



Hon Ben Wyatt MLA
Treasurer; Minister for Finance; Aboriginal Affairs; Lands

Our Ref: 69-11802

The Honourable Warren Entsch MP
Chairperson
Joint Standing Committee on Northern Australia
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Sir

Thank you for the opportunity to provide a submission to the Inquiry into the Opportunities and Challenges of the Engagement of Traditional Owners in the Economic Development of Northern Australia.

As you will be aware, the Government of Western Australia is committed to identifying and promoting economic development opportunities for Traditional Owners in Western Australia through a partnership approach to agreement making. The WA Government is focussing on sustainable outcomes that promote and develop economic opportunities in Northern Western Australia.

In order to succeed, I would welcome a coordinated approach with the Commonwealth to address the challenges faced by Traditional Owners in Northern Australia. I look forward to working with you to achieve this.

Please find attached the submission on behalf of the Government of Western Australia. I trust it is of assistance.

~~Yours sincerely~~

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Ben Wyatt MLA
MINISTER FOR ABORIGINAL AFFAIRS

28 FEB 2019



Submission by the Government of Western Australia to the *Inquiry into the Opportunities and Challenges of the Engagement of Traditional Owners in the Economic Development of Northern Australia*

The Western Australian (WA) Government is prioritising the engagement of Traditional Owners in the economic development of Northern Australia. In Western Australia, there is a significant amount of land under Aboriginal ownership, including within the Aboriginal Lands Trust (ALT) estate.

Identified barriers that prevent or limit economic development opportunities for Traditional Owners in Northern Australia include the capacity of Prescribed Bodies Corporate (PBCs) to identify and fully participate in economic development opportunities, establishing appropriate land tenure arrangements to support development, and a lack of ongoing and sustainable revenue streams.

The WA Government is advancing opportunities for Traditional Owners through sustainable, mutually-beneficial and place-based agreement-making in many industries. This includes emerging economies, such as cultural tourism and carbon farming, as well as in pastoral development, environmental services and land management. It is also focussing on sustainable outcomes that promote and develop economic opportunities for Traditional Owners through a partnership approach to agreement making.

This Government encourages the Commonwealth Government's support in the identification and delivery of projects that will unlock the potential for economic development in Northern Australia and position Traditional Owners to fully realise economic opportunities.

Prescribed Body Corporate Capacity Building

Some PBCs do not have enough capacity to unlock potential projects to access further development opportunities. Many PBCs lack sufficient income to perform their basic statutory functions, with flow-on effects to the efficiency of third party transactions, as well as the ability of PBCs to drive positive economic outcomes. Strategic investment in capacity building would allow PBCs to participate and develop economic opportunities in Northern Australia.

If Native Title Representative Bodies/Service Providers are assisting a PBC to manage their native title, particularly with projects that will enable an economic development outcome, the opportunity should be taken to ensure the PBC develops the ability to support themselves the next time such an opportunity arises. A transition plan, coupled with a sustainable funding stream, would assist PBCs to become more independent.

Funding and expertise support for PBCs in developing their own strategic and economic development plans would establish a platform in which localised economic opportunities can be pursued. Strategic economic planning can be usefully informed by cultural mapping projects, designed to identify and protect areas of high cultural values and other areas of country which may be open to alternative land uses, including development opportunities. It is noted that cultural mapping exercises have been undertaken with success by some groups in northern Western Australia in the past.

The provision of ongoing support for PBC governance and administration, including supporting the potential appointment of administration or management staff, is an essential requirement to progress economic projects with Government and industry proponents. Appropriate administrative mechanisms are required to underpin the efficient decision making processes of PBCs. Funding provisions should be tailored to the particular circumstances of a PBC, and the development of strategic capacity.

This includes an understanding of the level of activity of the PBC (including what sort of activities that PBC will be required to undertake), as well as an understanding of what other funding PBC receives.

It is noted the Indigenous Reference Group (IRG) to the Ministerial Forum on Northern Australia has recommended the establishment of the Northern Australia Indigenous Enterprise and Employment Hub system which, among other things, contemplates localised administrative and commercial support mechanisms for PBCs. The WA Government supports the IRG recommendation as a means to provide practical support to PBCs in addressing the barriers identified above.

Aboriginal Lands Trust Estate and Land Tenure Reform

Currently, in northern Western Australia, there are approximately 145 Crown Reserves held by the ALT on behalf of Aboriginal people. Almost 7 million hectares of land is currently held by the ALT, including in reserves, pastoral (and other) leases and freehold properties. Divestment of the ALT estate is a commitment by the current WA Government, together with pursuing a number of whole-of-government projects and negotiations that include an offer to divest ALT land to Aboriginal people through:

- secure freehold and pastoral tenure under the *Land Administration Act 1997* (WA);
- Indigenous Land Use Agreements (ILUAs) between the WA Government and native title holders; and
- land tenure reform projects to ensure Aboriginal economic opportunities by negotiating appropriate use with native title holders and ALT lessees.

An impediment to economic development opportunities for Traditional Owners is tenure options that allow for divestment and resulting economic development opportunities, without extinguishing native title. Appropriate tenure can be an enabler of new opportunities, but many communities hesitate to agree to native title being extinguished to enable the granting of new tenure. The WA Government is exploring innovative ways of minimising the impact of tenure reform on the exercise of native title rights and interests, while enabling economic development opportunities.

Targeted Commonwealth support for PBCs to undertake cultural mapping and land use planning strategies would assist WA to inform tenure divestment discussions and land assembly processes. Similarly, consideration should be given to achieving administrative efficiencies under the Native Title (Prescribed Bodies Corporate) Regulations 1999 to streamline Indigenous Land Use Agreement authorisation and registration compliance processes in circumstances in which the PBC, or related land holding entity, is the sole recipient of land tenure. This would assist particularly in the divestment of the ALT estate, but also in relation to tenure grants for other economic development activities for Traditional Owners.

In addition, the WA Government would welcome the early introduction of the *Native Title Amendment Bill*, recognising the benefits of progressing these important reforms to agreement making with Aboriginal groups.

Remote community sustainability

Access to safe housing and reliable, essential service infrastructure is imperative in Northern Australia. Essential service infrastructure is not possible without appropriate tenure that allows for houses, water services, roads, etc., to be built and maintained, as well as the funding that allows for this to occur.

The Commonwealth Government provided \$121 million for one year, to be allocated by the WA Government, to where it will have the greatest impact on improving housing outcomes for people from remote communities.

Beyond this agreement, the McGowan Government is strongly committed to the long-term intergovernmental principle that supporting remote communities is a shared responsibility. The WA

Government seeks to work with the Commonwealth on alternative approaches to holistically support Aboriginal self-determination by developing sustainable communities and improving outcomes for regional and remote Aboriginal Western Australians. The Commonwealth's continued investment is particularly important for those Aboriginal people who live in remote communities in Northern Australia.

The WA Government is also working to transition some larger remote communities to towns. This requires strategic tenure improvement to enable the provision of sustainable and essential services to these communities. In turn, this will provide land that is 'investment ready' and enable economic development opportunities for people and businesses within those communities.

The WA Government is working to ensure local economies are enlivened through the contracting of local service provision. Developing local businesses that can tender for local opportunities allows for place-based community-focussed responses to local issues. Supply Nation's register of Aboriginal businesses is Australia-wide and most are large, high capacity organisations which are able to service large contracts, rather than local businesses that generally exist in regional WA. Currently, Supply Nation has a limited regional presence outside of Perth.

Other Opportunities

Pastoral Land Management

The WA Government is developing *Good Pastoral Land Management Guidelines*, which will assist all pastoral lessees and managers in Northern Australia, including Traditional Owners undertaking pastoral enterprises. The guidelines will help develop their capacity to manage their land to make it more productive and their businesses more sustainable, in accordance with triple bottom line principles. A coordinated effort and combining of resources of the WA Government and the Commonwealth is likely to increase the long-term viability and sustainability of pastoral projects designed to create economic and social benefit to Indigenous Australians.

Conservation Land Management

The WA Government supports sustainable funding into long-term land management and national park programs. This is demonstrated through the WA Government's election commitment to expand the national park footprint by five million hectares over five years across the State. Western Australia is also building on its existing joint management and ranger programs, which occur in partnership with Traditional Owners in Northern Australia. This is an area of high priority for the WA Government and continued Commonwealth funding support is required to deliver objectives.

As noted above, the WA Government would welcome the early introduction of the *Native Title Amendment Bill*. The proposed Section 47(C) amendment will be of particular benefit to Traditional Owner groups in relation to the conservation estate in Western Australia, allowing for disregarding prior extinguishment of native title rights and interests by agreement, in relation to the conservation estate.

Another area to explore is fee-for-service environmental services work. Existing ranger programs, as established by the WA Government, could be broadened to encompass rangers providing fee-for-service activities in, for example, land and sea environmental management and research. This would provide a sustainable and viable income stream for Traditional Owners in the north, and could be coupled with career pathways that provide further opportunities for individuals in these areas.

The current project proposals for carbon sequestration may present some opportunities for economic development for Traditional Owners through negotiations with pastoral lessees.

As a further example, the WA Government is currently partnering with the Martuwarra Fitzroy River Council to develop a management plan for the Fitzroy River to ensure the health of the river and provide a basis for suitable economic development.

A key part of this management plan includes the development of a water allocation plan. Part of the engagement with Martuwarra Council is in identifying economic opportunities which are consistent with the proposed water allocation plan as it is developed. The WA Minister for Water is implementing Strategic Aboriginal Water Reserves in the Fitzroy River catchment and the State Government will engage with the Martuwarra Council in the development of principles around the implementation of these reserves.

In addition, the WA government will extend the Geikie Gorge National Park. The newly extended park will support protection of the river, as well as underpin future economic development through joint management with Traditional Owners, and tourism opportunities.

Both of these commitments by the WA Government will lead to sustainable and enduring benefits for the Traditional Owner groups involved through meaningful engagement, and fair and equitable agreement making.

Tourism

The WA Government is leveraging cultural tourism opportunities for Aboriginal economic development. An example is the Dampier Peninsula north of Broome, where the sealing of the Broome to Cape Leveque Road is underway and is expected to be completed in November 2020.

This is forecast to significantly increase tourist numbers to the Peninsula. As well as the mitigation of some potentially negative impacts, there is also the potential for positive impacts including improving the profitability of Aboriginal tourism enterprises.

The Dampier Peninsula project, led by the WA Government, will leverage the sealing of the Broome-Cape Leveque Road to secure economic opportunities for Aboriginal people on the Dampier Peninsula by improving the overall tourism offering and financial returns for operators, and building local skills and enterprise capacity.

A Dampier Peninsula Working Group, formed with representation from native title holders and community associations, allows for co-design elements to be incorporated as part of the Dampier Peninsula project. Successful realisation of opportunities on the Dampier Peninsula will require funding by the Commonwealth, noting the economic objectives significantly align with Indigenous Reference Group's (IRG) recommendations relating to the establishment of Regional Collaboration Areas.

Cost Benefit Analysis Framework

At the November 2018 Ministerial Forum on Northern Development, Ministers noted the importance of investigating, in partnership with Infrastructure Australia, options for an alternate northern context cost-benefit analysis (CBA). CBA enables policy makers to assess whether a policy initiative or project will provide net community benefit compared to alternative use of limited resources, but are less well suited to assessing projects where it is difficult to know the future outcomes.

This is particularly the case with many remote and regional projects, including in Northern Australia, where the intent is often to develop something new rather than something additional to existing networks.

The WA Government supports the proposal to review Infrastructure Australia's current CBA assessment framework and develop an alternative model that better reflects remote and regional contexts, including taking into consideration wider social benefits in areas with smaller populations and/or less economic activity.

Equally, the WA Government welcomes recent changes to the Investment Mandate of the Northern Australia Infrastructure Facility to increase the focus on public benefit and Indigenous engagement.