



**The Hon Jenny Macklin MP
Minister for Families, Housing, Community Services
and Indigenous Affairs**

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Dr Jeff McMullen AM
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Dear Dr McMullen

Jeff

Thank you for your letter of 15 November 2010 to the Minister for Sustainability, Environment, Water, Population and Communities, the Hon Tony Burke MP, about the film "Our Generation". Your letter was referred to me as this matter falls within my portfolio responsibilities. I apologise for the lengthy delay in responding.

While the "Our Generation" film canvasses a range of issues, it is apparent that the primary area of criticism in the film, and in your letter, is the Northern Territory Emergency Response (NTER).

I acknowledge that the instigation of the NTER by the previous government was a major shock to many Aboriginal people and communities in the Northern Territory and was seen as a serious affront. There was no consultation before it was initiated, and the nature of some of the measures and coercive tone utilised undoubtedly caused anger, fear and distrust.

It also needs to be acknowledged, however, that a widespread emergency did exist and continues to exist in many remote communities, with high levels of family violence, child neglect, appalling health status, low rates of school attendance, and high levels of crime including violent crime, and widespread drug and substance abuse. Any one of these factors has the potential to permanently damage or destroy a person's life opportunities. Taken together, they constitute a fundamental and endemic threat to the human rights not just of individuals, but of whole communities.

The Australian Government has attempted, with some real success, to acknowledge and span both these realities. We have retained the NTER because we believe action was and is required. We have attempted to progressively reshape it to make it more respectful and effective. In doing this, we have acted in good faith, with determination, and in a genuine attempt to further the best interests of both Aboriginal people and families in the Northern Territory and the Australian nation as a whole.

Clearly, this is an area of public policy where there is a wide variety of views and where community consensus is not easy to find or to forge.

I do not accept the broad criticisms about the Government's significant efforts to address Indigenous disadvantage in the Northern Territory, nor the criticisms about the Government's record in meeting its international human rights obligations.

First and foremost, I wish to take issue with the way you have characterised the Government's actions in relation to the *Racial Discrimination Act 1975* (RDA) and the NTER.

The Government has fully reinstated people's rights and protections under the RDA in relation to the NTER. Under the legislation that was passed by the Parliament on 21 June 2010, all of the provisions in the NTER legislation that suspended the operation of the RDA are removed. In addition, all of the provisions in the NTER legislation that deemed certain measures to be special measures, such as income management, five-year leases and alcohol and pornography restrictions, have been repealed. This is not a 'feigned reinstatement' of the RDA.

Before introducing this legislation, the Government undertook extensive consultations with Aboriginal people across the Northern Territory on future directions for the NTER. The consultation process included over 100 whole-of-community meetings covering all communities and town camps affected by the NTER, 11 workshops with regional leaders and key stakeholder organisations, and over 440 face-to-face discussions between Government Business Managers and individuals and small groups in communities. This was the most comprehensive engagement ever undertaken by government with Indigenous people in Australia.

The Government was influenced significantly by what it heard in the consultations and by the feedback from individuals and communities. A common theme expressed was that children, the elderly and women were now feeling safer, were better fed and clothed, were getting a better night's sleep, and there was less inappropriate pressure on income support recipients for money. People felt that this was due to the combined effects of various NTER measures, including income management, alcohol restrictions, community stores licensing and an increased police presence in remote communities.

You claim that the NTER is a government takeover of privately-owned land and that people are forced to sign 40-year leases in exchange for housing and other services. This is not correct. Creating tenure arrangements which provide security to land owners, investors and land users, through mechanisms such as voluntary long-term leasing, is a critical step in closing the gap in Indigenous disadvantage.

Long-term leasing, based on agreements with land owners, is essential on communal title if we are to secure major public investments. Importantly, it also ensures that governments take responsibility, and are accountable, for housing construction standards, for long-term repairs and maintenance programs and to underpin tenancy management systems. All these issues underpin longer asset life spans and as a consequence contribute to less overcrowding.

Broader reforms to land tenure arrangements are also necessary to allow for the pursuit of home ownership and business opportunities on Indigenous lands. Economic development on Indigenous lands has traditionally been hampered by the communal ownership of land, preventing individuals from raising finances for commercial purposes and home ownership. The Government is working with Indigenous land owners and state and territory governments to make Indigenous lands in remote communities more suitable for economic development and home ownership opportunities.

In relation to the initial acquisition of five-year leases by the previous government, I recognise that the compulsory nature of the acquisition of township lands was counter-productive. The Government has committed that it will seek to replace them with voluntary leases upon their expiry in 2012. The Government has taken action to revise the boundaries and to ensure that rents are paid to landowners.

I agree that we must include Aboriginal people in setting future policy directions that affect them. The Government is committed to a reformed approach to engagement with Indigenous Australians, based on the principles of mutual respect, cooperation and mutual responsibility. In 2011, the Government will implement an Aboriginal and Torres Strait Islander Engagement Framework across its agencies to improve how the Australian Public Service engages with Indigenous Australians on the policies, programs and services that affect their lives. The Framework will drive the adoption of effective engagement as an integral part of day-to-day business.

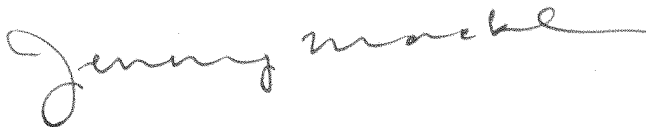
The Government's commitment to improved engagement has been acknowledged by the United Nations Human Rights Council in its recent Universal Periodic Review process. The establishment of the National Congress of Australia's First Peoples was welcomed by the Council as a strong gesture of the Government's commitment to engagement with Indigenous Australians.

Australia also received encouraging support from many countries for its efforts to improve the human rights of Indigenous Australians, through its endorsement of the United Nations Declaration on the Rights of Indigenous Peoples, for the National Apology and for our commitment to pursue constitutional reform to recognise Indigenous Australians.

In conclusion, I can assure you that the Government is determined to continue its work in combating Indigenous disadvantage. The independent NTER Review Board found that the situation in remote Northern Territory communities and town camps remained sufficiently acute to be described as a 'national emergency'. The Government found this evidence compelling, and continues to be focused on ensuring that the NTER delivers improvements to address the unacceptably high level of disadvantage and social dislocation experienced by Aboriginal people living in remote communities and town camps in the Northern Territory.

Thank you again for writing.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jenny Macklin', with a long horizontal flourish extending to the right.

JENNY MACKLIN MP