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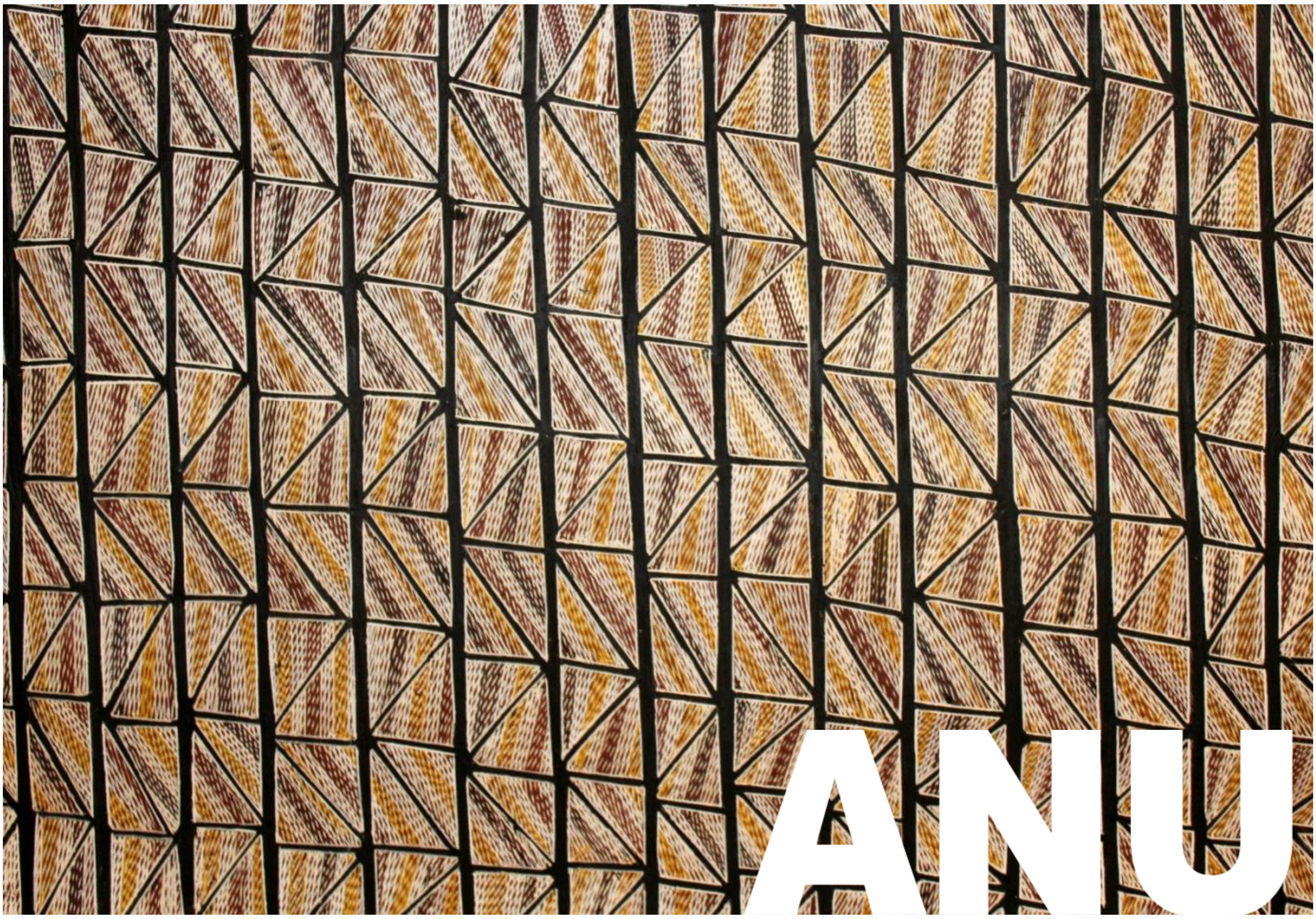


# SIMPLIFYING THE SYSTEM OR DEEPENING POVERTY? THE NEW REMOTE RENT FRAMEWORK IN THE NORTHERN TERRITORY

F. MARKHAM AND M. KLERCK

Centre for
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# Simplifying the system or deepening poverty? The new Remote Rent Framework in the Northern Territory

F. Markham and M. Klerck

## Abstract

In early 2022, the Northern Territory published a new Remote Rent Framework, to come into effect from 5 September 2022. This radical new policy abolishes income-based rent setting in public housing in remote Aboriginal communities and Town Camps in Alice Springs and Tennant Creek. Urban public housing remains subject to income-based rent setting. The new rent setting framework seeks to simplify the system while increasing the rental revenue received from remote public housing tenants. If the new rent setting framework is successful in increasing rent revenues accruing to the public housing authority, it will do so at the cost of further impoverishing remote public housing tenants. Redistributing funds from remote community residents to the housing authority will transfer the cost of supplying housing away from the fiscally constrained Northern Territory Government and onto impoverished Aboriginal citizens.  The abolition of income-based rent setting in remote public housing alone is arguably a form of indirect discrimination and is out of step with current Commonwealth Government moves to terminate a swathe of programs that discriminate against Indigenous residents of remote communities. We urge the Northern Territory government to halt its implementation of the new remote rent framework until it can be properly assessed and communicated clearly to remote public housing tenants and Aboriginal representative bodies.

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Michael Klerck is employed as the Social Policy Manager at Tangentyere Council Aboriginal Corporation (TCAC), an Aboriginal Community Controlled Organisation that represents and provides services to the residents of Alice Springs' 16 Town Camps. TCAC, its subsidiary Tangentyere Constructions, and related party Community Housing Central Australia, deliver housing-related services under contract from the Northern Territory Government.

All errors or opinions are attributable to the authors alone, not TCAC or its funders.


## Acronyms

| | |
|---|---|
| ABS | Australian Bureau of Statistics |
| ANU | Australian National University |
| ATSIC | Aboriginal and Torres Strait Islander Commission |
| CAEPR | Centre for Aboriginal Economic Policy Research |
| CDP | Community Development Program |
| DLGHCD | Department of Local Government, Housing and Community Development |
| DSS | Department of Social Services |
| DTFHC | Department of Territory Families, Housing and Communities |
| ES | Energy Supplement |
| FTBA | Family Tax Benefit Part A |
| FTBB | Family Tax Benefit Part B |
| IARE | Indigenous Area |
| ILOC | Indigenous Location |
| NTG | Northern Territory Government |
| NTNER | Northern Territory National Emergency Response |
| OECD | The Organization for Economic Co-operation and Development |
| PPS | Parenting Payment Single |
| PS | Pension Supplement |
| RAA | Remote Area Allowance |
| RDA | *Racial Discrimination Act 1975* (Cth) |
| TCAC | Tangentyere Council Aboriginal Corporation |

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# Introduction

Income-based rents, also known as 'rental rebates', have been a cornerstone of public housing policy in Australia since the 1940s (Hayward, 1996). They are key to public housing's role as an important part of Australia's social safety net. Rent rebates are a policy whereby public housing tenants are guaranteed that their rental fees will not rise above a certain percentage of their household income. While some tenants are charged the 'full rent' for a property, usually calculated at market value, rebate schemes mean that rental charges are capped at a percentage of household income, if this is less than the full rental amount. Such a scheme applies in all Australian jurisdictions, with rents usually capped at 25% of household income in public housing and state owned and managed Indigenous housing (Steering Committee for the Review of Government Service Provision, 2022, p. 18.3-18.6). When household circumstances change, including increases or reductions of income and changes to household composition, then rebated rents are also recalculated.

In the Northern Territory under the rebate scheme, the maximum rate of rent in public housing dwellings has been calculated using a formula that considers primary vs secondary tenancy status, the age of the tenant and the age of the dwelling. But in no instance are current rents allowed to rise above 23% of household income. This policy has continuities with the administration of remote community housing under the Aboriginal and Torres Strait Islander Commission's (ATSIC) housing program which, until 2006, encouraged Indigenous community housing organisations to charge public housing-style rebated rents (Sanders, 2005, pp. 9–12).

On 24 February 2022, the Northern Territory Government (NTG) published a new Remote Rent Framework, to come into effect from 5 September 2022.[1] This new policy excises 'Remote Public Housing' — that is public housing in remote Aboriginal communities and Town Camps in Alice Springs and Tennant Creek — from the rental rebate system. Urban public housing remains subject to a rental rebate. Figure 1 shows the 73 communities that will be impacted by this changing policy, in addition to the Town Camps of Alice Springs and Tennant Creek.

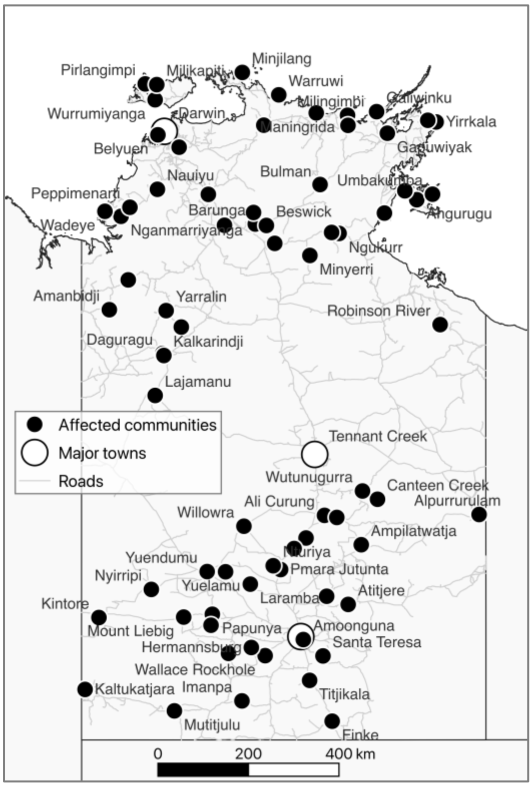


**Figure 1** Location of the 73 affected communities and two affected towns

The proposed new Remote Rent Framework is set to change past practice radically. For the first time in any Australian jurisdiction, housing rents will be set at a flat rate of $70 per week per bedroom, regardless of occupancy rates or occupants' incomes. The abolition of rental rebates is sometimes suggested on the basis that income-based rent setting creates a disincentive for people to work and a disincentive for public housing tenants to move to private rental dwellings (e.g., The Reference Group on Welfare Reform, 2015, pp. 59; 101–102). However, these arguments are not relevant in the remote Northern Territory, where labour markets are very thin and private housing markets completely non-existent. The NTG suggests that the new rent setting framework will be 'easier for tenants and staff to understand' and be 'easier to administer and less resource-intensive' (Department of Territory Families, Housing and Communities [DTFHC], 2021b). But it is also intended to

[1] The Northern Territory Government's public housing function has been relocated through different departments through machinery-of-government changes several times in recent years. When refer to government agencies, we use the names of the department responsible for the housing function at the time we are discussing.

increase rents for many remote public housing tenants — who are among the most impoverished people in Australia — at a time when other living costs are increasing rapidly due to food and fuel price inflation.

This new scheme is intended to be consistent with a number of principles. According to NTG's 'Stakeholder Reconnect Discussion Guide', these principles include (DTFHC, 2021b, p. 5):

- *Easier for tenants and staff to understand*
- *Applies fairly and consistently across households*
- *Will be affordable and appropriate for remote tenants*
- *Easier to administer and less resource-intensive*
- *Will reduce tenant debt*
- *Decreases the number of enquiries and formal complaints about rental rates*
- *Increases rent revenue*
- *Improves the financial stability of public housing*
- *Comports optimally with legislative requirements*

It is unclear if the new rent setting framework can meet all these competing principles at once.

The new remote rent framework and the cessation of the rebated rent means that comparable urban tenancies will become cheaper than their remote counterparts. The cessation of remote rebated rent will disproportionately disadvantage Aboriginal people, as this policy spatially targets an almost exclusively Aboriginal population. As we briefly discuss in this paper, this raises the question of potential indirect racial discrimination.

In this short paper, we first outline our understanding of the new Rental Rebate Policy as it is described in NTG documents (Department of Housing and Community Development, 2018; DLGHCD 2020; DTFHC 2021a, 2021b, 2022a, 2022, 2022b; Northern Territory of Australia, 2022; NTG, 2022a). We then discuss some potential adverse consequences that may arise from its implementation. We argue that the new scheme will increase the prevalence of poverty and may be at risk of legal challenge due to its discriminatory targeting of areas where almost all public housing tenants are Aboriginal. We call for the implementation of this new rent setting framework to be suspended to give time for increased scrutiny of the new arrangements, and proper consultation with affected communities.

# The New Remote Rent Framework

## Abolition of rebated rents and replacement with a bedroom-based rent

Currently, the rent payable by a household in remote public housing is either the 'full rent' or a rebated rent calculated based on household income, whichever is lower. Full rents in Northern Territory public housing are notionally set as the rent which would be achieved if that dwelling were let in the private market. However, in remote communities, there is no private housing market. Consequently, the NTG sets the level of full rent as equivalent to the full rent of the cheapest equivalent urban public housing dwelling (Department of Local Government, Housing and Community Development [DLGHCD], 2020).

The replacement of the existing rent setting framework with the new Remote Rent Framework involves two steps. First, from 5 January 2022, full rents for remote public housing were moved from a framework whereby rents were calculated on the basis of the dwelling condition (i.e. new/rebuilt, refurbished or 'existing') to a fixed rent structure based on number of bedrooms, bringing the rate of full rent for older and refurbished dwellings up to the new dwelling rate (DLGHCD, 2020; DTFHC, 2022). This is despite many of the older dwellings being in dilapidated condition. Rental rebates still apply in this 'interim' rent-setting framework. The interim arrangement is set to be changed further from 5 September 2022. At that time, rent rebates for tenants of remote public housing will be abolished (apart from the provision for a discretionary, temporary safety net), and the rates of full rent charged per dwelling will change.

Table 1 outlines maximum rents in the former, interim, and future rent setting frameworks, noting that these maximums only applied in the former and interim systems when household incomes exceeded a certain threshold. It is noteworthy that while the maximum rent is lower for dwellings with a small number of bedrooms, maximum rents are set to increase for 4-bedroom dwellings which made up 22% of the public housing dwelling stock in the affected remote communities and Town Camps in the 2016 Census.[2]

**Table 1** Weekly maximum rents in dollars under different rent setting frameworks by policy period, rental rebate eligibility, dwelling type and number of bedrooms in remote public housing

| | Former framework | | | Interim framework | Future framework |
|---|---|---|---|---|---|
| **Policy period** | 17 May 2010 – 4 January 2022 | | | 5 January 2022 – 4 September 2022 | From 5 September 2022 |
| **Rental rebates** | Eligible | Eligible | Eligible | Eligible | Ineligible |
| **Dwelling type** | Older dwellings | Refurbished dwellings | New dwellings | All dwellings | All dwellings |
| **Rent for 1 bedroom dwellings** | $90 | $120 | $150 | $150 | $70 |
| **Rent for 2 bedroom dwellings** | $105 | $140 | $175 | $175 | $140 |
| **Rent for 3 bedroom dwellings** | $138 | $184 | $230 | $230 | $210 |
| **Rent for 4 or more bedroom dwellings** | $150 | $200 | $250 | $250 | $280 |

Sources: DLGHCD (2020); DTFHC (2021a, 2022, 2022b); Northern Territory of Australia (2022).
Note: Email communications with senior departmental officials suggest that other rent setting formula may have at times been in use (personal communication, March 9, 2022). However, we have been unable to locate any official policy documents describing such formulae.

The rental rebate scheme operating in remote public housing under the former and interim rent setting frameworks is described in Table 2. The percentages in this table assist in the calculation of the rebated rent charged to tenants currently based on their assessable income. For example, if four working-age primary tenants and co-tenants were living in an older remote 4-bedroom dwelling, they will currently be charged either the maximum rent of $250 per week (Table 1), or the rebated rent of 18% of their weekly income (Table 2), whichever amount is lower. But from 5 September 2022, remote public housing tenants will no longer be eligible

[2] Authors' calculations from the 2016 Census of Population and Housing based on an approximate classification of the 2016 Australian Statistical Geography Standard Indigenous Geography structure. The following areas were classified as being within the footprint of urban public housing: The Darwin Indigenous Region, the Alice Springs exc. Town Camps Indigenous Area (IARE), the Katherine town IARE; the Nhulunbuy – Gunyangara IARE; the Jabiru Indigenous Location (ILOC); the Pine Creek ILOC; the Borroloola exc. Mara – Yanyula ILOC; the Timber Creek ILOC; the Alyangula ILOC; the Elliott ILOC; and the Tennant Creek excluding Town Camps ILOC. All other NT ILOCs were classified as falling within the remote public housing footprint

for a rental rebate and will be charged a rent of $280 per week for a 4-bedroom dwelling (Table 1), regardless of household income.

The impact of this will be widely felt. According to estimates by the NTG reproduced in Table 3, 68% of remote households will see their rents rise. Rent rises will be particularly widespread in Central Australia (80%) and the Barkly (81%). And rent rises are projected to be significant, an average of $68 per week. To put this into context, an increase of $68 per week is equivalent to a decrease in income of 6% for a household which receives a gross total income of $1100 per week, a figure close to the median for Indigenous households in the Northern Territory outside of Darwin and Alice Springs according to the 2021 Census.[3] And some regions reported significantly lower incomes. For example, in the Alice Springs Town Camps, median total gross weekly household income is reportedly $757 per week. For Town Campers, an increase of $68 per week in rent is around 9% of household income. This is a significant sum — money spent on additional rent will not be available for other essential commodities.

It is unclear how these estimated rent increases have been calculated. The lack of a published methodology in the absence of any available data suitable for replicating these calculations has created concerns among stakeholders that actual increases to rent may be significantly higher. Greater transparency is required to assess the modelling that has calculated these estimated changes.

Scenario modelling suggests some households are likely to be exceptionally hard-hit. Table 4 reports the results for a single mother living in a four bedroom dwelling, with three dependent children. This household is currently paying $136 per week in rent, or 16% of their total income. But from 5 September, this household will be paying $280 per week in rent, or 33% of their total income. This substantial increase in rents will deepen poverty experienced by this household, whose pre-housing income is already well below the poverty line.[4]

**Table 2** Rate of Assessable Income Charged as Rebated Rent by dwelling type, location and tenant characteristics, 22 November 2021 – 5 September 2022

| Category | Rate (% Household Income) | | | | |
|---|---|---|---|---|---|
| | Primary and Co-Tenant | | Other Recognised Occupiers | | |
| | General | Aged | Family Tax Benefit A | Aged 18-24 | Aged 25 years and over |
| **Remote (New dwelling, first year of tenancy)** | 18% | 14% | 8% | 8% | 16% |
| **Remote (New dwelling, second and subsequent years of tenancy)** | 23% | 18% | 10% | 10% | 20% |
| **Remote (older dwellings)** | 18% | 14% | 8% | 8% | 16% |
| **Town Camp (All dwellings)** | 23% | 18% | 10% | 10% | 20% |

Source: DTFHC (2021a, p. 6).

[3] At the time of writing, full 2021 Census tables were unavailable. Median total household weekly incomes in households with at least one Indigenous person usually resident was available tabulated by the ABS's Indigenous Regions geographical classification. These incomes were: $950 in Jabiru – Tiwi; $1,173 in Katherine; $1,283 in Nhulunbuy; $1,086 in Tennant Creek; and $955 in Apatula.

[4] Using the 50% of the median equivalised disposable household income poverty line, the modified-OECD equivalence scale, and a weekly median equivalised disposable household income of $959 per week from the 2019-2020 ABS Survey of Income and Housing (Australian Bureau of Statistics, 2022).

It is important to note that the NTG Rent Policy includes a provision for a temporary safety net. Specifically, 'a remote safety net of 25% of household income may be charged to tenants for a short period on a case-by-case basis to ensure that rent does not place the tenancy under financial stress' (DTFHC, 2022). It seems that this safety net will not be automatically applied, introducing a significant level of discretion which good policymaking and regulation usually seeks to avoid. It risks penalising the shy, those who struggle to speak English, and others unable to avail themselves of the discretion of housing staff. We are unaware of any documents specifying how this time-limited and discretionary safety net will be applied.

As the example of the single parent with three children shows, rental rates above 25% of income are likely to be structural and long-term for many households. Because social housing rents will exceed 25% of household income for many households for long periods of time, time limited approaches will not provide an appropriate safety net. While aware of this issue, as of 27 May 2022 "the Department… is in the process of reviewing the policy to support a suitable administrative approach to manage these circumstances" (NTG, 2022b). It is unclear if this issue has since been resolved.

**Table 3** Northern Territory Government projections of the number of households that will have increased and decreased rents charged after 5 September 2022, and average weekly increases

| Region | Change in rents charged | | | |
|---|---|---|---|---|
| | Decrease or no increase (n households) | Increase (n households) | Increase (%) | Average increase ($ per household per week) |
| **Arnhem** | 411 | 511 | 55% | $58 |
| **Arafura** | 474 | 946 | 67% | $64 |
| **Barkly** | 69 | 290 | 81% | $82 |
| **Big Rivers** | 289 | 520 | 64% | $62 |
| **Central Australia** | 211 | 868 | 80% | $76 |
| **Total** | 1454 | 3135 | 68% | $68 |

Source: DTFHC (2021b).
Notes: It is unclear how the estimates in this table have been produced. They are reproduced from NTG documents which do not describe the methods or data used to make these calculations.

**Table 4** Scenario model of rents paid by single parent with three children in a four-bedroom remote public housing dwelling, before and after 5 September 2022

| Income | Current rebated rent | | Proposed fixed rent | |
|---|---|---|---|---|
| ($ per week) | ($ per week) | % of income | $ per week | % of income |
| **$852** | $136 | 16% | 280 | 33% |

Note: The table reports the result of a modelled household with a single parent and three children. Two of the children are aged between five and twelve years old, and the third is aged between fourteen and seventeen years old. The parent is not employed and receives Parenting Payment Single (PPS), the Remote Area Allowance (RAA), the Pension Supplement (PS), the Energy Supplement (ES), Family Tax Benefit Part A (FTBA) for each of the children (at age-appropriate rates) and Family Tax Benefit Part B (FTBB). PPS and RAA contribute towards the rebate calculation at a rate of 23%, while FTBA contributes at a rate of 10%. ES, PS and FTBB are exempt from the calculation of rental rebates. Social security payments are based on rates as of 1 July 2022.
Sources: Authors' calculations based on: Department of Social Services (DSS) (2022); DTFHC (2021a); NTG (2022)

## Concentrating responsibility for payment in a single head tenant

The new Remote Rent Framework also changes who is responsible for paying the rent. Currently, tenancy arrangement options are poorly documented. Usually, a head tenant is identified who is primarily responsible for rent payment, with co-tenant also identified at times. All residents are then identified so their incomes can be tallied and the purpose of assessing the rent payable for the dwelling. Residents may then enter into a Family Rent Agreement which records how much each resident has agreed to contribute towards rent. This document is then used to assist in arranging automatic rent deductions from Centrelink payments or employment income (Commonwealth Ombudsman, 2012, p. 20).

When consultations on potential remote rental models were undertaken in 2018, three approaches identified by the NTG Remote Rent Review were discussed. These flexible options included: (1) Head Tenant and Co-Tenant; (2) Multiple Tenants; and (3) Family Rent Agreements (Department of Housing and Community Development, 2018). These options share risk and responsibility among household members in different ways.

However, in the DTFHC's explanatory flyer titled 'New rent model' (2022a), only the Head Tenant and Co-Tenant option is discussed. The flyer states that 'house bosses are responsible for paying rent and deciding how other members of the house contribute' (see Figure 2). Such a consolidation of responsibility with the head tenant for rent payment and internal rent collection would put the head tenant under considerable stress, including financial stress and other forms of risk. Over 60% of head tenants in Town Camps are women, a figure that is likely to be similar in other remote public housing locations.

It is unclear whether existing tenancy arrangements will be carried forward, whether the three models consulted on in 2018 will remain as options, or whether a single 'house boss' model described in the informational flyer will be all that is available. Flexibility needs to be reconsidered in the interest of security of tenure and safety and wellbeing. There is significantly more complexity to the proposed arrangements than what is outlined in the flyer reproduced in Figure 2. It is unclear how these complex new arrangements are being communicated to affected tenants.

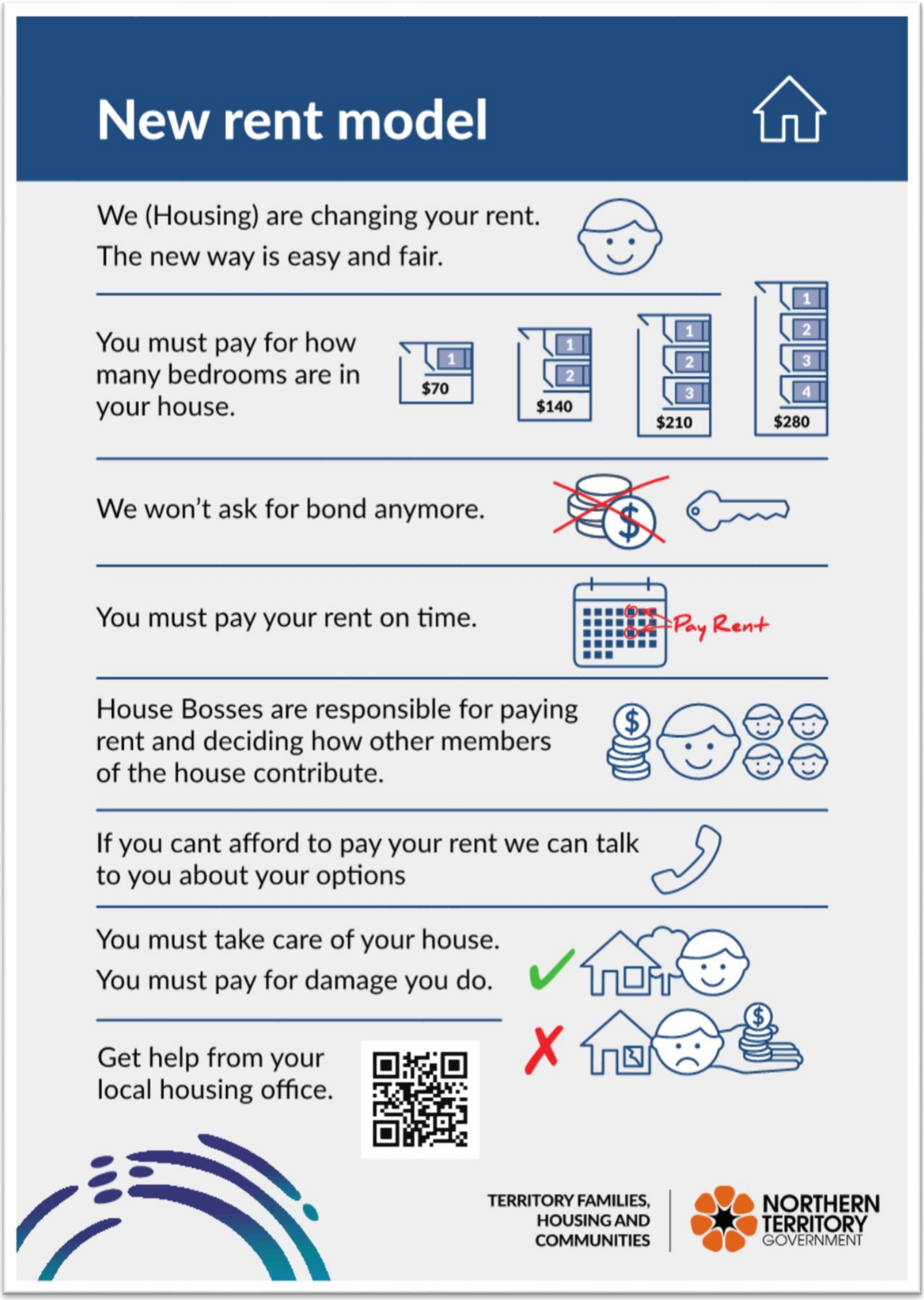


**Figure 2** DTFHC's 2022 explanatory flyer outlining the remote rent framework

# Discussion

## Poverty

The abolition of rental rebates signals a radical new approach to rent setting in Australian public housing. Severing the ties between public housing rents and the ability to pay makes public housing more like private rental housing. Northern Territory Housing will be the only government housing authority taking this approach to public housing rent setting. Other jurisdictions have avoided such a regressive reform because, as a NSW Government inquiry found, 'basing tenant rent contribution on anything other than household income is likely to make social housing unaffordable for most tenants' (Boxall et al., 2017, p. 24).

Abolishing rental rebates will deepen poverty in the Northern Territory. Indigenous poverty rates in very remote Australia were already above 50% when last measured in 2016 (Markham & Biddle, 2018). Aside from a brief reprieve from April 2020 to March 2021, when the Coronavirus Supplement eased remote poverty significantly (Altman & Markham, 2022; Markham et al., 2020), remote income poverty is likely to have deepened since 2016. Almost all households in Northern Territory remote communities face significant financial pressures. One recent study of prepayment power-metre data found that three-quarters of remote households are disconnected from electricity at least ten times per year (Longden et al., 2022). Half of all Indigenous residents of very remote Northern Territory communities reported running out of food and being unable to afford to purchase more at least once per year, according to survey data from the Australian Bureau of Statistics (ABS) in 2018–19 (ABS, 2020). In addition, inflation in food and fuel prices since December 2021 have further increased the cost of living, especially in remote areas with relatively high transportation costs.[5] In this context, an average increase in rents of $68 per week would further entrench poverty in remote communities.

Deepening poverty in the Aboriginal population in the Northern Territory will have profound consequences. Epidemiologists from the Northern Territory Department of Health estimate that one-third to half of the life expectancy gap between Indigenous and non-Indigenous Australians in the Northern Territory is the result of economic disadvantage (Zhao et al., 2013). Increasing the rental payments coming from this group of people will increase their vulnerability to premature death.

Rents charged under the new remote rent framework are likely to exceed rents charged for comparable housing in urban parts of the Northern Territory and in other jurisdictions. For example, if our example household of a single mother of three in a four-bedroom house were to live in urban public housing in the NT where their rent were capped at 25% of assessable income per week, their rent would be calculated at $194 per week. Or if the same household were living in community housing in NSW administered by the Aboriginal Housing Office, they would be charged $203 per week (NSW Aboriginal Housing Office, 2019). As the Aboriginal Housing Office is a community housing provider — not a public housing authority — these residents or their community housing provider would be eligible for Commonwealth Rent Assistance, making their effective rental charge $111 per week in NSW, compared to $280 per week in the Northern Territory from 5 September 2022.

The new rent setting framework may well 'increase rent revenue', and thereby 'improve the financial stability of public housing' as the NTG intends (DTFHC, 2021b). But it will do so at the cost of further impoverishing remote public housing tenants. In this context, it is pertinent to observe that the NTG, which leases the lots on which public housing sits, does not pay rent to the owners of these lots, landholders who are predominantly Aboriginal traditional owners (Weepers, 2021, p. 24). Redistributing funds from impoverished remote community residents

[5] Although most social security payments are usually adjusted on 20 March and 20 September each year in line with movements in the Consumer Price Index over the previous six months, indexation is based on prices in Australia's eight capital cities. Accordingly, if prices rise more in remote areas as is likely to have taken place in 2022, then real prices for social security recipients in remote areas are likely to have risen permanently, despite indexation.

to the housing authority is an unjustifiable austerity measure that transfers the cost of housing supply away from the NTG and onto impoverished Aboriginal citizens.

## Funding remote housing

The problem of funding repairs and maintenance of remote public housing is serious. It has long been apparent that insufficient revenue has been driving operating deficits in remote Indigenous housing, whether that be community-controlled housing or public housing (Dillon, 2006; Hall & Berry, 2006; Porter, 2009). But an attempt to bridge that substantial shortfall by increasing rent revenues collected from tenants is short sighted, counter-productive and is likely to be futile. If increased rent collection is successful, then this may have negative impacts on the life chances of impoverished remote residents, exacerbating health and social problems and thereby leading to increased use of other government services.

By increasing remote rents, the NTG will increase the costs of living remotely, a form of social engineering that may encourage remote residents to move. This may be into smaller, lower cost dwellings where they are available, thereby increasing overcrowding. Or it may be into urban centres like Alice Springs and Darwin, or other jurisdictions where public housing and other basic staples like food are cheaper (Department of Health, 2020; Markham & Kerins, 2020). This will put increased pressure on urban public housing, and create ‘substantial demographic and social upheaval’ (Taylor, 2009). Yet just this sort of policy is envisaged in the 2017 review of housing in the Northern Territory Town Camps commissioned by the NTG. That report recommends withholding further investment in housing in Town Camps to focus on ‘incentivising and enabling’ Town Camp residents from across the Northern Territory to migrate to Darwin where economic opportunities are deemed to be greatest (Deloitte, 2017). It is unclear whether the disconnect between the urban and remote rent setting frameworks is calculated to promote remote to urban migration, or if this is merely an unintended consequence of the reform.

Instead of further impoverishing remote tenants, additional funding that can improve the financial stability of public housing should be urgently sought, including from the Commonwealth Government. The Albanese Labor Government’s pre-election commitment to spend $40 million per year from the Housing Australia Future Fund on the repair, maintenance, and improvements of housing in remote Indigenous communities in Western Australia, South Australia, Queensland and the Northern Territory (Australian Labor Party, 2022, p. 8) provides a promising mechanism to fund the on-going need to subsidise remote Indigenous housing. However, such a sum does not come close to addressing remote housing need — some calculate that well over $700 million per year is required to begin to tackle Indigenous housing need in remote Australia (Dillon, 2022). In this context, increasing revenue by redistributing the already inadequate incomes of remote public housing tenants is likely to be of little or no benefit relative to its negative impacts. On-going direct Commonwealth government investment is required. The current National Partnership for Remote Housing Northern Territory continues to increase the number of remote public housing dwellings to be maintained, but it does not increase the budget for repairs and maintenance. Consequently, this much-needed investment in growing the remote housing stock risks being wasted if homes are left to deteriorate without receiving the necessary maintenance. The renegotiated National Partnership Agreement for Remote Housing in the Northern Territory, promised for 2023 (Australian Labor Party, 2022) may need to consider a broader focus than solely providing new houses and new bedrooms, and also contemplate resourcing housing maintenance services.

The issue of tenants’ eligibility for Commonwealth Rent Assistance is also important, as this is scheme provides the single largest revenue stream for housing assistance in Australia. Since the 2008 transfer of remote housing from Indigenous community-controlled organisations to the territory housing authority under the National Partnership Agreement on Remote Indigenous Housing, tenants of remote public housing have been ineligible to receive Commonwealth Rent Assistance. A transition back to Aboriginal community control as is foreseen under a number of Local Decision Making agreements could see remote community residents become eligible for Commonwealth Rent Assistance. Capturing of Commonwealth Rent Assistance payments would provide an important new stream of funds that could assist community-controlled housing providers with housing maintenance and repair costs. However, community-controlled housing organisations should be aware of the political risk that tenants of non-profit or community-controlled housing providers might be made ineligible for Commonwealth Rent Assistance in future should the Commonwealth Government's tolerance for subsidising community housing through the social security system come to an end (Pawson et al., 2016, pp. 65-66).

## Potential discrimination

It is also unclear why the NTG is applying this new rent setting framework to remote public housing only, leaving urban public housing tenants eligible for rental rebates and consequently paying less rent in comparable circumstances. This creates two classes of public housing tenant based on spatial location. Such a policy faces a high risk of being judged to be a form of indirect racial discrimination, given that the residents of remote public housing — in 73 discrete Indigenous communities and the Town Camps in Alice Springs and Tennant Creek — are almost exclusively Indigenous.

The targeting of these specific remote communities and Town Camps is reminiscent of the introduction of compulsory income management by the Howard Coalition Government in 2007 as part of the legislation for the Northern Territory National Emergency Response (NTNER). When income management was originally introduced under the NTNER, the legislation suspended provisions of the *Racial Discrimination Act 1975* (Cth) (RDA) and Northern Territory anti-discrimination legislation. This was necessary because the original income management under the NTNER spatially targeted largely Indigenous populations, and was not clearly a special measure of benefit to the Indigenous population (Buckmaster et al., 2012, p. 1). As the Australian Human Rights Commission (2012, p. 31) pointed out:

> *The overrepresentation of Aboriginal and Torres Strait Islander peoples… in the trialling of income management is of significant concern to the Commission. Measures that disproportionately impact upon the ability of a particular racial group to enjoy their rights… may raise issues of indirect discrimination.*

The Rudd-Gillard Labor government worked to remove this discriminatory aspect of income management from 2008.

Similarly, the Community Development Program (CDP), a form of remote work-for-the-dole, was the subject of a complaint to the Australian Human Rights Commissioner in 2016 and ultimately a class action lawsuit in 2019 from participants who argued the scheme breached the RDA (Joyner, 2019). The program was argued to be discriminatory because its spatial targeting of remote communities disproportionately affected Indigenous people, and the CDP was more onerous compared to the program requirements in areas with fewer Indigenous residents. This legal challenge was settled by the Morrison Coalition Government in 2021, which paid litigants $2 million in compensation and announced the termination of the CDP (Goodwin, 2021).

The NTG new remote rent framework may be similarly vulnerable to legal challenge under the RDA and Australia's international obligations under the *International Convention on the Elimination of All Forms of Racial Discrimination*. In 2016, approximately 98% of Census respondents who reported living in public housing in the NT remote public housing footprint identified as being Indigenous, compared to 49% in the urban public housing footprint.[6] Accordingly the new remote rent framework could be argued to target Indigenous people, given that it is geographically focused on areas where almost all public housing tenants are Indigenous. This new rent setting framework will raise rents for a majority of tenants, making it more onerous than the rules which will

[6] Authors' calculations based on the geographical classification given in footnote 2.

apply to urban dwellings. Consequently, the new remote rent frame may struggle to be defined as a 'special measure' under the RDA. Accordingly, the application of this new, more onerous rent setting framework targeting remote public housing is arguably a form of indirect racial discrimination.

# Concluding comments

The new remote rent framework is ostensibly being introduced both to simplify rental arrangements and to increase rent payments. Even if these objectives are met to some degree, it will be at the unacceptable cost of increasing poverty in remote communities and Town Camps in the Northern Territory. With its apparent move away from family rent agreements, the new policy will likely place additional stress on head tenants ('house bosses'). It may also be vulnerable to legal challenge under the RDA because it targets areas where almost every public housing tenant is Aboriginal. In summary, the new remote rent framework may be discriminatory and will create significant hardship for Aboriginal tenants of remote public housing.

Other options for simplifying the system that do not have the same adverse consequences should be investigated and could still be implemented. Rent rebates could be retained but simplified. For example, rebated rents could be set at a single flat rate (e.g. 25% of household income), aligning with standard public housing rates in other jurisdictions and the temporary safety net envisaged in the new framework. And the tenancy model could be extended to provide options for households so that the head tenant does not become a landlord for sub-tenants and lodgers. In the medium term, a divestment of public housing back to community control could be used to leverage Commonwealth Rent Assistance as a further income stream to increase rent payments without deepening the financial stress of tenants. However, without the considerable expenditure of public funds, presumably by the Commonwealth Government, the state of remote Indigenous housing will continue to deteriorate and continue to contribute to poor health and social outcomes for tenants.

It is of concern that there is currently little understanding of the new Remote Rent Framework among key stakeholders, let alone affected community members. This is perhaps partly because information about these significant changes is spread across several interacting, opaque policy documents (Department of Housing and Community Development, 2018; DLGHCD, 2020; DTFHC, 2021a, 2021b, 2022a, 2022, 2022b; NTG, 2022a). At minimum, a clear, comprehensible document that brings together the whole model should be circulated to key stakeholder groups. Detailed modelling of the financial impacts on tenants and landlords needs to be undertaken by an appropriately qualified consultant in order for the model to be properly assessed.

The introduction of this arguably discriminatory policy comes at a time when the Commonwealth government has been moving to abolish unsuccessful and discriminatory programs like the CDP and income management. With the Senate currently commencing an inquiry into the potential implementation of the United Nations Declaration on the Rights of Indigenous Peoples, it is especially jarring that there has been inadequate consultation on these changes, let alone the provision of the free, prior and informed consent of tenants or the landholders on whose land most remote public housing sits (see Weepers, 2021). This issue of consent is particularly pertinent in remote communities on freehold Aboriginal titled lands that have been leased to the NTG by traditional owners for the provision of housing. It is unclear if traditional owners were aware at the time they agreed to such leases that the rents paid by public housing tenants, including in many cases themselves, would be subject to such a radical increase in rents.

We suggest that the NTG should urgently reconsider the new remote rent framework. Its implementation should be halted until the new remote rent framework can be properly scrutinised and the consent of residents obtained.

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