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Northern Territory Police Association Submission to the Productivity Commission Inquiry into Remote Area Tax Concessions and Payments Draft Report August 2019

Introduction

The Productivity Commission Draft Report *Overview* into Remote Area Tax Concessions and Payments has called for further comment on the draft findings and recommendations set out in the draft Report.

This submission concentrates on the issues of the Zone Tax Offset (ZTO) and the Fringe Benefits Tax remote area concessions and the draft findings made in relation to them.

The Northern Territory Police Association (NTPA) is the voice of the Northern Territory Police Officers, celebrating 80 years of service to its members in 2019. The Police Force currently has a strength of 1537.23 FT equivalent sworn members¹ of which 98.5% or 1515 are members of and are represented by the NTPA².

Policing in the Northern Territory in Perspective

The Northern Territory Police Force came into being as the forerunner of its current inception in 1931 when the two territories of Central and Northern became the Northern Territory of Australia as it is today.

Sworn police officers can be required to serve anywhere where a police presence is required in the Northern Territory. The Commissioner of Police has an unfettered power to “force transfer” any sworn member of the Police Force to any location where sworn personnel are lacking and positions cannot be voluntarily filled³.

Northern Territory Police have a presence in 49 localities across the Northern Territory outside of the “major” centres of Darwin (including the greater area of Darwin, Palmerston and Humpty doo), Katherine and Alice Springs:

¹ 2018-19 Northern Territory Police, Fire & Emergency Services Annual Report (draft).

² Source: Northern Territory Police Association membership database.

³ Section 14B of the *Police Administration Act*

Northern Territory Police Association

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Adelaide River; Ali Curung; Arlparra; Alpurrurulam; Alyangula; Avon Downs; Batchelor; Borroloola; Bulman; Daly River; Elliott; Finke; Galiwin'ku; Gunbalunya; Haasts Bluff; Harts Range; Imanpa; Jabiru; Kalkarindji; Kintore; Kulgera; Lajamanu; Lake Evella; Maningrida; Maranboy; Mataranka; Minjilang; Minyerri; Mutitjulu; Ngukurr; Nhulunbuy; Nyirripi; Ntaria; Numbulwar; Papunya; Peppimentari; Pine Creek; Pirlangimpi; Ramingining; Santa Teresa; Tennant Creek; Ti Tree; Timber Creek; Wadeye; Willowra; Wurrumiyanga; Yarralin; Yuendumu; and Yulara.

Most of these stations are manned by sworn members of the Police Force for a fixed term with an option to extend tenure.

The Zone Tax Offset

DRAFT FINDING 5.1

There is no compelling justification for a zone tax offset in contemporary Australia.

Higher living costs or other aspects of life in remote areas do not warrant compensation from other taxpayers. Australians face a range of advantages and disadvantages in where they live, and will typically locate in the area they value most highly.

Communities likewise grow or shrink based on their advantages and disadvantages. Attempts by governments to artificially create an advantage for a remote community, or attract people to live in high cost areas through tax concessions, typically result in net losses to the broader Australian community.

DRAFT RECOMMENDATION 5.1 ABOLISH ZONE AND OVERSEAS FORCES TAX OFFSETS

The Australian Government should abolish the zone tax offset and the overseas forces tax offset.

The NTPA disagrees with the draft finding and draft recommendation.

Submissions to the Discussion Paper have by and large criticised the current Zone Tax Offset (ZTO) as being ignored over time to the point of being irrelevant in achieving its original goal of attracting workers to regional, remote and very remote areas of Australia.

Much has been said of the dilution of the attractiveness of the ZTO as a tool for the attraction and retention of workers to regional, remote and very remote areas in Australia.

The *Northern Territory Government Submission to the Productivity Commission Inquiry Into Remote Area Tax Concessions and Payments – April 2019* (the NT Government submissions) includes a comprehensive and well written rationale of why the ZTO is an ineffective attraction and retention tool. Indeed, the Zone A rebate for very remote areas

was estimated in 2011 to be worth only a quarter of its value in terms of average earnings from 1948 and has shrunk to .04% of average weekly earnings from .09% in 1996⁴.

The ZTO has not risen even in terms of CPI since 1993. It is no wonder it has lost its meaning and effectiveness as an attraction and retention tool to remote Australia.

The NTPA agrees with the Northern Territory Government and the overwhelming majority of submissions to the original Commission Discussion Paper that rather than calling for the ZTO's abolition or restriction in its application, the offset allowance should be increased to reflect its historical purpose in attracting workers to settle in areas outside of major city zones.

As the NT Government submission points out, "incentivising regional development remains a relevant justification for retaining and increasing remote concessions...One of the original rationales for implementing the ZTO was to compensate workers for higher cost of living in remote areas that are distant from major supply chains and centres." Annual cost of living surveys consistently reveal that regional, remote and very remote areas in Northern Australia suffer from significant higher costs for the provision of goods and services than the more populated southern parts of the country.

The empirical evidence of the effect of increasing regional, remote and very remote populations and the flow on effect of economic development that leads to an overall increase in tax revenue that far exceeds the cost of those rebates has been discussed in other submissions and is not needed to be repeated here.

The NTPA is supportive of retaining and reinvigorating tax offset incentives to reflect current day values in line with their historical levels to reinforce the Commonwealth's stated desire to "populate the North".

The Fringe Benefit Exemption of Current Housing Arrangements

⁴ *The case for Reviewing Income Tax Zone Rebates*, Dr Ian Manning, National Institute of Economic and Industry Research, November 2011.

DRAFT FINDING 7.1

The use and economic effects of fringe benefits tax (FBT) remote area concessions vary.

- The exemption for employer-provided housing (used as a usual place of residence) can provide significant value at the employee level, particularly for higher-income employees, and could cost as much as \$430 million per year in forgone FBT revenue nationally. Usage is concentrated in certain areas — such as the Pilbara in Western Australia, and the Central Highlands and Bowen Basin in Queensland — and in industries such as mining, agriculture, and public services (including hospitals, police, and local government).
- The partial concessions on employee-sourced housing are narrowly used. The 50 per cent concession is much less generous than the full exemption on employer-provided housing, and the compliance burdens are higher.
- Use of other FBT remote area concessions (on residential fuel, meals for primary production employees and holiday transport) is minimal, in part because they provide limited tax savings and are overly complex with high compliance costs.
- FBT concessions for fly-in fly-out workers, while widely used, are likely to have only a minor influence on decisions to maintain a fly-in fly-out workforce.

DRAFT FINDING 7.2

Fringe benefits tax remote area concessions help to address inequities inherent in the FBT regime, but they are not fit for purpose. The current concessions are overly generous and complex, thereby creating other inequities.

DRAFT RECOMMENDATION 8.1 **TIGHTEN TAX TREATMENT OF EMPLOYER-PROVIDED HOUSING**

The Australian Government should amend the Fringe Benefits Tax Assessment Act 1986 (Cth) to change the tax treatment of employer-provided housing. Specifically, it should:

- revert the exemption for employer-provided housing (section 58ZC) to a 50 per cent concession (as it was prior to 2000)
- remove the provision that enables employers to claim the concession because it is 'customary' to provide housing (section 58ZC(2)(d)(iii))
- remove the provision that extends the concession to additional areas for 'certain regional employers' (section 140(1A)).

As stated above, Northern Territory Police have a presence in 49 remote and very remote locations across the Territory. The Police Force provides free housing to its members who serve in those communities and towns, given the temporary nature of postings to regional, remote and very remote locations outside of the greater Darwin area, Katherine and Alice Springs. In most of these locales, there is no private residential market for those members to tap into to obtain rental housing. The purchasing of housing in such locations is both impracticable, unreasonable and cost prohibitive – even if available.

Members of the Police Force are also entitled to free housing in the major centres of Darwin and surrounds, Katherine and Alice Springs where they do not own or privately rent their own residences. The FBT exemption applies to all members of the Police Force who have access to free housing – including the greater Darwin area, Katherine and Alice Springs.

The free housing entitlement for members of the Police Force is an industrial right that has existed in one form or another since Paul Foelsche was commissioned as the first sub-inspector of police at Palmerston (now Darwin) in 1869. Current entitlements have evolved over time and have been enshrined in enforceable industrial instruments since 1999 (enterprise agreements referred to under PAA as “consent agreements” and included in the Police Arbitral Tribunal Determination No.1 of 2011)⁵.

The free housing entitlement for police officers has been identified for many years as a necessary attraction and retention inducement for the recruitment of new members into the Northern Territory Police Force.

The NT Government’s submission provides the example of the difficulties it faces in recruiting qualified frontline child protection professionals, even with added financial incentives. The situation with the recruitment of new members to the Police Force faces similar problems and the free housing incentive is seen as a key inducement to attracting new and experienced personnel from both the Northern Territory and other jurisdictions – including New Zealand.

The retention of police as a lifetime career option has changed. Whilst the majority of sworn members of the Police Force see policing as a career, this does not prevent them from seeking opportunities in other jurisdictions in the modern policing environment. Whereas in previous times a sworn police officer serving in one jurisdiction would have to relinquish all seniority and undertake further recruit training should they seek to move to another jurisdiction, this is not now the case. Australian states and territories (and the Commonwealth) are now recognising prior service and rank where a serving police officer is seeking to move from one jurisdiction to another. This makes retention strategies ever more important to retain stability and effectiveness in law enforcement – particularly in the Northern Territory, given its remoteness and the tyranny of distance when considering familial obligations and relationships.

To reinforce the importance of the free housing entitlement for members of the Police Force and the need for interstate and international recruitment, the NTPA has conducted surveys of its members on a number of occasions. The most comprehensive survey was carried out in 2014, at which time more than half of the survey respondents (52%) said they had been recruited from interstate or overseas and majority of those members (84%) stated the housing entitlement was the main reason or one of the main reasons for joining the Northern Territory Police Force⁶.

⁵ Part III of the *Police Administration Act 1978*

⁶ *Northern Territory Police Association Housing Survey results 1 October 2014* – Michels Warren Munday

The importance of the current housing entitlements for police in the Northern Territory has not change in recent times. The NTPA conducted a further survey of its members in 2018, in which 51% of the membership (761 members) participated. In answering the question “How important is (the) housing entitlement to you?”, 95.4% responded by rating the entitlement as either “important” (7.61%) or very important (87.79%).

There can be no underestimating the importance of the current housing entitlements members of the Northern Territory Police Force benefit from – both from a recruitment and retention point of view.

DRAFT RECOMMENDATION 8.3 TIGHTEN TAX TREATMENT OF OTHER GOODS AND SERVICES

The Australian Government should amend the *Fringe Benefits Tax Assessment Act 1986* (Cth) to change the tax treatment of residential fuel, meals for primary production employees, and holiday transport provided by employers in remote areas. Specifically, it should:

- limit access to the residential fuel concession for use in conjunction with employer-provided housing (section 59(1)) to instances where there is an operational requirement for the employer to provide residential fuel
- remove the residential fuel concession for use in conjunction with employee-sourced housing (section 59(2) and (3))
- limit access to the exemption that currently applies to meals for primary production employees (section 58ZD) to instances where there is an operational requirement for the employer to provide these meals
- remove the definition limiting the exemption to meals ‘ready for consumption’, as it leads to ambiguity and difficulty in implementation
- remove the holiday transport concession (section 60A and section 61).

Regarding Draft Recommendation 8.3, the NTPA is concerned that this recommendation as it relates to the residential fuel and holiday transport concessions would adversely impact members of the police force who serve in remote and very remote locations.

Members who serve in locations above the Tropic of Capricorn in remote and very remote locations face extreme weather conditions such as cyclones and heavy rain events that result in flooding, invariably effecting electricity supplies and cutting off access to affected communities. In such instances, generator power is the only available electricity source and the cost of fuel in running those generators should not be borne by effected members.


More broadly, many of the more remote communities are reliant on local fuel generated power that may at times be unreliable. Police officers – some with young families – who reside in those locales are reliant on smaller fuel generator electricity sources to maintain their households.

The removal of the subsidy that currently applies to remote and very remote locales in the Northern Territory would be an unfair burden to place on those members of the Police Force

who work remotely and would increase the difficulty currently experienced in attracting members to serve in those locations.

A similar argument applies to the proposal to remove the concession for holiday transport for members of the NT Police Force (and others) who work in remote and very remote locations and who gain access to airfares to the value of a major town or centre when going on a period of recreation leave or other breaks from the workplace⁷. It would be unfair to remove the FBT exemption on entitlements that reward members of the NT Police Force who volunteer to work in remote communities for the betterment of those communities.

Yours Sincerely

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

Paul McCue
President

⁷ NT Police working in remote and very remote locations are able to access a “Fares out of Isolated Localities” entitlement after every 6 months of service at a remote location.