/files/docs/deficit-discourse-summary-report.pdf>>

<sup>38</sup> Ibid.

perpetuated by people who have good intentions, but are not fully aware that they are drawing on discredited social constructs.<sup>39</sup>

### Commonwealth policy

While many of these themes are repeated in key Commonwealth policies relating to health,<sup>40</sup> the themes are not adequately reflected or integrated in the ParentsNext program logic, ParentsNext operational requirements and ParentsNext funding.

As indicated in our recommendations at the start of this section, a culturally safe, place-based approach is needed for the ParentsNext program in Broome and principled research should be undertaken with Aboriginal people to assess the suitability of the program logic.

## 5. Adequate funding of voluntary ParentsNext opportunities

***Recommendation 4: Assuming that the ParentsNext program continues, the cost of providing the program in Broome to a high standard should be established, taking into account the actual needs of the intended participants.***

As noted above, in the Kimberley the ParentsNext program is being provided by Kullarri on a 3 year contract which if annualised would be about \$243,000 pa.

Taking into account administrative requirements for ParentsNext providers and the high and complex needs of the participant group (both compulsory and voluntary participants), this appears to be a very low figure.

The program is likely to be of a high standard if it is culturally safe and strengths-based and is:

- Valued by the individual (relevant, practical, useful)
- Available when the person is able to participate and wants to participate
- Accessible (activities are flexible and suited to the individual having regard to literacy, numeracy, language; courses and opportunities are fully funded; child care and transport are available).

The program is not likely to be of a high standard if it:

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<sup>39</sup> Ibid.

<sup>40</sup> See particularly: Department of Health, Parliament of Australia, *National Aboriginal and Torres Strait Islander Health Plan 2013-2023*, (2013) < <http://www.health.gov.au/internet/main/publishing.nsf/Content/natsih-plan> > and Department of Prime Minister and Cabinet, Parliament of Australia, *National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Wellbeing* (10 October 2017) < <https://www.pmc.gov.au/resource-centre/indigenous-affairs/national-strategic-framework-mental-health-social-emotional-wellbeing-2017-23> >

- Requires participants to do things which do not help having regard to their actual needs and circumstances (tokenistic, wasteful, cruel)
- Trips participants up and adds to worries or causes distress
- Reduces capacity, including time, to care for children and families and harms children and families
- Increases participant's alienation and vulnerability

For these reasons, as set out above, we recommend that the ParentsNext program in Broome be fully customised and fully funded for the client group and the context.

## **6. Standards for access to social security legal help especially in RRR Australia**

***Recommendation 5: In consultation with relevant NGO peaks and service sectors, the federal Government should establish standards regarding access to legal help in relation to social security and income support with particular emphasis on those in remote, regional and rural areas in Australia.***

***Recommendation 6: The Government should provide dedicated funding for on the ground specialist social security legal help in the Kimberley.***

There are currently no standards regarding access to social security legal help in Australia.<sup>41</sup>

Some areas of Australia, including the Kimberley have no funded specialist, on the ground, social security legal help. This is a dramatic situation because the Kimberley is twice the size of Victoria and the Kimberley region is thousands of kilometers from the closest specialist social security legal help, which is in Darwin or Perth. This is even more problematic because of the high proportion of disadvantaged people eligible for social security benefits in the Kimberley and the dramatic effects of social security problems. The potential for financial penalties via the ParentsNext TCF adds to the social security penalty regime in the Kimberley which includes relatively high numbers impacted by the Community Development Program.

There is anecdotal evidence in the Kimberley of people with high needs withdrawing from the social security system and increasing financial pressure on families and communities due to people receiving Centrelink penalties or suspensions.

As policy and program initiatives are rolled out, it appears that no consideration is being given to where legal help for social security claimants and recipients fits in.

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<sup>41</sup> NSSRN, Specialist Social Security Community Legal Services in Australia (National Social Security Rights Network 2018), <<http://www.nssrn.org.au/wp/wp-content/uploads/2018/10/NSSRN-Impact-Report.pdf>>



In the Kimberley, across the range of social security payments, there are significant barriers for people seeking to navigate their rights and responsibilities. While KCLS is a generalist Community Legal Service, neither KCLS or any of the other non-profit legal services in the Kimberley receive any dedicated funding to provide social security legal help.

The National Social Security Rights Network notes that specialist community legal services are needed because:

- social security law is a complex and dynamic area of law
- digital transformation and automation creates new risks for disadvantaged people
- outcomes for clients improved as a result of specialist social security community legal services
- particularly vulnerable client groups need specialist social security community legal services, for example victims of family violence<sup>42</sup>

Work by the Network points to hidden and unmet social security legal need arising from people:

- having little knowledge of their rights at law;
- not perceiving Centrelink matters as legal problems;
- fearing retribution if they challenge Centrelink decision;
- not being supported by the system to access the appeal process; and
- not knowing where to get help.<sup>43</sup>

In 2014 a NSSRN study of 30 closed specialist social community legal services cases and a quantitative survey of 218 clients reported as follows regarding the impacts of financial instability experienced by people whose social security income was suspended, reduced, cancelled or had a debt raised:

- some people experienced a serious decline in physical and mental health
- some people could no longer afford medicines, some experienced an increase in existing pain levels while others reported significant weight loss
- many became socially isolated and struggled to look after children
- feeling disbelieved or misjudged by Centrelink affected self-esteem levels and the ability to relate to other people
- some people fell further into depression and 13 of the 30 people studied had considered suicide during their dispute with Centrelink.<sup>44</sup>

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<sup>42</sup> Ibid. p. 10-15

<sup>43</sup> Ibid. p. 8

<sup>44</sup> Ibid. p.13

In relation to the impacts of specialist social security legal help the research found that:

“ the quality of life for clients pre-intervention was marked by financial instability, physical deterioration, social isolation and emotional struggle....following specialist social security community legal services' intervention:

- 20% were now able to provide for their children;
- 20% had reduced family tension;
- 20% either kept their home or were no longer homeless;
- 20% had returned to work or study;
- 30% or more were no longer considering suicide;
- 10% were eating properly;
- 10% became volunteers; and
- 6% reconnected with supports”<sup>45</sup>

Specialist social security legal help should be available to social security recipients in the Kimberley. This applies to ParentsNext participants who are subject to the TCF as well as those participating voluntarily.

Access to specialist social security legal help is part of an approach which respects people's human rights, their legal rights generally and is committed to quality administrative decision making and fair treatment. As outlined above, specialist social security legal help also helps to improve wellbeing, empowerment and inclusion.

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<sup>45</sup> Ibid, p. 14