



CENTRAL LAND COUNCIL

Submission to the Joint Standing Committee on Northern Australia - Inquiry into engaging Traditional Owners in the economic development of Northern Australia

March 2019

Terms of Reference	2
Executive summary	3
Recommendations.....	5
Introduction and context	8
Submission	11
1. The current engagement, structure and funding of representative bodies.....	11
2. The role, structure, performance and resourcing of Government entities.....	15
3. Legislative, administrative and funding constraints	17
4. Strategies for the enhancement of economic development opportunities.....	22
5. The principle of free, prior, and informed consent	23
6. Opportunities that are being accessed and that can be derived.....	25
Bibliography	31
Appendices	36

Terms of Reference

The Joint Standing Committee on Northern Australia will inquire into and report on the opportunities and challenges associated with land rights, native title and other land-related agreements (together with payments, benefits and access arrangements under these agreements) for the purpose of engaging Traditional Owners in the economic development of Northern Australia, including, but not limited to:

1. The current engagement, structure and funding of representative bodies, including land councils and native title bodies such as prescribed body corporates;
2. The role, structure, performance and resourcing of Government entities (such as Supply Nation and Indigenous Business Australia);
3. Legislative, administrative and funding constraints, and capacity for improving economic development engagement; and
4. Strategies for the enhancement of economic development opportunities and capacity building for Traditional Owners of land and sea owner entities.
5. The principle of free, prior, and informed consent.
6. Opportunities that are being accessed and that can be derived from Native Title and statutory titles such as the *Aboriginal Land Rights (Northern Territory) Act 1976*.

Executive summary

This inquiry comes at a critical point in the relationship between Government and Aboriginal people. The decision to establish a Joint Ministerial and Aboriginal and Torres Strait Islander peoples Council on Closing the Gap is a significant milestone in attempts to close the unacceptable gaps between Aboriginal Australians and the broader community.

At the same time, there are increasing calls to support an Indigenous Voice to Parliament-enshrining Aboriginal decision-making on laws and policies affecting Indigenous people.

Genuine partnership and decision-making is equally vital to achieve sustained outcomes in Aboriginal-driven economic development. As Pat Turner recently noted:

“until Aboriginal and Torres Strait Islander people are brought to the table as equal partners, the gap will not be closed and progress will not be made..”

In the Northern Territory (NT), Aboriginal people are in a unique position- they own almost 50% of the land mass (627,000 km²), 80% of the coastline under the *Aboriginal Land Rights (NT) Act 1976*, with a further 253,886 square kilometres of land and water subject to native title determinations, and have maintained strong connections to traditional law and culture.

Despite these significant landholdings, Aboriginal people in the NT continue to suffer significant disadvantage and inequality compared to their non-Aboriginal counterparts in key socioeconomic areas of health, housing, education, income, and employment.

This is the result of a complex range of factors- many of which are unique to the region- highly remote and small populations, inadequate infrastructure, high transaction costs of doing business, low access to capital and markets, and harsh physical environment. The well documented gap in socio-economic living standards also provides significant barriers to people and communities taking advantage of economic opportunities.

CLC’s experience and research show that far from lacking enterprise or endeavour, Aboriginal people need to be supported and resourced to engage with the mainstream economy and capitalise on their significant social, cultural and land assets. Critically, this support must align with peoples’ aspirations and cultural traditions and practices.

If the Government is committed to supporting sustainable economic development in Northern Australia, it is vital that land councils are resourced to provide the unique support required to mitigate barriers and leverage the unique strengths of Aboriginal people.

This inquiry provides government with an opportunity to reset relationships, reform, and adopt a new inclusive, sustainable economic development approach which will deliver significant benefits in the region and beyond. It will enable Aboriginal people to participate in economic life in their communities and on traditional lands, reduce reliance on government income, and integrate unique cultural knowledge and practices for the benefit mainstream regional, territory and national economies.

This shift will require:

1. **A new framework for development based on sustainable principles**, which:
 - Reflects the region's unique history and context- recognising that investment in social and cultural capital are essential to sustainable development.
 - Recognises the unique connection between Aboriginal people and land and values the traditional knowledge and skills of Aboriginal people to manage land.
 - Recognises and values the economic aspirations and contributions of Aboriginal people- in both conventional and 'customary/unconventional' markets.
 - Recognises the multiplier effects of economic activities which align with Aboriginal cultural traditions and practices.
2. **Resources for land councils** and other Aboriginal organisations to support Aboriginal people to understand and make decisions about commercial use of their land, and to assist third parties to do the same.
3. **Land rights reform** to ensure that traditional owners have the right to negotiate, and adequate time to do so, in relation to matters affecting Aboriginal land.
4. **Research** on the viability of regional and small-scale economic development activities in Northern Australia, which align with Aboriginal aspirations, including environmental services.

This submission makes a number of recommendations, building on the findings of many previous inquiries on this subject. The CLC calls on the government to carefully consider this advice and that of these previous reports.

Recommendations

Recommendation 1.1

- Resource the CLC to establish an Economic Development Unit, as part of its function to assist constituents to carry out commercial activities, to support sustainable Aboriginal-driven commercial activities and provide advice in relation to regional economic development, enterprise support, project management, grants, and procurement.

Recommendation 1.2

- Resource the CLC Prescribed Body Corporate Support Unit (PBCSU) to deliver a governance training and mentoring program to PBCs in the region- focusing on those with significant potential for economic development.
- Resource the CLC PBCSU to convene an annual regional PBC forum.

Recommendation 1.3:

- Support ALSEDA with capital to conduct pilot agricultural development projects which align with the aspirations of Aboriginal people in Northern Australia.

Recommendation 2.1

- Resource the CLC to facilitate access to business products and services, as part of its economic development unit.
- Support ALSEDA and other regional entities to play a more active role as a facilitator of commercial enterprises- through partnerships with the private sector and as a broker with capital investors.

Recommendation 2.2

- Resource Supply Nation to conduct training workshops in the Northern Territory focused on building awareness and joint ventures with Indigenous enterprises.
- Resource local business hubs to provide advice and support to local businesses.
- Resource land councils/Aboriginal Peak Organisations of the NT to conduct pilot projects on partnerships and/or joint ventures between Indigenous and non-Indigenous businesses.

Recommendation 3.1

- Invest in capacity-building for local Aboriginal communities, to improve local service delivery outcomes and ensure the sustainability of communities.
- Strengthen regional network offices, to enable government to respond to regional and local needs.
- Continue to support Aboriginal and Torres Strait Islander bodies to play a central role in developing Closing the Gap targets- including Northern Territory-specific targets.

Recommendation 3.2

- Reform grant arrangements to enable longer-term capital and operational funding, local criteria, local assessment, transition and exit plans, and flexible, pooled funding.
- Resource local organisations to develop local grant assessment criteria, transition and exit plan requirements and establish local assessment panels.
- Ensure that all grants allocate funding towards capacity-building of local Aboriginal organisations and community members.

Recommendation 3.3

- Commission an independent assessment of procurement opportunities in remote communities in Northern Australia, which will support Aboriginal enterprise, training and employment.
- Continue to support Aboriginal procurement through increased mandatory targets, reporting, and direct support for Aboriginal enterprises.

Recommendation 3.4

- Adopt the Aboriginal-endorsed alternative APO NT model for remote employment and development.

Recommendation 3.5

- Continue discussions with NT land councils regarding ABA reform, to rebalance decision-making power towards Aboriginal people and regional decision-makers.
- Delegate the approval process for small value s64(4) grants to expedite project implementation.

Recommendation 4.1

- Support land councils and other Aboriginal organisations to deliver governance capacity-building support, including the Aboriginal Governance Management Program (AGMP) and Aboriginal education institutions.

Recommendation 5

- Resource the CLC to monitor compliance with obligations to consult Aboriginal constituents in a manner consistent with the principle of free, prior, informed consent.
- Support reforms to the NTA proposed by the NNTC to strengthen right to negotiate procedures.

Recommendation 6.1

- Double funding for Indigenous ranger programs and Indigenous Protected Areas over the next five years, provided that adequate resources are provided for administration and management.

- Extend the length of Indigenous land management contracts to generate the stability required for Indigenous groups and individuals.

Recommendation 6.2

- Resource the CLC to negotiate, monitor and enforce commitments made by third party resource companies under land agreements.

Recommendation 6.3

- Resource the CLC to provide economic advisory and support services in relation to enterprise development, to enable greater involvement of Aboriginal people in economic development opportunities in regional, remote and very remote areas.

Recommendation 6.4

- Resource the CLC to conduct pilot projects on development priorities identified by Aboriginal constituents, including pastoralism.

Introduction and context

Central Land Council

The Central Land Council (CLC) welcomes this opportunity to provide a submission to the Joint Standing Committee on Northern Australia inquiry into engaging Traditional Owners in the economic development of Northern Australia.

The CLC is a Commonwealth corporate entity established under the *Aboriginal Land Rights (Northern Territory) Act 1976* ('ALRA'). It is led by a representative body of 90 Aboriginal people elected from communities in the southern half of the Northern Territory, which covers almost 777,000 square kilometres and has as an Aboriginal population of more than 18,000.

CLC is also the Native Title Representative Body (NTRB) for the southern region of the Northern Territory under the *Native Title Act 1993* (Cth). It has assisted native title holders in successful native title determination applications to nearly 50% of the land area claimable under the NTA. It currently supports 28 PBCs in the region to build their capacity to meet statutory obligations and identify development aspirations.

For the purposes of this submission, the term *Traditional Owner* will be used as a term which includes traditional Aboriginal owners (as defined in the Land Rights Act), native title holders (as defined in the Native Title Act) and those with a traditional interest in the lands and waters.

The CLC has statutory responsibilities to ascertain, represent and protect the rights and interests of Aboriginal people living in the CLC region. One of the CLC's central roles is to protect the interests of Aboriginal people with an interest in Aboriginal land, by assisting constituents to make land claims, negotiate agreements with third parties, protect sacred sites, and utilise land and other financial resources for the benefit of their communities.

Critically, the CLC is also empowered to assist constituents to carry out commercial activities, including resource development, the provision of tourist facilities and agricultural activities. Over its more than forty years of operation, the CLC has developed a range of functions and expertise to support its constituents to pursue sustainable development in the region. It administers programs and provides expertise in relation to natural and cultural resource management; remote enterprise development; remote employment; community development, good governance, and land administration and land use agreement negotiation.

NT and regional context

In the NT, Aboriginal people have attained rights and interests over almost 50% of the land mass and 80% of the coastline under the ALRA, and a further 253,886 square kilometres of land and water under the NTA. Despite this nominally strong position, Aboriginal people in the NT continue to suffer significant disadvantage compared to their non-Aboriginal counterparts in key areas of health, housing, education, income, and employment (PM&C 2019, p.11).

“In a situation where Indigenous people are fundamentally excluded from the economy, our people continue to live in structural impoverishment...waiting for the crumbs.. to fall from the development table”

- Joe Morrisson

These disparities are attributable to a range of complex factors:

- *historical*- colonisation, dispossession and discrimination which has led to entrenched disadvantage and low Aboriginal governance capacity,
- *institutional* – lack of integration and coordination within and between levels of government in service delivery to remote communities,
- *market* – asymmetry between economies in remote areas and low access to capital, causing benefits of public and private development to flow to non-Aboriginal people and entities,
- *cultural*- strong kinship, distribution and exchange networks based on the concept of reciprocity can be difficult to reconcile with mainstream approaches,
- *geographical* small, remote populations, arid land and harsh climate, and
- *physical*- inadequate infrastructure which poses a significant barrier to economic participation.

In Central Australia, people face even higher barriers due to the degree of remoteness, low population density, and relatively harsh arid environment.

Notwithstanding these barriers, the scale of land rights and interests and of under-utilised cultural and social capital provide opportunities for Aboriginal-driven economic development in the region.

“important Indigenous economic contributions remain unquantified and unrecognised in mainstream calculations (Altman et al. 2007 p.43)”

- John Altman

To support Aboriginal people to become leaders in the development of their land - to be equal and active participants in the economy- a shift is required:

1. **An alternative framework for development**, which:

- Reflects the region's unique history and context- recognising that investment in social and cultural capital are essential to sustainable development.
- Recognises the unique connection between Aboriginal people and land and values the traditional knowledge and skills of Aboriginal people to manage land.
- Recognises and values the economic aspirations and contributions of Aboriginal people- in both conventional and 'customary/unconventional' markets.
- Recognises the multiplier effects of economic activities which align with Aboriginal cultural traditions and practices.

2. **Resources for land councils** and other Aboriginal organisations to support Aboriginal people to understand and make decisions about commercial use of their land, and to assist third parties to do the same.

3. **Land rights reform** to ensure that traditional owners have the right to negotiate, and adequate time to do so, in relation to matters affecting Aboriginal land.

4. **Research** on the viability of regional and small-scale economic development activities in the region, which align with Aboriginal aspirations, such as environmental services.

The remainder of the submission outlines measures to support a shift towards a paradigm which values and supports Aboriginal-driven development and inclusion- recognising that this is the only means of achieving sustainable development in remote communities.

Submission

1. The current engagement, structure and funding of representative bodies, including land councils and native title bodies such as prescribed body corporates

'Many of those charged with the implementation of government policy and the delivery of programs in Aboriginal towns in the Northern Territory often have a very limited understanding of Indigenous people and their cultures. This has led to generations of interaction and intervention based on the perceptions of the non-Indigenous world on what constitutes success, and has continued to fail to support Aboriginal people in determining and meeting their own aspirations (Havnen 2012, p.i).'

- Olga Havnen, NT Coordinator-General for Remote Service Delivery

International and domestic evidence is unequivocal- strong Aboriginal governance is fundamental to sustainable Aboriginal economic development.

Aboriginal governance structures enable people to make decisions about how their affairs are managed- including economic affairs. They are often the primary point of contact between Aboriginal communities and government- enabling people to collectively engage with government and advocate for their economic aspirations.

The United Nations Development Program has argued that the capacity for governance is at the heart of sustainable human development and a prerequisite for effective responses to poverty, livelihood, environmental and gender concerns (UNDP 2009). The *Harvard Project on American Indian Economic Development* has examined the conditions of successful self-determined economic development of American Indian Reservations in the United States of America. The study found that effective governing institutions are a precondition to economic development (Sullivan 2007).

Local research supports these findings. The *ANU Aboriginal Governance Project* has built a strong evidence base for the necessity for strong Aboriginal institutions to enable Aboriginal people to engage in local service delivery, development, and political participation (Hunt & Smith 2004). Mick Dodson and Diane Smith's research has found that 'good governance' is the foundation stone for building sustainable development - that poor governance arrangements can impede or entirely obstruct development and legitimate and effective governance can sustain it (Dodson & Smith 2003, p.1). Critically, this research also notes that governance cannot be imposed from the top down – if so they 'will lack legitimacy or credibility, will secure little active participation from people, and are unlikely to be sustainable' (Hunt & Smith 2007, p.22).

1.1. Land councils

Aboriginal leaders have consistently called for a greater focus on governance as a precondition to engagement and economic development for Aboriginal people (AHRC 2014, p. 130). This reflects constant calls from our constituents for greater control over their communities- their organisations, services and leadership.

The experience of Aboriginal people and their organisations in Central Australia provides a clear illustration of the importance of strong Aboriginal governance. Over the past ten years, the CLC has witnessed the acute upheaval of remote communities and local governance caused by local government reforms and the Northern Territory Intervention. These changes have led to the dismantling of Aboriginal governance structures (Smith 2004, pp.8-9), loss of community control (CLC 2010), and a shift in decision-making responsibility from communities to government institutions (Phillips et. al. 2011). This upheaval has led to the CLC providing increasing support to its constituents- particularly in smaller, dispersed communities where there are relatively few Aboriginal organisations. This support ranges from community development support, governance support, advocacy for essential service delivery, and enterprise support.

The CLC is uniquely placed to support Aboriginal-driven sustainable development. It supports an Aboriginal governance structure of 90 delegates and Aboriginal-led executive representing constituents across remote communities and outstations. It has unequalled relationships with communities and traditional owners, multi-disciplinary expertise in governance, land tenure, agreement-making, land management, and a vast footprint built up on decades of experience working with and for Aboriginal constituents in the region.

If the Government is committed to supporting Aboriginal economic development in Northern Australia, it is vital that land councils are resourced to provide the holistic support required to ensure that economic activities are Aboriginal-led and sustainable. To support regions which face unique barriers such as remoteness, sparse populations, harsh climactic conditions, poor access to capital, poor access to training and employment, reliance on government finance, and inability to achieve savings from economies of scale (Senate Committee 2008, pp. 9-14; Commonwealth Government 2015, p. 6).

To mitigate these barriers and leverage the unique strengths of Aboriginal people, land councils have built capacity in intensive employment and training, enterprise development, administrative and management support. This approach has led to significant positive results in areas such as ranger employment. A number of studies have reported the economic, environmental and social benefits associated with ranger employment – amongst them the proven net reduction in government support (Weir et al 2011).

These outcomes have only been achieved with significant, stable resourcing for land councils. Similar resourcing will be required to achieve outcomes in other areas, including:

- Environmental services (carbon abatement, weed and feral animal management, quarantine services, water resource management, coastal surveillance, wildlife and fire management).
- Mining-related employment, training and service delivery.
- Aboriginal enterprise (tourism, pastoral, agricultural).

Recommendation 1.1

- Resource the CLC to establish an Economic Development Unit, as part of its function to assist constituents to carry out commercial activities, to support sustainable Aboriginal-driven commercial activities and provide advice in relation to regional economic development, enterprise support, project management, grants, and procurement.

1.2. Prescribed Bodies Corporate

Prescribed Bodies Corporate (PBCs) are the key structure for the management of native title rights. PBCs have statutory obligations to consult with native title holders in relation to a broad range of major and less significant land use proposals.

PBCs also have the potential to be the organisational foundation for economic development activities for native title holders, particularly in remote locations. In Central Australia, there are 28 PBCs and this number is expected to rise to approximately 40 by 2022. Of these, 4 PBCs have active mining proposals, which have the potential to provide opportunities for economic development.

In the CLC region, PBCs are largely responsible for determination areas covering large, remote pastoral leases where native title holders are strongly oriented towards living in accordance with traditional culture. The population is largely transient and faces social, economic and educational disadvantage. English is generally not the first language, and literacy levels are very low. Engagement by native title holders with government and corporate entities is relatively low and the majority of PBC members and directors have very limited understanding of the corporate rules and regulations. Further, many aspects of the corporate rules directly conflict with traditional authority and family structures.

As a result, the CLC has established a PBC Support Unit, to support and assist PBC members and directors to meet their statutory obligations, including:

- Assistance convening meetings.
- Assistance with records management and reporting.

- Developing culturally appropriate materials to inform members and directors about their rights, interests and corresponding duties under legislative frameworks (Native Title Act, CATSI Act).
- Assistance building understanding of corporate governance and identifying traditional owner social and economic aspirations.

Further, this year, PBCSU is convening a regional PBC Forum to enable the directors of the various PBCs in the CLC region to share information and experiences. Despite these efforts, the PBCSU's capacity to assist PBCs is constrained due to:

- relatively low corporate governance literacy of PBC members and directors,
- time and resourcing required to deliver effective governance capacity-building training, and
- limited and short-term funding available to the CLC for PBC support through the native title program funding.

Recommendation 1.2

- Resource the CLC Prescribed Body Corporate Support Unit (PBCSU) to deliver a governance training and mentoring program to PBCs in the region- focusing on those with significant potential for economic development.
- Resource the CLC PBCSU to convene an annual regional PBC forum.

1.3. ALSEDA

In 2017, the CLC and Northern Land Council supported the establishment of the Aboriginal Land and Sea Economic Development Agency (ALSEDA) to address barriers around access to capital and infrastructure in remote areas.

ALSEDA is designed to provide overarching coordination and support for development on the Aboriginal estate. One core aim of ALSEDA is to bring Aboriginal and non-Aboriginal stakeholders together develop the significant opportunities offered by the Aboriginal estate.

Another core aim is to improve access to capital, which has been consistently identified as a core challenge in to development in the NT (Gooda 2016; Commonwealth Government of Australia 2015). The cost of infrastructure often



exceeds the capacity of grant programs, and commercial lenders require security that is not easy to provide.

In response, ALSEDA is creating an innovative new fund of diverse capital sources to stimulate infrastructure development on Aboriginal land. During the formation of the Fund, consultations have taken place across the NT to identify viable commercial opportunities of interest to Traditional Owners.

The Pilot Phase is focusing on the horticultural industry- based on priorities identified by local Aboriginal groups. Six sites have been selected, three in the Top End around Mataranka, and three in the Centre between Tennant Creek and Alice Springs. Five of the sites are Aboriginal Land Trusts under the *Aboriginal Land Rights Act 1976* and the sixth is a freehold block that came out of an Indigenous Land Use Agreement negotiated under the *Native Title Act 1993*.

Currently, ALSEDA is focusing on raising capital to support these pilot sites.

Recommendation 1.3:

- Support ALSEDA with capital to conduct pilot agricultural development projects which align with the aspirations of Aboriginal people in Northern Australia.

2. The role, structure, performance and resourcing of Government entities

Strengthening the Indigenous business sector is critical to ensuring economic benefits are accessible to Aboriginal people in Northern Australia. The Indigenous Business Sector Strategy, Indigenous Procurement Policy, Supply Nation, IBA, ILSC, and others, are key levers to achieve this aim, but are not designed to meet the needs of Aboriginal people in remote and very remote areas.

Entities like the IBA are set up to deliver mainstream services where there are existing markets, services and infrastructure to support business establishment and growth. This is not the case in Central Australia, where communities are remote, have small, dispersed populations, poor infrastructure, and strong cultures and kinship networks which mean that services are often poorly adapted to meet the needs of local people.

Further investment in local and regional entities like the CLC is critical to ensure that commercial support services are accessible to people in the region. While the CLC is already supporting enterprise development in a range of sectors, including environmental services and tourism- more resources are required.

The CLC plays a unique role in this context. Drawing on its knowledge of the region, the cultural context, and relationships with constituents, it facilitates access to and adapt products and services to meet the needs of constituents. For example, as part of CLC's work facilitating a governance program with two local corporations, the organisation has

worked with consultants to ensure that the educational material is fit for purpose and will equip directors with an understanding of corporate, financial and investment governance. Further, to ensure that the CLC provides assistance consistent with its statutory functions- to facilitate access to financial products or services- the CLC and Northern Land Council have established ALSEDA to perform commercial functions, including capital raising and infrastructure investment.

Therefore, while the CLC supports entities such as the IBA and ILCS as strong, highly effective organisations for the delivery of mainstream services and products, a different approach and support for local entities is required in remote and very remote areas.

Recommendation 2.1:

- Resource the CLC to facilitate access to financial products and services, as part of its function to assist constituents to carry out commercial activities.

2.1. Supply Nation

The CLC welcomes the Government's steps to strengthen its Indigenous Procurement Policy in 2018, by increasing mandatory targets and providing additional funding to Supply Nation, but more needs to be done to ensure that these resources are accessible to Aboriginal people and enterprises in regional and remote areas.

Supply Nation should continue to play a significant role in promoting the participation of Indigenous businesses in the supply chain (private and government). To ensure that Supply Nation can play a stronger role in regional and remote areas of Northern Australia, Supply Nation should continue to be resourced to maintain an Indigenous Business Register which is accessible to small, medium and large enterprises, and to convene events to which build awareness of Supply Nation's services and Indigenous businesses.

Recommendation 2.2:

- Resource Supply Nation to conduct training workshops in the Northern Territory focused on building business awareness of Supply Nation's services and options for engaging in joint ventures with Indigenous enterprises.
- Resource local business hubs, to provide advice to local businesses about upcoming procurement opportunities, options for entering into partnerships and joint ventures, core business support, and build networks between Indigenous and non-Indigenous people and enterprises, including labour hire companies.
- Resource land councils/Aboriginal Peak Organisations of the NT to conduct pilot projects on partnerships and/or joint ventures between Indigenous and non-Indigenous businesses and/or government, noting that there are few cases of partnerships and transition working well in remote communities.

3. Legislative, administrative and funding constraints, and capacity for improving economic development engagement

Partnership between Government and Aboriginal people at a national, regional and local level is vital to ensure that Aboriginal people are engaged in and benefit from economic development in Northern Australia.

As the recent report on regional development and decentralisation noted, ‘Collaboration between all levels of government, the private sector and community is fundamental to regional development’ (HoR Committee 2018, p.19). The same report notes that development approaches must be informed by the principle of subsidiarity (HoR Committee 2018, p.19). This requires that issues should be handled by the most competent and appropriate authority available (Smith 2004 p. 18), and adequately funded and resourced to perform that function.

3.1. Remote engagement and service delivery

In recent decades, parliamentary inquiries and research highlighting the need for a radical transformation in the government’s approach to engagement and service delivery in remote Aboriginal communities (Senate Committee 2008; Morgan Disney 2006; HoR Committee 2004; PM&C 2013; Senate Committee 2016; Westbury & Sanders 2000).

As part of this shift, these inquiries have recommended for the devolution of jurisdictional authority, bilateral agreements between Commonwealth and states and territories, regional planning processes, and capacity-building for local Aboriginal people and organisations. Many lessons can also be gleaned from governance structures formerly operating in the NT- ATSIC regional councils which were abolished in 2005, and local community councils which were amalgamated between 2006 and 2008 (AHRC 2012, pp.122-152; Pratt & Bennett 2004).

These reports have also called for government to enhance its communication and partnerships with Aboriginal people, and to place high level staff in regional areas.

In recent years, the CLC has observed a deterioration in service delivery in communities and relationship and engagement between communities and governments. CLC delegates express frustration at Council meetings about the poor state of basic infrastructure such as housing and roads, and the low quality of health, education and employment services. Despite substantial government investment, remote Aboriginal communities continue to suffer the highest levels of homelessness and overcrowding in the country (AIHW 2014).

In addition, the frequency of changes to government policy, programs and staff continues to prevent community leaders from sustaining positive relationships with government. This has become more pronounced since the transfer of the Indigenous Affairs portfolio into the Department of the Prime Minister and Cabinet (PM&C). The relationship between CLC and regional PM&C offices has weakened, PM&C managers appear to have less authority, and there are fewer staff with long term relationships with communities.

As the CLC noted in its submission to the ANAO Audit:

“..the Regional Network model presents a significant opportunity to ensure that policies and programs are more responsive to local needs. However, in order for the model to operate effectively and support place-based responses, RN offices must have greater decision-making power and expertise in relation to policy and strategic planning. RN offices must be supported to develop regional policy and program priorities, to ensure that they can respond to regional and local needs.”

Further, while the CLC has supported the NT Government’s commitment to changing its relationship with Aboriginal people and devolving control to Aboriginal communities under its ‘Local Decision Making’ policy, it has failed to deliver any substantive outcomes in the Central Australian region in its third year of operation.

The Closing the Gap Refresh process presents an opportunity for both the Commonwealth and NT governments to reset their relationships with regions and communities, by establishing appropriate targets, investing in capacity-building of Aboriginal communities, and strengthening regional government offices and networks.

We note that as part of the Closing the Gap Refresh process, Australian governments have committed to supporting *“Aboriginal and Torres Strait Islander people maintain distinctive spiritual, physical and economic relationship with the land and waters.”*

It is vital that Aboriginal peak bodies and representative bodies such as CLC play a central role in developing this target, to ensure that Government resources are not directed towards economic, social and cultural outcomes. We bring unmatched expertise and experience working with traditional owners to derive community benefits from land.

Recommendation 3.1:

- Invest in capacity-building for local Aboriginal communities, to improve local service delivery outcomes and ensure the sustainability of communities.
- Strengthen regional network offices, to enable government to respond to regional and local needs.
- Continue to support Aboriginal and Torres Strait Islander bodies to play a central role in developing Closing the Gap targets- including Northern Territory-specific targets.

3.2. Government grant programs

While government grant funding has a significant role to play in improving the lives of Aboriginal people and organisations- particularly in remote communities, the current system is failing to deliver progress and requires significant reform.

In 2017-2018, despite \$1.34 billion being allocated under the Indigenous Advancement Strategy nationally (PM&C 2018, p.158), the gap has widened in the NT in 6 of 7 target areas- life expectancy, infant mortality, education, and employment (PM&C 2019).

Further, the 2016 report on the IAS Inquiry reported dismal results across a range of measures- poor consultation, lack of transparency, funding cuts and gaps in service delivery, and few of the inquiry's recommendations have been implemented (Senate Committee 2016, para 3.93).

These findings build on decades of inquiries which have concluded that funding arrangements are a barrier to achieving sustainable outcomes for Aboriginal people due to short funding periods, small amounts, inflexible conditions, onerous reporting requirements, and vulnerability to changing government priorities. Key recommendations of these inquiries include:

- Dedicate specific resources towards the consolidation and strengthening of governance of Aboriginal organisations.
- Make funding more flexible and pooled to maximise local decision making capacity.
- Provide broad-based, longer-term funding linked to broad community development goals.
- Reduce unsustainable and onerous administrative requirements.
- Reduce the large number of different funding mechanisms.
- Incorporate downward accountability mechanisms, so communities can hold governments accountable for failures to deliver on funding.

Reforming funding arrangements is critical to improving the lives of Aboriginal people in remote communities and, therefore, peoples' ability to participate in economic life. While the CLC commends the Government's commitment to fund more Aboriginal organisations, more substantial reform is required to direct resources to priorities identified by Aboriginal people- the ultimate recipients of goods and services.

Recommendation 3.2:

- Reform grant arrangements to enable longer-term funding, local criteria, local assessment, transition and exit plans, and flexible, pooled funding.
- Resource local organisations to develop local grant assessment criteria, transition and exit plan requirements and establish local assessment panels.
- Ensure that all grants allocate funding towards capacity-building of local Aboriginal organisations and community members.

3.3. Indigenous Procurement

Government procurement initiatives for Aboriginal people have demonstrated in Australia and overseas that they can contribute to positive social and economic outcomes. As the Forrest Review noted:

"Government and private sector procurement is a major lever to drive both first Australian employment and the growth of first Australian firms as suppliers (Forrest 2014, p. 183)."

The CLC recognises the outcomes achieved under the Commonwealth Government's Indigenous Procurement Policy (IPP) and welcomes the Government's steps to increase mandatory targets and provide additional funding to Supply Nation. However, procurement represents a significant untapped opportunity for supporting sustainable economic development outcomes for Aboriginal people in Northern Australia- more needs to be done to ensure that procurement supports outcomes in remote areas.

The 2017 Commonwealth Remote Housing Review also noted:

"To achieve higher levels of Indigenous business outcomes, more sophisticated planning cycles and procurement practices could encourage the development of small emerging businesses and investment in the training of local workforces (PM&C 2018b, p.62)."

Government has and will continue to play a significant role in remote Aboriginal communities as provider of income and services - a legacy of dispossession, intervention, and decades of inadequate access to essential health, education and housing services. In this context, it is critical that government procurement play a key role in bridging the gap- to support the economic participation of local Aboriginal people and businesses.

Historically, the government service sector has accounted for a high proportion of paid employment in remote communities. Between the 1980s and early 2000s, community councils in remote communities employed mostly local Aboriginal people and provided essential town services as well as contracting services. For example, in the town of Yuendumu, the council was involved in delivering power and water services, road construction, and the provision of gravel for road, airstrip and mining activities. In this way, the council was able to straddle the service and market sectors. Critically, in communities such as Yuendumu, the local Aboriginal residents were able to build and maintain management, administration, and technical skills (Ellanna et al. 1988 pp. 98-101).

This a stark contrast to the current situation in remote communities. Anecdotal evidence from CLC constituents indicates that the majority of commercial services are provided by non-Aboriginal contractors (construction, repair and maintenance of housing, power, water, sewerage). Further, while NT regional councils in the region have reasonably high rates local Aboriginal employment- (Barkly 2018, p.37; Central Desert 2018, p.51; MacDonnell 2018, p.40) - there are limited opportunities for local people to build and maintain vocational skills, seek other employment, or engage in government contract work in their communities (APO NT 2017; Russell-Smith et al. 2019, p.57). Further, in the NT, there is currently significant policy vacuum- no Aboriginal procurement policy has been in place for over 18 months. This is despite calls from the CLC and others for the implementation of an interim policy while it works with Aboriginal organisations to develop a policy which delivers outcomes in regional and remote areas.

While housing offers a key opportunity in the NT for procurement outcomes, as terms of the next National Partnership Agreement on Remote Housing are being negotiated, more research is needed to identify other service opportunities.

Recommendation 3.3:

- Commission an independent assessment of procurement opportunities to support Aboriginal enterprise and employment in remote communities.
- Continue to support Aboriginal procurement through increased mandatory targets, reporting, and direct support for Aboriginal enterprises.

3.4. CDP Reform

Increasing employment opportunities in remote areas is critical to improving economic outcomes for Aboriginal people.

The CLC has worked closely with the Aboriginal Peak Organisations of the NT (APO NT) to develop a remote development and employment scheme to address significant unemployment in remote communities (APO NT 2017). Mainstream employment approaches in remote areas have historically failed to provide remote unemployed with meaningful activities and pathways to work, and failed to stimulate local economies and create jobs.

APO NT's alternative model is place based, community driven, and establishes a framework for long term collaborative effort across governments, employers and Indigenous organisations to increase economic opportunities and jobs in remote communities and reduce the intrusion of the welfare system into people's lives.

This would see a shift away from a focus on compliance and administration towards a community development and case management model aimed at achieving long-term employment and development outcomes. This approach could feed into other measures supporting Aboriginal employment, such as environmental service market creation.

Recommendation 3.4:

- Adopt the Aboriginal-endorsed alternative APO NT model for remote employment and development.

3.5. Aboriginal Benefits Account (ABA) Reform

The NT Land Councils have long advocated for the management and allocation of funds from the Aboriginal Benefits Account (ABA) to be made by Aboriginal people in the NT-funds that are generated as a consequence of mining activity on Aboriginal land.

In 1984, a joint review of the then Aboriginals Benefit Trust Account led by Professor Jon Altman concluded that in the long-term, Aboriginal control over the ABTA was vital. It also recommended the establishment of a new ABTA statutory body managed by Land Council

members. Despite these recommendations, the Commonwealth Government has incrementally increased its control over ABA funds and governance processes.

Since 2016, the NT Land Councils have held a number of meetings to seek endorsement from land council members for principles to guide ABA reform and have worked closely with the Commonwealth Government to progress reform on this basis.

As part of these negotiations, land councils have discussed the importance of delegating powers to enable an adequate level of funding to be granted in an efficient manner, to reduce transaction costs and support the economic development outcomes desired.

Recommendation 3.5:

- Continue discussions with NT land councils regarding ABA reform, to rebalance decision-making power towards Aboriginal people and regional decision-makers.
- Delegate the approval process for small value s64(4) grants to expedite project implementation.

4. Strategies for the enhancement of economic development opportunities and capacity building for Traditional Owners of land and sea owner entities

4.1. Governance Capacity-building

“Governance is ... about self-determining ability and authority of clans, nations and communities to govern: to decide what you want for your future, to implement your own initiatives and take responsibility for your decisions and actions”.

- David Ross, former Director Central Land Council

As noted earlier, Aboriginal governance capacity is critical to sustainable development- strong governance supports Aboriginal people to represent, govern and make decisions about their affairs. Land Councils strongly support the view that improvements in social and economic well-being can only occur when real decision-making power is vested in Aboriginal communities, in strong governing institutions which reflect the cultural values and beliefs of the people. Organisations are needed so that individual voices are heard and for strong advocacy on particular issues- for strong engagement in areas like economic development (AHRC 2014, p. 154).

For governance capacity-building to be effective, it must be a process that strengthens Aboriginal decision-making and control over core institutions, goals and identity that enhances cultural legitimacy, and takes place over a long period of time.

The CLC’s experience modelling and supporting Aboriginal governance for over forty years is supported by international and domestic research on Indigenous development and governance. The thirty year and ongoing ‘Harvard Project on American Indian Economic

Development’ has identified effective governing institutions as one of the key factors in achieving sustained economic success. In Australia, the Centre for Aboriginal Economy Policy Research Governance Project has identified governance capacity as a fundamental factor to sustainable economic development. The Australian Indigenous Governance Institute and Australian Institute of Aboriginal and Torres Strait Islander Studies has made a number of recommendations on the research and resources required to support Aboriginal governance (Bauman et al. 2015).

The CLC supports governance in a number of forms- the Council and Executive Committee, Aboriginal corporations, joint management working groups, community development working groups, ranger groups. These groups make decisions to drive community and economic development that align with the aspirations of local Aboriginal people (see case studies at **Appendix A**). The CLC requires continued resources to deliver capacity-building support which is fit-for-purpose and aligns with the aspirations of our constituents.

Recommendation 4.1:

- Support land councils and other Aboriginal organisations to deliver governance capacity-building support, including the Aboriginal Governance Management Program (AGMP) and Aboriginal education institutions.

5. The principle of free, prior, and informed consent

The principle of free, prior, and informed consent is enshrined in international law under the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)¹. Since UNDRIP, international norms and principles have developed around this principle, in recognition of the increasing impact of business activities on human rights (UNHCHR 2011, UNHCHR 2013; CESCR 2017).

In Central Australia, the CLC exercises its statutory responsibilities to ensure that Aboriginal constituents are consulted effectively on matters affecting land and can provide free, prior and informed consent to activities, such as mineral exploration and extraction. CLC has devoted significant resources to ensure that information is communicated in an accessible, linguistically appropriate and accurate manner, recognising that there is usually a significant disparity in resources and information access between developers and traditional owners and community members.

To redress this imbalance, where possible, the CLC works with third parties to obtain information about proposed activities and provides advice about culturally appropriate timing and methods of communication. The CLC also works with third parties to negotiate agreements on terms which are fair, just and reasonable, and maximise benefits for traditional owners and affected community members.

¹ UNDRIP was passed by the UN General Assembly on 13 September 2007.

In the CLC's forty years of experience, we have determined that best practice requires:

- *Careful planning*, including consideration of:
 - cultural and anthropological matters (e.g. ceremonies and sorry business),
 - complexity of and late changes made to the information,
 - meeting structure and size,
 - local factors (e.g. language, culturally significant events etc), and
 - physical environment (remoteness and weather conditions).
- *Early engagement*, ideally during the planning and research phase and at the very latest before a proponent submits an application or draft EIS.
- *Effective engagement*- Information must be communicated in an accessible, linguistically appropriate, accurate and unbiased format such that people can understand and make informed decisions about proposed developments. People need adequate time to:
 - process the information, discuss (including in people's local language where necessary), consider a position, and express their views; and
 - identify likely impacts of proposals and potential measures to mitigate or manage negative impacts and maximise positive impacts (e.g. related agreements).
- *Reporting back to traditional owners and communities* – It is critical that people are informed about how their advice has been considered and applied. It is also critical to communicate how, if the project proceeds, the social, cultural and economic impacts will be identified, managed, monitored and reported going forward and how communities can engage with that process. Aboriginal people should have a prominent role in determining the indicators of social, cultural and economic impacts to be monitored.

Despite these efforts, third parties often fail to meet best practice standards for effective consultation and free, prior and informed consent. Weak protections for traditional owners under the *Native Title Act* right to negotiate regime also act as a barrier to effective consultation and negotiation. Going forward, it is critical that the CLC and other land councils are appropriately resourced to provide advice to third parties regarding best practice consultation and to monitor compliance with these standards.

We also strongly endorse the recommendations of the National Native Title Council regarding reforms required to strengthen right to negotiate processes under the Native Title Act and, thereby, improve opportunities for Aboriginal-driven economic development.

Recommendation 5:

- Provide CLC with resources to monitor compliance with obligations for third parties to consult Aboriginal constituents.
- Support reforms to the NTA proposed by the NNTC to strengthen right to negotiate procedures.

6. Opportunities that are being accessed and that can be derived from Native Title and statutory titles such as the *Aboriginal Land Rights (Northern Territory) Act 1976*

As reiterated throughout this submission, CLC's experience and research show that Aboriginal people need to be supported and resourced to engage with the mainstream economy and capitalise on their significant social, cultural and land assets.

Government and private investment is essential to access these untapped opportunities and the multiplier effects on health, education, well-being (Russell-Smith 2019, p. 124; Altman et al. 2007, p.43).

In Central Australia, key opportunities are:

1. Aboriginal land management
2. Mining-related activities
3. Enterprise development
4. Pilot economic development projects

6.1. Aboriginal Land Management

Aboriginal land in the NT includes some of the highest conservation priority lands in Australia. These lands are also at increasing risk due to land-use pressures, water scarcity, feral animals, exotic weeds, changed fire regimes, pollution, and significant impacts on biodiversity due to climate change (Altman et. al. 2007, p.24; Hill et al. 2008, pp. 16-17).

This trajectory provides a significant opportunity for greater investment in Aboriginal land management and conservation knowledge and practices- and deliver substantial economic, environmental and social benefits in the region and beyond.

The economic, environmental and social benefits of supporting Aboriginal people to maintain traditional lands are clear and well-documented:

- (i) *Economic benefits* associated with preventing degradation of land versus repairing degraded land, as well as the creation of employment opportunities for Aboriginal communities.
- (ii) *Environmental benefits* generated by the engagement of Aboriginal rangers on projects to address environmental threats on country, including carbon abatement, water resource management, fire management, and weed and feral animal management.
- (iii) *Social benefits* arising from the engagement of Aboriginal people in land and sea management, including improved health in communities, reduced social alienation, and increases in individual self-esteem and confidence.
- (iv) Cultural benefits through transfer of traditional knowledge on country.

Land management activities such as ranger programs and joint management provide the critical nexus between local Aboriginal aspirations and mainstream objectives (environmental management and conservation). These activities provide stable employment which enables people to stay in their local communities and assume their obligations to care for country, while also achieving significant environmental benefits (see details at **Appendix B**).

Payment for Ecosystem Services

While Aboriginal land management activities have proliferated as Aboriginal people have gained control over their traditional lands, people are now increasingly seeking opportunities for these activities to become the central driver of market-based economic activity in their communities.

Payment for ecosystem services (PES) has become a key feature of natural resource management markets and programs internationally. Common objectives of these services include maintaining or improving water availability and quality, protecting or restoring land to restore other ecological functions and store carbon, and enhancing biodiversity conservation (Robinson et al. 2016, p.22). The success of the savanna burning industry, particularly in the Northern half of the NT, indicates the scale of opportunity available from markets based on natural and cultural assets in the NT.

PES opportunities identified in the NT include:

- *land management activities* such as feral animal management, mine site rehabilitation, water resource monitoring, grazing management,
- *commercial activities* such as culture-based ecotourism, sustainable agriculture, and medicinal plant harvesting, and
- *contractual services* such as infrastructure maintenance and remote community emergency management (Russell-Smith et al. 2019, p. 119; Hill et al. 2008, pp. 20-21; Weir et al. 2011, pp. 12-13, Altman et al. 2007).

The CLC's involvement in land management continues to evolve in line with aspirations of Aboriginal landowners and shifting market and policy settings. In Central Australia, opportunities have primarily been found in the carbon offsets market through the Karantijpa North Savanna Burning Project (see **Appendix B**).

Going forward, the CLC is actively involved in the creation of PES markets in collaboration with Aboriginal land managers and ranger groups, including through research into carbon abatement methodologies and biodiversity offsets for arid lands, and support for the maintenance of cultural assets such as Indigenous Ecological Knowledge.

Additional research and support is required to identify and access a broader range of market opportunities in the Central Australian region.

Recommendation 6.1:

- Double funding for Indigenous ranger programs and Indigenous Protected Areas over the next five years, provided that adequate resources are provided for administration and management.
- Extend the length of Indigenous land management contracts to generate the stability required for Indigenous groups and individuals.
- Support CLC to conduct research into opportunities for ecosystem services in the region, including arid land carbon abatement and sequestration, biodiversity conservation, and feral animal management.

6.2. Mining-related activities

Pursuing opportunities arising from land use agreements have long been a core element of the CLC's work- ranging from local employment, training, and enterprise support. The CLC's Mining, Legal, Community Development, and Employment and Training teams work closely with prospective developers to secure opportunities for traditional owners and community members through land agreements.

The significant income flowing from these agreements has enabled constituents to direct funds to community priorities with the support of CLC's community development unit. Notwithstanding these successes and CLC's efforts, most agreements have led to limited outcomes for local Aboriginal training and employment and local Aboriginal enterprises. In Central Australia, the largest mine operation in Central Australia- Newmont Granites Mine- employs 1,450 people and only 111 of these employees are Aboriginal (7.6%) and of this cohort of Aboriginal employees, only 17% of this cohort are from the local area.

These poor outcomes illustrate the systemic barriers to Aboriginal people benefiting from activities undertaken on Aboriginal land. As a recent publication on sustainable land development in Northern Australia notes, "mining is the major regional land sector industry, generating at least \$6bn annually, but multipliers for local Aboriginal people from these activities are relatively low, as local communities are often poorly placed to provide the goods or services sought by these industries, including labour (Whitehead & Oliver 2014, p.34; Russell-Smith et al. 2019, p. 27).

While the CLC has developed robust processes to ensure constituents are involved in any matters affecting Aboriginal land, the reality is that prospective developers often fail to meet the standards required to obtain free, prior and informed consent and Aboriginal people are asked to make decisions in the context of extreme disadvantage and an economy from which they are excluded (Commonwealth Government 2015, p.6).

Prominent Aboriginal businessman and advocate, Peter Yu, has noted that 'big project development' will not work for Aboriginal people unless it is accompanied by a range of

structural reforms to support Aboriginal economic inclusion and traditional owner's informed consent for development.

To improve the participation of local Aboriginal people in this sector, as employees and service providers, it is critical that local entities such as CLC are resourced to work closely with developers to negotiate, monitor and enforce agreements concerning local employment, training and enterprise development.

Without this support, local Aboriginal people will continue to be excluded from significant economic benefits flowing to non-Aboriginal service providers and employees.

Recommendation 6.2:

- Resource the CLC to negotiate, monitor and enforce commitments made by third party resource companies under land agreements.

6.3. Enterprise development

The CLC supports enterprise through a range of strategies that seek to create an enabling environment in which Aboriginal people can benefit from enterprise opportunities that relate to land use and management. Historically, this has taken place through engagement with existing markets, including mining, pastoral and tourism industries.

Key principles underpinning enterprise development support are:

- i. supporting the aspirations of Aboriginal people- not only opportunities provided by government funding or mainstream markets;
- ii. supporting constituents to pursue activities which align with and support Aboriginal cultural practices and traditions;
- iii. supporting activities which are sustainable – culturally, socially, environmentally.

The CLC has taken a proactive role for many years in supporting traditional owners to identify potential social, economic and cultural benefits from economic stimulus investments proposed for jointly managed national parks in the CLC region.

Tourism

As part of CLC's work on a proposed bike trail in the Tjoritja/West MacDonnells National Park, the CLC has convened more than 10 country camps to enable on-ground, family-based discussion of the project, including work area clearances and possible involvement in the project for traditional owners. This approach to enterprise facilitation has involved extensive discussion regarding possible development strategies to achieve local aspirations that satisfy cultural, social and economic priorities.

In exploring the project with traditional owners, opportunities discussed have included:

- Engagement – participation in project activities (working group), opportunities to get on-country (country camps), sacred site clearances.

- Employment – cultural advisory, design and communications, trail design, building and maintenance, tourism (guiding etc.), cultural tourism, art sales, camp servicing
- Enterprise – development of Aboriginal businesses and joint-venture and/or partnerships to access procurement opportunities, including contracts relating to track development and maintenance, promotion and marketing and labour hire.

Bushfood

In recent years, the CLC has become more active in supporting participation in the bush foods and bush medicine industries. These markets provide important opportunities for Aboriginal women to maintain connection with and look after country, share knowledge, promote intergenerational learning, and engage in work which aligns with cultural practices and traditions.

A recent project, in conjunction with the NT Government and industry, has seen CLC work with senior women from communities across Central Australia to improve understanding of opportunities and challenges and identify strategies to gain greater value from Aboriginal peoples' involvement in the industry. The CLC has also supported regional workshops and market research to assess the viability of bushfood enterprises in the region.

"I love to collect the seeds. We go far away. It is hard work to collect seeds. It is good work."

Recommendation 6.3:

- Resource the CLC to provide economic advisory and support services in relation to enterprise development, to enable greater involvement of Aboriginal people in economic development opportunities in regional, remote and very remote areas.

6.4. Pilot economic development models

Pilot economic development projects are an emerging focus for the CLC, as we have identified a clear need for enterprise models which build traditional owner capacity for sustainable land use and enterprise management and support opportunities for local training and employment.

Aboriginal Pastoral Business model

With the support of the NT Government, the CLC has commissioned a project to develop a model for an Aboriginal owned and managed cattle station enterprise.

This model is particularly vital in Central Australia, which has unique barriers to pastoral activity including highly variable rainfall patterns, poor infrastructure and remoteness leading to distance from markets and high cost burdens. Further, the lands held by Aboriginal people are those which were never considered suitable for pastoralism, or are characterised by poor productivity and extreme ecological and infrastructure degradation.

Despite significant Aboriginal landholdings, of the 29 individual tenures that make up these substantial holdings, only three currently sustain profitable pastoral enterprises. It is

doubtful that any other discrete land parcels could individually sustain a commercial pastoral enterprise under current industry practice. Overall, beneficial Aboriginal engagement in the pastoral industry appears to be static or declining, despite ongoing interest by many Aboriginal people.

Aboriginal engagement in the industry is unlikely to improve without a collective regional approach. This will require linking small areas of productive Aboriginal lands to create efficient production units and scale and a management structure which enables a degree of autonomy for discrete business groups as well as coordinated production and marketing, stability and efficiency.

A number of regional pastoral clusters form the obvious basis for this feasibility pilot study. This project aims to address the unique local conditions by:

- developing a model of regionally integrated, profitable and sustainable pastoral development on central Australian Aboriginal lands that can provide long term employment and enterprise development outcomes for Aboriginal people.
- Identifying a suitable group of properties for a pilot project to test the proposed model.

At this stage, the land capability and infrastructure assessment is being conducted and consultations with traditional owners will continue over the next year to progress the development of a regional pastoral business model.

Recommendation 6.4: Resource the CLC to conduct pilot development projects on priorities identified by Aboriginal constituents, including pastoralism.

Bibliography

Aboriginal Peak Organisations NT (APO NT) 2017, 'Proposal for Establishment of a Remote Development & Employment Scheme', Central Land Council, viewed on 20 February 2019, < <https://www.clc.org.au/index.php?/publications/content/remote-employment-program>>.

Altman, JC, Buchanan, G, Larsen, L 2007, 'The environmental significance of the Indigenous estate: Natural resource management as economic development in remote Australia' (Discussions Paper No. 286, Centre for Aboriginal Economic Policy Research, The Australian National University).

Altman, JC, Linkhorn C, Clarke, J 2005 'Land rights and development in remote Australia' (Discussions Paper No. 276, Centre for Aboriginal Economic Policy Research, The Australian National University).

Australian Human Rights Commission (AHRC) 2012, *Social Justice Report 2012: Aboriginal and Torres Strait Islander Social Justice Commissioner*, < https://www.humanrights.gov.au/sites/default/files/document/publication/social_justice_report_2012.pdf>.

Australian Institute of Health and Welfare (AIHW) 2014, *Homelessness among Indigenous Australians*, Australian Government, viewed 26 February 2019, < <https://www.aihw.gov.au/reports/indigenous-australians/homelessness-among-indigenous-australians/contents/table-of-contents>>.

Barkly Regional Council 2018, *Annual Report 2017-2018*, viewed 26 February 2019, < https://www.barkly.nt.gov.au/uploads/pdfs/Barkly-Regional-Council_Annual-Report-2017-2018-LowRes.pdf>.

Bauman T, Smith D, Quiggin R, Keller, C & Driberg, L 2015, *Building Aboriginal and Torres Strait Islander Governance: Report of a Survey and Forum to Map Current and Future Research and Practical Resource Needs*, Australian Indigenous Governance Institute & Australian Institute of Aboriginal and Torres Strait Islander Studies, viewed 20 February 2019, < https://aiatsis.gov.au/sites/default/files/products/research_outputs/bauman_building-indigenous-governance_web.pdf>.

Central Desert Regional Council 2018, *Annual Report 2017-2018*, viewed 26 February 2019, < http://www.centraldesert.nt.gov.au/sites/centraldesert.nt.gov.au/files/attachments/20181109_final_annual_report-combined_0.pdf>.

Central Land Council (CLC) 2010, *The governance role of local boards: A scoping study from six communities*, viewed 29 February 2019, < <https://www.clc.org.au/index.php?/publications/content/clc-governance-report-2010-shires-scoping-study/>>.

Commonwealth Government of Australia (Commonwealth Government) 2015, *Investigation into Indigenous Land Administration and Use: Report to the Council of Australian Governments*, Department of Prime Minister and Cabinet, viewed 5 March 2019, <<https://www.pmc.gov.au/sites/default/files/publications/COAG-Investigation-Indig-Land-Admin-Use.pdf>>.

Department of the Prime Minister and Cabinet (PM&C) 2019, *Closing the Gap Report 2019*, viewed 5 March 2019, <<https://ctgreport.pmc.gov.au/sites/default/files/ctg-report-2019.pdf?a=1>>.

Department of the Prime Minister and Cabinet (PM&C) 2018, *Department of Prime Minister and Cabinet Annual Report 2017-2018*, viewed 27 February 2019, <<https://annualreport.pmc.gov.au/sites/default/files/pdf/pmc-annual-report-17-18-financial-statements.pdf>>.

Department of the Prime Minister and Cabinet (PM&C) 2018b, 'Remote Housing Review: A review of the National Partnership Agreement on Remote Indigenous Housing and the Remote Housing Strategy (2008-2018)', Commonwealth of Australia, Canberra, viewed on 5 March 2019, <<https://www.pmc.gov.au/sites/default/files/publications/review-of-remote-housing.pdf>>.

Department of the Prime Minister and Cabinet (PM&C) 2013, *National Partnership Agreement on Remote Service Delivery Evaluation 2013*, viewed 30 February 2019, <<https://www.pmc.gov.au/sites/default/files/publications/npa-remote-service-delivery-evaluation-2013.PDF>>.

Dodson, M & Smith, D, 2003, 'Governance for Sustainable Development: Strategic Issues and Principles for Indigenous Australian Communities' (CAEPR Discussion Paper No 250, Centre for Aboriginal Economic Policy Research, The Australian National University).

Ellanna, L, Loveday, P & Young, E 1988, *Economic Enterprises in Aboriginal Communities in the Northern Territory*, Australian National University North Australia Research Unit, Darwin.

Forrest, A 2014, *The Forrest Review: Creating Parity*, Department of the Prime Minister and Cabinet, Canberra, viewed 28 February 2019, <<https://www.pmc.gov.au/sites/default/files/publications/Forrest-Review.pdf>>.

Gooda, M 2016, *Indigenous Property Rights: Land, Business and Governance*, Australian Human Rights Commission, Sydney, viewed 28 February 2019, <<https://www.humanrights.gov.au/news/speeches/indigenous-property-rights-land-business-and-governance>>.

Havnan, O 2012, *Office of the Northern Territory Coordinator-General for Remote Services Report June 2011 to August 2012*, viewed 28 February 2019, <http://www.rdia.nt.gov.au/indigenous_advancement/coordinator-general/progress_reports>.

Hill, R, Harding, E.K., Edwards, D, O'Dempsey, J, Hill, D, Martin, A & McIntyre-Tamwoy, S 2008, *A Cultural and Conservation Economy for Northern Australia*, Land and Water Australia, Canberra, viewed 12 March 2019, <
https://researchonline.jcu.edu.au/32692/8/Hill%20et%20al%20_full%20book.pdf>.

House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Report into Capacity Building and Service Delivery in Indigenous Communities* (2004), viewed 27 February 2019, <
https://www.aph.gov.au/Parliamentary_Business/Committees/Committees_Exposed/atsia/indigenouscommunities/report#fullreport>.

House of Representatives Select Committee on Regional Development and Decentralisation (HoR Committee), *Regions at the Ready: Investing in Australia's Future* (2018), viewed on 26 February 2019, <
https://www.aph.gov.au/Parliamentary_Business/Committees/House/Formers_Committees/Regional_Development_and_Decentralisation/RDD/Final_Report>.

Hunt, J, Smith, D, 2007, 'Indigenous Community Governance Project: Year two research findings' (Working Paper No. 36, Centre for Aboriginal Economic Policy Research, The Australian National University).

Hunt J, Smith D, Garling S & Sanders, W (eds), 2008, *Contested Governance: Culture, power and institutions in Indigenous Australia* (ANU ePress, Canberra).

MacDonnell Regional Council 2018, *Annual Report 2017-2018*, viewed 26 February 2019, <
<https://www.macdonnell.nt.gov.au/uploads/misc/2017-18-MRC-Annual-Report.pdf>>.

Moran M, Porter D & Curth-Bibb, J 2014, *Funding Indigenous organisations: improving governance performance through innovations in public finance management in remote Australia*, Australian Institute of Health and Welfare, viewed on 20 February 2019, <
<https://www.aihw.gov.au/getmedia/cc5909f4-869f-4a75-aed9-e170d1e0a5b8/ctgc-ip11.pdf.aspx?inline=true>>.

Morgan Disney & Associates (Morgan Disney) 2006, *Synopsis Review of the COAG Trial Evaluations*, Office of Indigenous Policy Coordination, Australian Government, viewed 27 February 2019, <
https://www.dss.gov.au/sites/default/files/documents/05_2012/coag_trials_overview.pdf>.

Phillips J, Franklin E, Viswanathan, R 2011, *A Better Way: Building healthy, safe and sustainable communities in the Northern Territory through a community development approach*, viewed 26 February 2019, <
https://antar.org.au/sites/default/files/nt_community_development_policy_paper_final.pdf>.

Pratt A & Bennett S 2004, *The end of ATSIC and the future administration of Indigenous affairs*, Australian Parliamentary Library, viewed 20 February 2019, <https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Publications_Archive/CIB/Current_Issues_Briefs_2004_-_2005/05cib04#future>.

Reconciliation Australia 2002, *Good Indigenous Governance: the foundation for building capacity in Indigenous communities*, Submission to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs Inquiry into Capacity Building in Indigenous Communities, viewed on 26 February 2019, <https://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=atsia/indigenouscommunities/subs/sub055.pdf>.

Robinson, C, James, G & Whitehead P, 2016, 'Negotiating Indigenous benefits from payment for ecosystem service (PES) schemes', *Global Environmental Change*, vol. 38, pp. 21-29.

Russell-Smith, J, James, G, Pedersen, H & Sangha, K 2019, *Sustainable Land Sector Development in Northern Australia: Indigenous rights, aspirations and cultural responsibilities*, CRC Press, Boca Raton.

Senate Finance and Public Administration References Committee (Senate Committee), Parliament of Australia, *Commonwealth Indigenous Advancement Strategy tendering processes* (2016), viewed on 28 February 2019, <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Commonwealth_Indigenous/Report>.

Senate Select Committee on Regional and Remote Indigenous Communities (Senate Committee), Parliament of Australia, *First Report: 2008* (2008), viewed on 26 February 2019, <[file:///C:/Users/genevieve%20schulz/Downloads/report_pdf%20\(1\).pdf](file:///C:/Users/genevieve%20schulz/Downloads/report_pdf%20(1).pdf)>.

Smith D, 2004, 'From Gove to Governance: Reshaping Indigenous Governance in the Northern Territory' (Discussion Paper No. 265, Centre for Aboriginal Economic Policy Research, The Australian National University).

Sullivan P 2007, *Indigenous Governance: The Harvard Project; Australian Aboriginal Organisations and Cultural Subsidiarity*, Desert Knowledge CRC, Alice Springs, viewed on 5 March 2019, <<http://www.nintione.com.au/resource/DKCRC-WP-04-Indigenous-Governance.pdf>>.

United Nations Development Program (UNDP) 2009, *Capacity Development: A UNDP Primer*, United Nations Development Program, New York, viewed 27 February 2019, <<https://www.undp.org/content/undp/en/home/librarypage/capacity-building/capacity-development-a-undp-primer.html>>.

United Nations Office of the High Commissioner of Human Rights (UNHCHR) 2013, *Free, Prior and Informed Consent of Indigenous Peoples*, UNHCHR, viewed 20 February 2019, <<https://www.ohchr.org/Documents/Issues/ipeoples/freepriorandinformedconsent.pdf>>.

United Nations Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 24*, 2017, viewed 20 February 2019, <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f24&Lang=en>.

United Nations Office of the High Commissioner of Human Rights (UNHCHR), *Guiding Principles on Business and Human Rights*, 2011, viewed 20 February 2019, <http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf>.

United Nations General Assembly (UNGA), *United Nations Declaration on the Rights of Indigenous Peoples*, 2007, A/RES/61/295, viewed 20 February 2019, <<http://www.refworld.org/docid/471355a82.html>>.

Weir, J.K., Stacey, C, Youngetob, K 2011, *The Benefits of Caring for Country*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra, viewed 28 February 2019, <<https://www.environment.gov.au/indigenous/workingoncountry/publications/pubs/benefits-cfc.pdf>>.

Westbury, N, Sanders, W, 2000, 'Governance and Service Delivery for Remote Aboriginal Communities in the Northern Territory: Challenges and Opportunities' (Working Paper No. 6, Centre for Aboriginal Economic Policy Research, The Australian National University).

Whitehead P & Oliver B 2014, *Development by Design: opportunities in northern Australia and the potential role of Indigenous people, with particular emphasis on the Northern Territory*, North Australian Indigenous Land and Sea Management Alliance Ltd, Darwin, viewed 12 March 2019, <<https://nailsma.org.au/uploads/resources/Development-byDesign-Working-Paper-SEP2014.pdf>>.

Appendices

Appendix A

CLC Governance Capacity Building Projects

GMAAAC & Kurra Governance Project

- In 2018, the CLC started working with the Granites Mine Affected Area Aboriginal Corporation ('GMAAAC') and Kurra Aboriginal Corporation to deliver a three-year governance program.
- The GMAAAC program was also supported by a \$44,000 grant from the NTG Remote Aboriginal Development Fund, but is otherwise funded by the corporations themselves.
- External providers have been engaged to deliver applied learning workshops tailored for each board to build capacity in a manner that facilitates culturally appropriate and legitimate governance.
- The program objectives include strengthening the board of directors' capacity in, and understanding of, corporate, financial and investment governance.



- At this stage, each corporation has completed two workshops and directors report significant learnings and interest to continue strengthening their governance practice through the program.

PBC Capacity-Building Project

- In May 2017, the CLC's PBC Support Unit was established to implement the *PBC Development Project*, funded by the Commonwealth Department of the Prime Minister and Cabinet.
- Since August 2017, the PBC Support Unit has held 17 planning workshops with PBCs (PBC Development Plan (PDP) meetings).

'PBCs cannot function effectively without comprehension of both government laws and rules and traditional laws and customs. Good governance cannot be exercised when there is confusion and disputes in relation to the identification of the rightful decision-makers of the landholding groups.'

- These two to three-day participatory planning workshops cover basic native title, PBC and governance information, and development planning incorporating native title holders' aspirations for social and economic opportunities.
- At each of the PDP meetings, governance has been identified as the primary priority.
- Consultations have confirmed that interrupted intergenerational transmission of knowledge, displacement from country and competing societal demands has led to disputes or uncertainties over land connection and belonging, leadership, and leadership transfer.
- Consultations also identified that the reduction in the senior native title holders' capacity to transmit knowledge to younger generations as a result of the inability to access country, directly interferes with the objectives of the PBCs.
- The Project has also identified a clear need for native title holders, PBC directors and members to have a firm understanding of not only the relevant corporate governance laws and rules, but their own traditional law and customs.
- The PBC Support Unit will be seeking funds to deliver the *Keeping Strong Connections to Country Project* to continue this important work.

Outputs schedule
✓ Led by PBC directors: working party established and activity plan developed.
✓ Led by PBC directors and senior native title holders: schedule listing most critical areas of concern and locations prioritised by remoteness, attendance lists and itineraries developed.
✓ Meetings on country (approx. seven days per landholding group inclusive of staff travel).
✓ Decision-making process designed for each PBC.
✓ Led by PBC directors: strategic and operational plans created.
✓ Content delivered (where appropriate) and evaluation conducted.



Intended outcomes
✓ Enabled the practice of robust governance procedures.
✓ Developed dispute management and resolution processes.
✓ Built long-term organisational capacity within the PBC.
✓ Outlined revenue plan for the PBC.
✓ Increased the capacity of the PBC to deliver its own cultural projects and economic activities.
✓ Created meaningful jobs for remote Aboriginal people.



Intended impact
✓ PBC can lead effective native title agreement-making.
✓ PBC can maximise the economic development opportunities provided by their native title rights.

Appendix B

Aboriginal land management activities

Ranger groups

The Ranger Program provides unique employment and training opportunities for local Aboriginal people in natural and cultural resource management, while supporting the aspirations of senior traditional owners for young family members to remain in their community and assume responsibility for their country.

Providing a community-based workforce to support traditional owner aspirations is crucial for the sustainability of the Program. This approach reflects the well-established evidence of the health and well-being benefits for Aboriginal people connecting to, working on and caring for country (often referred to as 'Caring for Country').

As part of this work, rangers conduct a wide range of activities, including fire, feral animal and weed management and protection of sacred sites and vital water sources. Rangers also receive training and career advancement opportunities, including studies in conservation and land management, and progression into ranger support officer and coordinator roles.

Another key element of this Program is its strong support structure for Rangers. CLC takes a mentoring and developmental approach and works with individual rangers to manage issues affecting work attendance and performance.

There is still strong demand from traditional owners and Land Council members for ranger groups in their communities and neighbouring areas and this demand continues to outstrip available funding. This funding is sourced from the Commonwealth Government under the Indigenous Advancement Strategy.

The CLC welcomes the Government's commitment to fund existing ranger groups until 2021, but it is disappointed by the decision to rule out any expansion to the program. This is despite comprehensive social and economic analysis demonstrating that each ranger job leads to a net reduction in government support. While the Land Councils are pursuing alternative funding sources, such as fee-for-service work and private sector funding such as through the 10 Deserts Project, continued and increased government funding is critical to the sustainability of the Ranger Program.

Indigenous Protected Areas

Protected Areas provide an important intersection between economic opportunity and Aboriginal land ownership. The CLC plays an active role in supporting traditional owner involvement in the joint management of the world heritage listed Uluru-Kata Tjuta National Park, 4 Indigenous Protected Areas and of the 33 jointly-managed NT National parks, 20 sit within the CLC region.

The CLC works with traditional owners to identify potential social, economic and cultural benefits from joint management. The current emphasis on investment in tourism is intensifying engagement with traditional owners. This is creating opportunities for

traditional owners to build their understanding and capabilities in relation to enterprise and broader economic participation. However, greater resources are needed to provide tailored, timely and ongoing support to obtain the best outcomes from these opportunities.

Carbon abatement projects

The Karlantijpa North Savanna Burning Project is CLC region's only savanna burning project. It has enabled Mudbarra traditional owners to access and work on their country during the burning season and improve regional bushfire management. The sale of the project's carbon credits through the Emissions Reduction Fund enables it to be self-sustaining. In its first two years, the project has generated over 17,000 carbon credits and secured a 5-year contract with the Emissions Reduction Fund to sell a portion of these.

Whilst the Karlantijpa North Kurrawarra Nyura Mala Aboriginal Corporation controls the project, the CLC supports it through a management agreement to generate and sell the credits and pursue further growth. Following this project's success, the CLC is also pursuing opportunities for further carbon abatement projects in Central Australia and generating income from voluntary carbon markets by leveraging social benefits of projects.