



PARLIAMENT OF AUSTRALIA

Inquiry into economic self-determination and opportunities for First Nations Australians

Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs

CANBERRA

© Commonwealth of Australia

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Acknowledgement

The Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Owners and Custodians of Country throughout the lands now known as Australia. The Committee pays respects to Ancestors and Elders past and present, and honours Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to lands, waters and seas.

Content warning

Material in this report may be confronting. Sometimes words can cause sadness or trigger traumatic memories. If you need to talk to someone, support is available. The following services are available 24 hours a day:

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A note on language / terminology

The terms 'Aboriginal and Torres Strait Islander', 'Indigenous', 'First Peoples' and 'First Nations' are used interchangeably in this report to refer to Aboriginal and Torres Strait Islander peoples of the continent now known as Australia.

While the Committee understands that some Aboriginal and Torres Strait Islander peoples may not feel comfortable with some or all of these terms, we only mean to convey respect through the use of these words.

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Chair's foreword

Australia's First Peoples have been traders, innovators, entrepreneurs and knowledge holders for more than 65,000 years. We have an unbroken knowledge of invention, innovation and resilience. Our contribution to Australia's economy and local communities is significant and far-reaching—beyond Gross Domestic Product—and it is growing at pace.

But too often our story as current economic participants and partners is untold.

This inquiry has highlighted the economic minds and strengths of First Nations peoples and the emerging growth and investment opportunities of their increased participation for Australia's economy.

Research from Melbourne University shows that Indigenous businesses generate at a minimum over \$16.1 billion in revenue each year, employ more than 116,000 people, and pay \$4.2 billion in wages. For every dollar of revenue spent, Indigenous businesses create \$4.41 of economic and social value. Indigenous businesses are 40 to 100 times more likely to employ Indigenous people.

Indigenous-led and owned businesses and social enterprises are gaining well deserved accolades for their work. Indigenous businesses and entrepreneurs are punching above their weight in the tourism, hospitality, construction, information technology, fashion and arts, bush foods and botanicals, and clean energy sectors.

However, the inquiry has also put a renewed spotlight on the structural barriers and systemic disadvantages First Nations peoples face. As a result of the colonial experience, First Nations Australians are unable to leverage assets and accrue intergenerational wealth to the same extent as other Australians.

The Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs travelled the country listening to organisations, businesses, entrepreneurs, academics, and government institutions to understand what practical changes will transform the economic outcomes of First Nations peoples.

This report calls for a fundamental reframing of the First Nations economic narrative and the embracing of broader economic and legislative settings. The recommendations of this inquiry will support the transformation of First Nations peoples to generators of long-term wealth and equity.

The Albanese Labor Government is building the foundation for First Nations economic empowerment. We have created more than one million jobs since we were elected in 2022—more than any government in a single parliamentary term. We are investing in a Future Made in Australia to put First Nations peoples at the decision-making table and have equity

and ownership rights in our future industries. We have established a First Nations Economic Partnership to foster a comprehensive economic policy dialogue.

The economic incentive for all governments and investors cannot be ignored. The rest of the world can see the unique position of Australia—we are abundant with economic opportunities to harness emerging industries. Capitalising on these industries requires the participation from and resources of First Nations communities and a skilled and energised workforce. With the Aboriginal and Torres Strait Islander population fast growing and projected to increase by 21.3 per cent by 2031, broader engagement of economic and legislative settings will allow generations to freely determine their economic prospects and succeed.

During the inquiry we heard that:

- accessing finance and capital is the greatest barrier to First Nations economic development
- strengthening existing, and developing, new fiscal instruments can significantly increase economic participation
- capturing longitudinal economic and business data can support policy design and improve the institutional trust of First Nations enterprises
- strengthening First Nations cultural and intellectual property will deliver significant commercial opportunities
- capacity and capability building within First Nations communities will enable the growth of emerging industries and Australia's economy
- ensuring resourcing for Prescribed Bodies Corporates is sufficient will enable economic development for Traditional Owner groups and other interested parties
- reviewing the full *Native Title Act 1993* (Cth) may deliver improvements for leveraging economic opportunities on the Indigenous estate
- co-governance of fiscal institutions and creative investment frameworks have been fundamental to the economic development of international First Nations communities.

The Committee made 22 recommendations aimed at supporting First Nations economic prosperity. The future is bright with the right approach—one that embraces broader economic and fiscal policies, reshapes the public narrative, engages a strengths-based framework, stimulates investment and trade, and works in genuine partnership.

This approach ensures First Nations peoples can leverage their unique skills and resources to shape their own economic futures and grow Australia's economy. If governments and investors act as enablers—investing, supporting and removing barriers—First Nations peoples can transform their economic destiny.

Senator Jana Stewart
Mutthi Mutthi and Wamba Wamba
Chair



Members

Chair

Senator Jana Stewart, Mutthi Mutthi and Wamba Wamba ALP, VIC

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This Committee is supported by staff of the Department of the House of Representatives.



Terms of reference

The Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs inquire and report on economic self-determination and opportunities for First Nations Australians, with particular reference to:

- Opportunities for, and barriers to training, employment and business development
- Impediments to building the economic and social infrastructure required to support economic prosperity in the long term, including barriers to building the economic and social infrastructure required to support industry and business to expand and create jobs
- Options to unlock capital and leverage intellectual property, the Indigenous Estate and First Nations skills to elevate First Nations people as economic partners
- The international and intergenerational experiences of fostering economic independence for First Nations communities
- Any other related matters.

For the purposes of this report, economic self-determination is defined as Aboriginal and Torres Strait Islander peoples and communities freely and voluntarily, without discrimination, ‘exercising control over their own economic development and resources, guided by their own values and priorities and decision-making processes’.¹

¹ Supply Nation, *Submission 10*, p. 2; AHRC 2023, ‘Self-determination and Indigenous peoples’, <https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/self-determination-and-indigenous>, accessed 19 August 2024; First Australians Capital 2022, ‘The importance of Indigenous Economic Self-Determination within Investment Strategies’, <https://firstaustralianscapital.org/the-importance-of-indigenous-economic-self-determination-within-investment-strategies/>, accessed 19 August 2024.

List of recommendations

Recommendation 1

- 2.38** The Committee recommends that the Australian Government and the Department of Treasury develop a supplementary measurement framework that incorporates the principles of Australia’s Measuring What Matters Framework. This must include profiling and tracking to illustrate gaps and the mapping of variations of socio-economic wellbeing of First Nations communities. This will create a systematic way to track the socio-economic wellbeing of communities over time.

Recommendation 2

- 3.95** The Committee recommends that the Australian Government fund a national longitudinal Indigenous economic and business dataset to understand the composition and economic contribution of First Nations business to the Australian economy.

Recommendation 3

- 3.101** The Committee recommends that the Australian Government, in its review of the Indigenous Procurement Policy, consider:
- an increase to the procurement target
 - the definition of an Indigenous business, and mechanisms to identify and recognise businesses who exceed the targets (e.g. through tiered criteria).

Recommendation 4

- 3.102** The Committee recommends that the Australian Government investigate the practice of blak-cladding and policies to combat it.

Recommendation 5

- 3.104** The Committee recommends that the Australian Government consider support for Indigenous Chambers of Commerce and similar business networks to boost their delivery of financial, commercial, and business capability services.

Recommendation 6

3.107 The Committee recommends that the Australian Government launch an awareness campaign and establish a central resource with information on federal, state, and territory government business advisory services for First Nations businesses.

Recommendation 7

3.113 The Committee recommends that the Australian Government pilot an entrepreneurial and business mentorship program for aspiring Aboriginal and Torres Strait Islander women, and explore how it can improve support for Aboriginal and Torres Strait women in business.

Recommendation 8

4.100 The Committee recommends that the Australian Government strengthen existing, and develop new, instruments to enhance and fast track Aboriginal and Torres Strait Islander peoples' access to finance and capital.

Recommendation 9

4.101 The Committee recommends that the Australian Government consider impediments to responsible lending and capital flow from mainstream banks and financial institutions to Aboriginal and Torres Strait Islander peoples.

Recommendation 10

4.107 The Committee recommends that, on completion of the Australian Law Reform Commission Future Acts Regime Review, the Australia Government should consider whether a full review of the Native Title Act 1993 (Cth) is required.

Recommendation 11

4.112 The Committee recommends that the Australian Government ensure resourcing for Prescribed Body Corporates in the Native Title Act 1993 is sufficient to enable delivery of its full legislative potential.

Recommendation 12

5.83 The Committee recommends the Australian Government ratify the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization and the World Intellectual Property Organization's Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge.

Recommendation 13

5.84 The Committee recommends that the Australian Government task IP Australia, Department of Agriculture, Fisheries and Forestry, and Department of Foreign Affairs and Trade to investigate legislative and regulatory options to strengthen the protection, certification, promotion, and marketing of First Nations products and services domestically and internationally.

Recommendation 14

5.85 The Committee recommends the Australian Government task IP Australia as part of its current works to protect Indigenous Cultural and Intellectual Property, to investigate legislative options to strengthen legal protections for collective knowledge and historical rights and opportunities.

Recommendation 15

5.90 The Committee recommends establishing and funding a centralised database or national registration system to substantiate Indigenous knowledge and facilitate the creation of access and benefit sharing agreements. Such a database would enable a digital repository for data and knowledge associated with genetic resources found in Australia.

Recommendation 16

5.96 The Committee recommends the Australian Government work with the bush foods and fibre industry to establish a sustainable peak industry body.

Recommendation 17

6.84 The Committee recommends that the Australian Government explore and consider best practice mechanisms to improve First Nations workplace cultural safety.

Recommendation 18

6.92 The Committee recommends that the Australian Government implement the First Nations Clean Energy Strategy and consider a target for First Nations project ownership and equity in clean energy.

Recommendation 19

- 7.85** The Committee recommends that the Australian Government facilitate knowledge exchanges between First Nations Australians and international First Nations communities to share experiences and lessons on economic empowerment and trade.

Recommendation 20

- 7.86** The Committee recommends that the Australian Government accelerate its work with the First Nations Economic Partnership and consider the experiences of international jurisdictions and their fiscal management powers and frameworks (for example, Canada).

Recommendation 21

- 7.87** The Committee recommends that the Australian Government ratify the United Nations Declaration on Rights of Indigenous Peoples (UNDRIP), and explore opportunities for UNDRIP to guide commonwealth, state, and territory policy development and its relevance to good government in Australia.

Recommendation 22

- 7.88** The Committee recommends that the Australian Government consider capacity and capability support for First Nations and Traditional Owner groups to strengthen their engagement in the energy transition and other Australian Government initiatives.



1. The inquiry

Referral of the inquiry

- 1.1 On 27 March 2024, the Committee adopted an inquiry into economic self-determination and opportunities for First Nations Australians following a referral from the then Minister for Indigenous Australians, the Hon Linda Burney MP.
- 1.2 The terms of reference for the inquiry are listed on page xv of this report.

Conduct of the inquiry

- 1.3 The Committee received 109 submissions and 21 supplementary submissions. These are listed at Appendix A.
- 1.4 The Committee held 8 public hearings in person and via videoconference, in Canberra, Melbourne, and Perth. These are listed at Appendix B.

Report structure

- 1.5 Chapter 2 outlines the context within which the inquiry took place, including the intergenerational context, the National Agreement on Closing the Gap and existing economic policy frameworks, and the case for an economic pathway forward.
- 1.6 Chapter 3 looks at opportunities to support First Nations business development, including enhancing data capability, concerns about the definition of a First Nations business, and support for Indigenous business networks.
- 1.7 Chapter 4 considers opportunities to enhance access to capital, and finance and activating the Indigenous Estate.
- 1.8 Chapter 5 examines the commercial opportunity of protecting Indigenous Cultural and Intellectual Property and potential reforms to Australian intellectual property laws.
- 1.9 Chapter 6 considers the opportunities for, and barriers to, improved outcomes for First Nations peoples in relation to education and employment, including new and emerging industries.
- 1.10 Chapter 7 discusses the experiences of international jurisdictions in fostering economic independence for First Nations communities.



2. An economic pathway forward

- 2.1 For over 65,000 years Aboriginal and Torres Strait Islander peoples ‘sustained their own vibrant economies, including systems of trade and exchange that stretched across the continent and to adjacent islands’.¹ First Peoples were explorers, inventors, entrepreneurs, and exporters, and maintained an economic system that fuelled their population for generations.
- 2.2 With colonisation and the new settler population, a new economy was introduced to support it. An economy that Indigenous peoples have been excluded from through the forceful dispossession of their lands and rich natural resources, systemic discriminatory practices, paternal and forced assimilation policies, and stolen wages. From then until now, this legacy has stemmed higher unemployment rates, lower than average incomes, poor health and educational outcomes, and educational attainment disparity, resulting in ‘a significant wealth divide between Indigenous and non-Indigenous people’.²
- 2.3 Addressing this historical disadvantage and economic disempowerment are critical to improving Aboriginal and Torres Strait Islander peoples’ socio-economic outcomes and to closing the economic divide.
- 2.4 Furthermore, the right of all peoples to self-determination, including the free pursuit of economic development, is enshrined in international law through the International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights.³ Articles 3–5 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) affirm this right of all peoples to self-determination, economically, socially and culturally.⁴

¹ Australian National University (ANU) First Nations Portfolio, *Submission 48*, pages 1–2.

² First Australians Capital, *Submission 56*, pages 4–5; First Nations Portfolio ANU, *Submission 48*, pages 1–2; First Peoples’ Assembly of Victoria, *Submission 75*, p. 2.

³ Australian Human Rights Commission (AHRC) 2023, ‘Self-determination and Indigenous peoples’, <https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/self-determination-and-indigenous>, accessed 19 August 2024; United Nations (UN) 1967, *International Covenant on Economic, Social and Cultural Rights*, https://treaties.un.org/doc/Treaties/1976/01/19760103%2009-57%20PM/Ch_IV_03.pdf, accessed 19 August 2024, p. 1.

⁴ UN 2007, *United Nations Declaration on the Rights of Indigenous Peoples*, https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf, accessed 19 August 2024, pages 8–9.

National Agreement on Closing the Gap

- 2.5 In recent decades the Australian Government, states and territories have taken steps to stem the legacy of disadvantage. In 2019, the Commonwealth, state and territory governments and the Australian Local Government Association signed a formal partnership agreement with the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (the Coalition of Peaks) to share decision-making processes and develop a new National Agreement on Closing the Gap.⁵ The National Agreement on Closing the Gap was finalised in July 2020.⁶ The National Agreement on Closing the Gap continues to be successive Australian governments' flagship policy, and many of its policies refer to the Agreement.
- 2.6 The National Agreement on Closing the Gap sets out four key priority reforms:
- One: Formal partnerships and shared decision-making
 - Two: Building the community-controlled sector
 - Three: Transforming government organisations
 - Four: Shared access to data and information at a regional level.⁷
- 2.7 There are also 19 socio-economic targets under the National Agreement on Closing the Gap. These include targets for increasing the proportion of Aboriginal and Torres Strait Islander peoples who are employed,⁸ as well as various targets that are indirectly related to better economic outcomes, including targets in relation to education, housing and land rights.⁹
- 2.8 The most recent progress report has shown that, of the Agreement's 15 socio-economic targets for which data was available, only five were on track, five showed improvements but were not on track, one showed no change, and four showed progress that was worsening.¹⁰ As reported in the recent Productivity Commission review, it observed small tweaks or additional initiatives, or even layers of initiatives as attempts to give effect to the Agreement. However, it advised that real change does not mean multiplying or renaming business as usual actions.¹¹
- 2.9 This inquiry has highlighted that while progress has been made against Closing the Gap targets, it has been piecemeal and slow.

⁵ Australian Government n.d., 'Partnership', *Department of Prime Minister and Cabinet*, <https://www.closingthegap.gov.au/partnership>, accessed 21 August 2024.

⁶ Australian Government 2020, *National Agreement on Closing the Gap*, <https://www.closingthegap.gov.au/sites/default/files/files/national-agreement-ctg.pdf>, accessed 21 August 2024.

⁷ Australian Government 2020, *National Agreement on Closing the Gap*, <https://www.closingthegap.gov.au/sites/default/files/files/national-agreement-ctg.pdf>, accessed 21 August 2024.

⁸ National Agreement on Closing the Gap, targets 7 and 8.

⁹ National Agreement on Closing the Gap, targets 3, 5, 6, 7, 9a, 9b, 15a, 15b.

¹⁰ Productivity Commission 2024, *Closing the Gap: Annual Data Compilation Report*, pages 3–6.

¹¹ Productivity Commission 2024, *Review of the National Agreement on Closing the Gap: Study Report*, vol 1, p. iii.

The Australian Government is building the foundation for First Nations economic empowerment

- 2.10 The Australian Government’s commitment to building the foundation for First Nations economic empowerment for Aboriginal and Torres Strait Islander peoples was reinforced in Prime Minister Anthony Albanese’s speech at the recent Garma Festival:

Changing this, building true and lasting self-determination, requires economic security. Security that exists outside of government decisions—and endures beyond them. And, right now, changes in the global economy are opening up these possibilities. Growing demand for renewable energy, critical minerals and rare earths represents an unprecedented opportunity for our nation. By partnering with locals from the beginning, we can avoid the exploitation and injustices of the past. And we can tackle the poverty and lack of opportunity that has seen disadvantage entrenched in these parts of our country over generations. The principle that Aboriginal and Torres Strait Islander peoples deserve a real say in the economic development of the land you call home. And you deserve your fair share of the benefits that flow from it. You are more than curators or custodians, you are the Traditional Owners, who have cared for land and waters for 60,000 years and more. And we want you to have ownership of your future—built on a foundation of economic empowerment.¹²

- 2.11 The Australian Government is supporting the economic prosperity of Aboriginal and Torres Strait Islander peoples by making historical investments in jobs, education, and economic development opportunities. It has created more than one million jobs since it was elected in 2022—more than any government in a single parliamentary term. It has invested \$777.4 million over five years for the creation of 3,000 jobs in remote Australia. It has furthered employment opportunities by investing in free-free TAFE courses with over 30,000 First Nations students furthering their education. It is investing in a Future Made in Australia and is working to put Aboriginal and Torres Strait Islander peoples at the decision-making table and position them to have equity and ownership rights in future industries.
- 2.12 The Australian Government’s commitment to a new First Nations Economic Partnership was announced by the Prime Minister in August 2024, who described the partnership as a ‘new direction—with greater independence, real empowerment and lasting economic security for communities’.¹³

¹² The Hon Anthony Albanese MP, Prime Minister 2024, *Economic empowerment for Indigenous Australians—Address to the Garma Festival*, 3 August, East Arnhem Land.

¹³ The Hon Anthony Albanese MP, Prime Minister 2024, *Economic empowerment for Indigenous Australians—Address to the Garma Festival*, 3 August, East Arnhem Land; Ms Patricia Turner, Lead Convener, Coalition of Aboriginal and Torres Strait Islander Peak Organisations (Coalition of Peaks), *Committee Hansard*, Canberra, 24 September 2024, p. 18.

- 2.13 Since then, the Treasury and the Coalition of Peaks have been working together to shape the partnership and its priorities. Between May and June 2024, the Coalition of Peaks held stakeholder consultations to ‘inform the partnership design, including key priorities and governance’.¹⁴
- 2.14 At a public hearing, Ms Patricia Turner, Lead Convenor of the Coalition of Peaks, explained that the First Nations Economic Partnership will be a policy partnership under the National Agreement on Closing the Gap.^{15,16} She described the policy partnership as ‘a vehicle for allowing Aboriginal and Torres Strait Islander representatives to share decision-making around Closing the Gap policies, instead of [governments] making policies on their own without much success’.¹⁷ Ms Turner advised that four key priorities had emerged through consultations on the partnership, aligning with the four priority reforms of the National Agreement on Closing the Gap:
- a. strengthening Aboriginal and Torres Strait Islander representation in economic development and participation partnerships with governments and other stakeholders to improve outcomes
 - b. developing and strengthening employment opportunities in the community-controlled sector through the creation of additional secure jobs, wage parity, new professional job streams and associated professional development opportunities
 - c. reforming mainstream employment services and looking at what actions are needed to create culturally safe workplaces that value and invest in growing opportunities for Aboriginal and Torres Strait Islander peoples to get into a range of roles and positions
 - d. building a comprehensive data picture of the current state of Aboriginal and Torres Strait Islander peoples with respect to economic development and participation opportunities.¹⁸
- 2.15 Ms Turner said she anticipated that the partnership would be established in the coming months and proposed that this Committee’s report be ‘considered by the partnership as a vehicle for determining a government response’.¹⁹

¹⁴ The Treasury n.d., ‘Scoping a policy partnership on First Nations Economic Development’, <https://treasury.gov.au/consultation/c2024-536388>, accessed 26 August 2024; The Treasury 2023, *Working Future: The Australian Government’s White Paper on Jobs and Opportunities*, pages 166, 182–183, 232, 234 and 248; The Treasury 2023, *Working Future: The Australian Government’s White Paper on Jobs and Opportunities*, pages 166, 182-183, 232, 234 and 248.

¹⁵ Ms Turner, Coalition of Peaks, *Committee Hansard*, Canberra, 24 September 2024, p. 18.

¹⁶ Priority Reform One of the National Agreement on Closing the Gap concerns formal partnership arrangements. There will be formal partnership arrangements to support Closing the Gap in place between Aboriginal and Torres Strait Islander peoples and governments in each state and territory enshrining agreed joint decision-making roles and responsibilities and where Aboriginal and Torres Strait Islander peoples have chosen their own representatives.

¹⁷ Ms Turner, Coalition of Peaks, *Committee Hansard*, Canberra, 24 September 2024, p. 18.

¹⁸ Ms Turner, Coalition of Peaks, *Committee Hansard*, Canberra, 24 September 2024, p. 18.

¹⁹ Ms Turner, Coalition of Peaks, *Committee Hansard*, Canberra, 24 September 2024, p. 18.

- 2.16 In parallel with the First Nations Economic Partnership, the Australian Government is supporting the First Nations Economic Empowerment Alliance.²⁰ The Alliance was established following an international symposium in 2022, and the *Murru waaruu* seminar series in 2023, hosted by the Australian National University (ANU)'s First Nations Portfolio.²¹ In addition to the ANU, the Alliance's members include the Indigenous Sea and Land Corporation, the National Native Title Council and First Australians Capital.²² It aims to 'advance the case for major economic reform in Australia' and 'establish comprehensive economic empowerment for First Nations peoples in Australia'.²³
- 2.17 The ANU First Nations Portfolio described the *Murru waaruu* Outcomes Report, published in May 2024, as 'the culmination of almost two years of deliberative dialogue and policy design involving subject matter experts, community representatives and key stakeholders from Australia and overseas'.²⁴ The report includes a range of policy proposals that are intended to 'inform a genuine engagement between First Nations leaders and the Australian Government to co-design a First Nations economic self-determination policy framework'.²⁵
- 2.18 The ANU First Nations Portfolio submitted to the Committee that 'Australian governments have never before sought to establish a comprehensive policy response to First Nations economic marginalisation that engages economic and fiscal policy levers to provide economic opportunities for First Nations communities'.²⁶ It considered that adopting such an approach 'could enable First Nations communities to leverage their acquired assets and other rights and interests to engage as meaningful partners in the economic prosperity of modern Australia'.²⁷

The focus now must be on using economic and fiscal policy levers to shift the narrative and public policy approach away from managing First Nations poverty, to supporting the capacity of First Nations people to grow and sustain wealth. That shift is important for the health and development of the Australian economy and must be based on partnership and equity, and on the strengths of what First Nations people bring to the table, not on a focus on deficit and disadvantage.²⁸

²⁰ The Hon Anthony Albanese MP, Prime Minister 2024, *Economic empowerment for Indigenous Australians—Address to the Garma Festival*, 3 August, East Arnhem Land.

²¹ ANU First Nations Portfolio, *Submission 48*, p. 2.

²² ANU First Nations Portfolio, *Submission 48*, p. 2.

²³ ANU 2024, 'New alliance to drive Indigenous economic development', *ANU Media*, 15 July, <https://reporter.anu.edu.au/all-stories/new-alliance-to-drive-indigenous-economic-empowerment>, accessed 3 October 2024.

²⁴ ANU First Nations Portfolio, *Submission 48*, p. 2.

²⁵ ANU First Nations Portfolio 2024, *Murru Waaruu (On Track) Economic Development Seminar Series: Outcomes Report*, p. 6.

²⁶ ANU First Nations Portfolio, *Submission 48*, p. 4.

²⁷ ANU First Nations Portfolio, *Submission 48*, p. 4.

²⁸ ANU First Nations Portfolio, *Submission 48*, p. 4.

- 2.19 Australians for Native Title and Reconciliation, Kimberley Land Council, Cooperative Research Centre for Developing Northern Australia and Indigenous Land and Sea Corporation were supportive of the institutional reform considerations set out in the *Murru waaruu* Outcomes Report.²⁹
- 2.20 The joint submission from the National Indigenous Australians Agency and the Treasury highlighted that the *Murru waaruu* Outcomes Report and other international research ‘demonstrates the important role of economic empowerment in achieving improved socio-economic outcomes for First Nations peoples’ and ‘establishes the need for a shift in First Nations economic policy, away from a legacy of social policies directed at First Nations welfare and simple mainstream industry participation, to a strategic commitment to First Nations wealth creation.’³⁰

Aboriginal and Torres Strait Islander peoples are punching above their weight

- 2.21 Despite Aboriginal and Torres Strait Islander peoples exclusion from the Australian economy, research from the University of Melbourne shows that the First Nations economy is growing at pace with an 11 per cent increase from 2012–2022, and that businesses generate over \$16.1 billion in revenue each year, employ more than 116,000 people, pay \$4.2 billion in wages, and are 40 to 100 times more likely than non-Indigenous businesses to employ Aboriginal and Torres Strait Islander staff.³¹ For every dollar of revenue spent, Indigenous businesses create \$4.41 of economic and social value.
- 2.22 Given the limitations on capturing Indigenous data, the economic and business contribution of First Nations peoples is likely to be underestimated (this will be discussed later in the report—see Chapter 3).
- 2.23 Indigenous-led and owned businesses and social enterprises are receiving well deserved accolades for their work. Indigenous businesses and entrepreneurs are punching above their weight in the tourism, hospitality, construction, information technology, fashion and arts, bush foods and botanicals, and clean energy sectors.
- 2.24 The inquiry has also shown that Aboriginal and Torres Strait Islander peoples face significant barriers to participating in the mainstream economy. They reported facing barriers to starting a business, scaling up a business, leveraging land for economic purposes, accessing capital and finance, lack of institutional trust, negative risk stereotypes, and lower business and commercial acumen.

²⁹ Australians for Native Title and Reconciliation, *Submission 92*, pages 4–5; Kimberley Land Council, *Submission 83*, p. 5; Cooperative Research Centre for Developing Northern Australia, *Submission 98*, p. 7; Indigenous Land and Sea Corporation (ILSC), *Submission 53*, p. 5.

³⁰ National Indigenous Australians Agency (NIAA) and The Treasury, *Submission 64*, p. 3.

³¹ Evans, M., Polidano, C., Dahmann, S.C., Kalera, Y., Ruiz, M., Moschion, J. & Blackman, M. 2024, *Indigenous Business and Corporation Snapshot Study 3.0*, University of Melbourne, pages 11, 19, 27.

An economic approach for intergenerational transformation

- 2.25 The inquiry has also put a renewed spotlight on the structural barriers and systemic disadvantages Aboriginal and Torres Strait Islander peoples face. As a result of the colonial experience, Aboriginal and Torres Strait Islander peoples are unable to leverage assets and accrue intergenerational wealth to the same extent as other Australians.
- 2.26 The evidence is clear that historical and successive policy approaches are inadequate in transforming the social and economic outcomes for Aboriginal and Torres Strait Islander peoples.
- 2.27 In addition to bipartisan commitment to Closing the Gap, this report calls for a fundamental reframing of the First Nations economic narrative and the embracing of broader economic and legislative settings. The recommendations of this inquiry will support the transformation of First Nations peoples to generators of long-term wealth and equity.
- 2.28 Many participants in the inquiry identified that a strengthened and new approach is needed to address disadvantage, with a greater focus on economic empowerment as the vehicle for achieving broader social outcomes.³² There was also strong support for greater participation of Aboriginal and Torres Strait Islander peoples in the design and delivery of policies that affect them,³³ and broad support for taking a ‘strength based’ approach to policy, in contrast to the, often applied, deficit approach.³⁴
- 2.29 Participants also highlighted the importance of this inquiry and the Australian Government in elevating their entrepreneurial strengths and perspectives in examining a new pathway forward.

³² For example, see ILSC, *Submission 53*, p. 6; NIAA and Treasury, *Submission 64*, p. 2; Coalition of Peaks, *Submission 67*, pages 3–4; Ms Jocelyn King, First Australians Capital, *Committee Hansard*, Canberra, 23 July 2024, p. 13; Mr Greg McIntyre, President, Law Council of Australia, *Committee Hansard*, Canberra, 23 July 2024, p. 28; Mr Martin Sibosado, Board Member, Nirrumbuk Aboriginal Corporation, *Committee Hansard*, Perth, 2 September 2024, p. 26.

³³ For example, see Australian Indigenous Governance Institute, *Submission 19*, p. 3; New South Wales Indigenous Chamber of Commerce, *Submission 84*, p. [1]; ILSC, *Submission 53*, p. 2; Northern Territory Indigenous Business Network, *Submission 63*, p. 3; Ms Jocelyn King, First Australians Capital, *Committee Hansard*, Canberra, 23 July 2024, p. 13; Mr Greg McIntyre, President, Law Council of Australia, *Committee Hansard*, Canberra, 23 July 2024, p. 31.

³⁴ Lowitja Institute, *Submission 36*, p. 1. See also, for example, Australian Indigenous Governance Institute, *Submission 19*, p. 2; Waminda South Coast Women’s Health and Wellbeing Aboriginal Corporation, *Submission 23*, p. 2; Jumbunna Institute for Indigenous Education and Research, *Submission 25*, pages 2–3; Federation of Victorian Traditional Owner Corporations, *Submission 40: Attachment 2*, p. 21; Northern Territory Government, *Submission 41*, p. 6; ANU First Nations Portfolio, *Submission 48*, p. 4; NIAA and Treasury, *Submission 64*, pages 2–3.

2.30 During the inquiry the Committee heard that:

- accessing finance and capital is the greatest barrier to First Nations economic development
- strengthening existing, and developing, new fiscal instruments can significantly increase economic participation
- capturing longitudinal economic and business data can support policy design and improve the institutional trust of First Nations businesses
- strengthening First Nations cultural and intellectual property will deliver significant commercial opportunities
- capacity and capability building within First Nations communities will enable the growth of emerging industries and Australia's economy
- ensuring resourcing for Prescribed Bodies Corporates is sufficient will enable economic development for Traditional Owner groups and other interested parties
- reviewing the full *Native Title Act 1993* (Cth) may deliver improvements for leveraging economic opportunities in the Indigenous estate
- co-governance of fiscal institutions and creative investment frameworks have been fundamental to the economic development of international First Nations communities.

Committee comment

2.31 The Committee recognises the resilience and ongoing strength of Aboriginal and Torres Strait Islander peoples and communities in the face of the colonial legacies of forced dispossession, and the systemic discriminatory and exclusionary practices and policies which have resulted in unacceptable levels of economic and social disadvantage. Previous efforts at closing the gaps in social and economic advantage have generally not delivered the success that is needed.

2.32 The Committee also recognises the need for a fundamental reframing of the First Nations economic narrative and embracing of broader economic and legislative settings, focused on improving economic opportunities and self-determination. Economic self-determination is not only a worthy goal in its own right, but is the key to enabling broader self-determination and the means by which social disadvantage in communities can be addressed in the long-term. The Committee recognises that growing a First Nations economy will benefit all Australians.

2.33 While a comprehensive economic policy to address Aboriginal and Torres Strait Islander disadvantage has been lacking in the past, this inquiry has shown that the Australian Government is heading in the right direction and that many of the ideas and the structures required to deliver them already exist. Throughout this inquiry, the Committee heard about many examples of Aboriginal and Torres Strait Islander peoples showing the tenacity, creativity and resourcefulness needed to carve out areas of economic opportunity for themselves and their communities. However, sustained efforts from the Australian Government in building capacity, scaling up of

investments, and removal of unnecessary legislative impediments will be needed for these successes to be replicated at the scale needed to achieve the aspirations of First Nations businesses and communities, and the outcomes set by the National Agreement on Closing the Gap.

- 2.34 The Committee acknowledges the ongoing bipartisan commitment to the National Agreement on Closing the Gap priority reforms. In particular, the Committee supports the Agreement's emphasis on partnerships and shared decision-making, and enabling Aboriginal and Torres Strait Islander peoples to take more control of their social and economic futures. First Nations-led solutions are of crucial importance to delivering the outcomes and targets set out in the Agreement.
- 2.35 The Committee specifically notes the relevance of the First Nations Economic Partnership as a vehicle for implementing a comprehensive policy framework to address the economic challenges facing Aboriginal and Torres Strait Islander peoples. The Committee encourages the Australian Government to accelerate the implementation of this partnership as a priority.
- 2.36 An evaluation of the economic benefits of government policy to First Nations peoples must take a holistic approach and include the measurement of social benefits, including improved housing, health outcomes, and reduced incarceration rates.
- 2.37 It will be important to measure the degree to which any economic benefits are distributed throughout communities.

Recommendation 1

- 2.38 The Committee recommends that the Australian Government and the Department of Treasury develop a supplementary measurement framework that incorporates the principles of Australia's *Measuring What Matters Framework*. This must include profiling and tracking to illustrate gaps and the mapping of variations of socio-economic wellbeing of First Nations communities. This will create a systematic way to track the socio-economic wellbeing of communities over time.**

3. The First Nations business sector

- 3.1 This chapter considers the economic contribution of the Aboriginal and Torres Strait Islander business sector and opportunities to support the sector as a means of contributing to the economic self-determination of Aboriginal and Torres Strait Islander peoples.

Economic contribution of First Nations businesses

- 3.2 Aboriginal and Torres Strait Islander businesses make a significant contribution to Australia's economy and the social and economic empowerment of First Nations peoples. Evidence presented to the Committee indicated that, for every dollar in revenue earned by a First Nations business, an average of \$4.41 in social and economic value is generated.¹
- 3.3 According to the University of Melbourne's Dilin Duwa Centre for Indigenous Business Leadership (Dilin Duwa), in 2021–22 there were 13,693 'alive and active' businesses in the Indigenous business ecosystem,² generating around \$16.1 billion in revenue and employing 116,795 people.³ Separate research by Dr Zannie Langford of the University of Queensland (using different methodology) showed that, in 2023, there were 16,248 Indigenous businesses in Australia managing over \$10 billion in annual revenue (up from \$4.9 billion in 2018) and employing more than 70,000 workers.⁴
- 3.4 Dilin Duwa reported that the Indigenous business sector had grown rapidly in recent years. In particular, Dilin Duwa noted the number of Indigenous-owned sole traders had almost tripled from 1,951 in 2012 to 5,377 in 2022, and the number of Indigenous-owned partnerships increased from 1,774 to 3,124 over the same period.⁵

¹ Northern Territory Indigenous Business Network (NTIBN), *Submission 63*, p. 4; Department of Industry, Science and Resources, *Submission 69*, p. 5.

² Dilin Duwa Centre for Indigenous Business Leadership (Dilin Duwa) describes the Indigenous business ecosystem as comprising three separate groups, including registered Indigenous businesses, Indigenous corporations on the Office of the Registrar of Indigenous Corporations registry, and sole traders and partnerships that are not registered as Indigenous businesses by are at least 50 per cent owned by people who self-identify as Indigenous in census and Centrelink records. See Evans, M., Polidano, C., Dahmann, S.C., Kalera, Y., Ruiz, M., Moschion, J., Blackman, M. 2024, *Indigenous Business and Corporation Snapshot Study 3.0*, University of Melbourne, p. 5.

³ Dilin Duwa, *Submission 8*, p. 3.

⁴ Dr Zannie Langford and Dr Richard Martin, *Submission 17*, p. 4, citing Dr Zannie Langford 2023, 'The geographies of Indigenous business in Australia: An analysis of scale, industry and remoteness', *Supply Nation Research Report 8*.

⁵ Dilin Duwa, *Submission 8*, p. 3.

- 3.5 Strong growth in the sector was also noted by Indigenous Business Australia (IBA), which reported that the number of First Nations business owners had grown by more than 50 per cent between 2016–21 to an estimated 29,400.⁶ This equated to approximately 4.5 per cent of Aboriginal and Torres Strait Islander peoples owning a business in 2021, which while lower than the 8.5 per cent of non-Indigenous Australians owning a business, was a substantial increase from 3.3 per cent in 2006.⁷ IBA cited estimates that, if parity was achieved, the economic contribution of the Indigenous business sector to Australia’s Gross Domestic Product (GDP) would be almost \$64 billion.⁸
- 3.6 Given the limitations on capturing Indigenous data, the economic and business contribution of First Nations peoples is likely to be underestimated. These challenges are discussed later in this chapter.
- 3.7 As well as directly benefitting business owners, growing the Indigenous business sector was identified by many inquiry participants as the key to improving employment outcomes for First Nations peoples. In its research brief on Indigenous employment in the Indigenous business sector, Supply Nation found that Aboriginal and Torres Strait Islander businesses were reported to be ‘40 to 100 hundred times’ more likely to engage Aboriginal and Torres Strait Islander employees.⁹ They added that:
- the proportional Indigenous employment rate is significantly higher among not-for-profit Indigenous businesses
 - the proportional Indigenous employment rate decreases as the revenue of Indigenous businesses increases
 - larger Indigenous businesses (revenue over \$10 million) have a proportional Indigenous employment rate at or above 30 per cent—ten times the estimate of the Indigenous proportion of the population (three per cent) as a whole.¹⁰
- 3.8 This link between First Nations businesses and strong First Nations employment outcomes has been corroborated by more recent research, which shows that Supply Nation-registered businesses employ around nine times as many Indigenous staff as would be expected based on population data alone.^{11, 12} In a joint submission, Associate Professor Kerry Bodle, Christian Eva, Professor Dennis Foley, Dr Jessica Harris and Emeritus Professor Boyd Hunter (Kerry Bodle et al) argued that the

⁶ Indigenous Business Australia (IBA), *Submission 34*, p. 6.

⁷ IBA, *Submission 34*, p. 7.

⁸ IBA, *Submission 34*, p. 7.

⁹ Supply Nation 2022, ‘Supply Nation Research and Policy Brief No. 3. Indigenous employment in the Indigenous business sector’, June, p. 1.

¹⁰ Supply Nation 2022, ‘Supply Nation Research and Policy Brief No. 3. Indigenous employment in the Indigenous business sector’, June, p. 4.

¹¹ Dr Zannie Langford and Dr Richard Martin, *Submission 17*, p. 4.

¹² The research showed that 34 per cent of employees of 3,688 Supply Nation-registered businesses identified as Indigenous, compared to 3.8 per cent of the overall population. See also Associate Professor Kerry Bodle et al, *Submission 37*, p. [1], which cites similar figures based on a 2021 Supply Nation dataset (Eva, C., Bodle, K., Foley, D., Harris, J. & Hunter, B., 2023, ‘The importance of understanding Indigenous employment in the Indigenous business sector’, *Australian Journal of Social Issues*, 58, pages 494–522).

continued growth of the sector is 'crucial' for supporting Indigenous employment; a National Agreement on Closing the Gap target.¹³ The submission discussed the 'multi-faceted' reasons for these strong employment outcomes, including that:

Indigenous businesses are more likely to facilitate workplaces that align with the values of Indigenous peoples, that are dedicated to anti-racism, that are culturally informed, and that value Indigenous knowledges, cultures, and experiences. In doing so, Indigenous businesses create jobs that work for Indigenous people.¹⁴

- 3.9 Dr Zannie Langford and Dr Richard Martin added that different types of Indigenous businesses vary in their rates of Indigenous employment. They reported on research showing that smaller businesses (earning less than \$1 million in annual revenue), employ First Nations workers at twice the rate of larger businesses, and that regional and remote businesses employ First Nations workers at twice the rate of those based in major cities.¹⁵

An unequal playing field for Indigenous and non-Indigenous businesses

- 3.10 The inquiry has brought to the surface the significant barriers that First Nations businesses face compared to non-Indigenous businesses. Many witnesses reported the historical and ongoing structural and institutional barriers that has limited their opportunity to start, grow, or sustain a viable business. Indigenous entrepreneurs reported significant challenges in accessing capital and finance from mainstream banks and financial institutions, lower commercial acumen and financial literacy, limited business networks, and less accumulated intergenerational knowledge.
- 3.11 Many witnesses also spoke of the structural trust deficit they face and mainstream institutions' perception that First Nations businesses are higher risk investments than non-Indigenous businesses.

Economic contribution of female-owned businesses

- 3.12 Recent data indicates that Indigenous women are increasingly stepping into leadership roles within their communities and businesses. They are not only fostering economic growth but also driving social change. These businesses span various sectors including education and training, arts and entertainment, construction and facilities management, and domestic goods and services sectors.¹⁶

¹³ Associate Professor Kerry Bodle et al, *Submission 37*, p. [1].

¹⁴ Associate Professor Kerry Bodle et al, *Submission 37*, pages [1]–[2].

¹⁵ Dr Zannie Langford and Dr Richard Martin, *Submission 17*, pages 3–4.

¹⁶ Supply Nation 2023, *Research Report no. 7: State of Indigenous Business – An analysis of procurement spending patterns with Indigenous businesses 2021–2022*, p. 9.

- 3.13 Supply Nation reported that ‘there are a total of 1,016 female-owned Indigenous businesses registered with Supply Nation, roughly 28 per cent of all suppliers. Of these, 471 suppliers received a total of \$513 million in contract revenue, which equates to 14 per cent of the total contract revenue reported by Supply Nation members’.¹⁷ Incorporating gender targets into the Indigenous Procurement Policy (IPP) may help stem the disadvantage for women.
- 3.14 The Department of Foreign Affairs and Trade, in a survey it commissioned Indigenous company i2i Global to undertake, found that Indigenous women are leading the export orientated business sector.¹⁸
- 3.15 The Department of the Prime Minister and Cabinet highlighted the vital importance of businesses led by Aboriginal and Torres Strait Islander women to the sector and wider Australian economy:
- Aboriginal and Torres Strait Islander women are central to the development, growth and diversity of the Indigenous business sector and the Australian economy. The roles women play—as business owners, operators, entrepreneurs, and leaders—are critical in contributing to economies at all levels, and providing role models to future generations of entrepreneurs. They also provide a unique perspective for their customers and forge a pathway for their daughters and sisters to follow.¹⁹
- 3.16 This was further reinforced in the Australian Government’s recent funding announcement of \$355 million for the creation of 1,000 new Indigenous ranger jobs, with First Nations women making up the vast majority of the 770 Indigenous ranger roles.²⁰
- 3.17 The success of Aboriginal design and art company, Kinya Lerrk Pty Ltd, highlights the broader impact of women-led Indigenous businesses (see Box 3.1).

Box 3.1 Kinya Lerrk Pty Ltd

Kinya Lerrk Pty Ltd, co-founded by artists and entrepreneurs Emma Bamblett, a Wemba Wemba, Gunditjmara, Ngadjonji and Taungurung woman, and Megan Van Den Berg, a Dja Dja Wurrung, Yorta Yorta and Boon Wurrung woman, is a design and art company that celebrates the rich cultural heritage of Australia's Aboriginal people. The name Kinya Lerrk (*Wemba Wemba* for ‘women coming together’) reflects the company's focus on collaboration and community.²¹

¹⁷ Supply Nation 2023, *Research Report no. 7: State of Indigenous Business – An analysis of procurement spending patterns with Indigenous businesses 2021–2022*, p. 9.

¹⁸ Department of Foreign Affairs and Trade 2022, ‘Inclusive trade: Ensuring Australia’s Indigenous entrepreneurs benefit from the global trading system’, *Business Envoy*, February, pages 24–25.

¹⁹ Department of the Prime Minister and Cabinet (PM&C) 2018, *The Indigenous Business Sector Strategy: Supercharging Indigenous Business Start-Up and Growth 2018–2028*, p. 7.

²⁰ PM&C 2024, ‘1,000 new jobs for expanded Indigenous Rangers program’, *Media Release*, 31 October.

²¹ Kinya Lerrk Pty Ltd, *Submission 94*, p. 1.

The company's portfolio includes a diverse range of products, from artworks and home décor items to fashion accessories and bespoke designs. Each piece is infused with the stories, symbols, and traditions of Aboriginal culture, offering a unique and authentic representation of Indigenous art focussing on Victorian creatives.

In 2022 they opened their first retail and gallery space in Melbourne/Naarm—Kinya Lerrk & Co. Through this space they have created economic opportunities for over eighty different First Nations businesses and artists. Many of these are individual artists and young people who have no other means to sell their products.

They also provide development pathways for young people including cultural workshops, gallery space, local community art programs, book launches and other community programs.

Over their first 18 months of operation, Kinya Lerrk have provided over \$150k of revenue to First Nations businesses across the country.²²

- 3.18 Submitters also noted that First Nations women face additional barriers to economic and business participation compared to First Nations men, and non-Indigenous men and women in business. Indigenous Services Canada attributed lower average financial literacy, added family responsibilities, and a lack of experience and confidence in dealing with lenders and financial institutions as significant barriers to greater economic participation in Canada.
- 3.19 Mrs Kadic, from the Noongar Chamber of Commerce, elaborated saying that First Nations women have additional familial responsibilities and lacked the female mentors or business networks to learn from:

I think the idea of that work-life balance is difficult. A lot of our women have families. They're usually caring for other people's children. There's the aspect of that whole balance. I firmly believe I'm in this spot because I didn't have, or see, anyone that was doing what I was doing, so I'm a firm believer in the idea that if you see somebody doing it, you can do it, especially when it comes to our women. I think it's a lonely journey. Having that network of supportive black women around you is so important. That's something that I struggled with at the very beginning. I probably poured more strength into programs, so being around people who are like-minded. I think educational programs, such as Melbourne Business School, are so helpful. They also build that network and support and opportunities.²³

²² Kinya Lerrk Pty Ltd, *Submission 94*, pages 1–2.

²³ Mrs Jasmine Kadic, Director, Noongar Chamber of Commerce and Industry, *Committee Hansard*, Canberra, 2 September 2024, p. 6.

- 3.20 Canada's Indigenous Entrepreneurship Initiative²⁴ provides tailored training and mentorship for aspiring and existing First Nations women in business to help them navigate these additional barriers. Some submitters recommended similar initiatives to grow the number of First Nations women in enterprise and establish a future pipeline of mentors and champions for younger generations.

Enhancing data availability

- 3.21 Others noted that there are gaps in the data available to measure the economic contribution of Aboriginal and Torres Strait Islander businesses and the challenges they face.²⁵ The importance of a complete data picture in supporting a positive narrative about Aboriginal and Torres Strait Islander peoples' economic contribution and participation in Australia and for improving institutional trust of First Nations businesses was also reinforced. As such, many submitters were of the view that estimates about First Nations businesses and their economic contribution are likely to fall short of the true calculation of First Nations businesses.

- 3.22 The Northern Territory Indigenous Business Network (NTIBN), for example, advocated for large longitudinal studies on the impacts of private Indigenous businesses on Aboriginal and Torres Strait Islander employment and career progression, as well as how money spent on for-profit Indigenous businesses is given back to the community:

I think it would demonstrate very much our claim that all Aboriginal businesses, for profit or not for profit, are social enterprises just by sheer default of their impact, because we are giving more back.²⁶

- 3.23 Dilin Duwa submitted that a long-term funding commitment would be needed to build a 'national Indigenous business and economic dataset' that can be used to produce longitudinal statistics and help understand the sector's social and economic contribution, and the impact of policies.²⁷ Dilin Duwa currently uses the Business Longitudinal Analysis Data Environment (BLADE) and the Person Level Integrated Data Asset datasets produced by the Australian Bureau of Statistics (ABS), matched against six Indigenous business registries.²⁸

- 3.24 The ABS submitted to the Committee that the wide range of information incorporated into BLADE currently allows for detailed longitudinal analysis, but with additional

²⁴ Government of Canada 2024, 'Minister Valdez announces new support for Indigenous women and youth entrepreneurs', *News release*, 8 March, <https://www.canada.ca/en/innovation-science-economic-development/news/2024/03/minister-valdez-announces-new-support-for-indigenous-women-and-youth-entrepreneurs.html>, accessed 28 October 2024.

²⁵ For example, Name withheld, *Submission 1*, p. 1; Dilin Duwa, *Submission 8*, p. 5; Screen Australia, *Submission 12*, p. 3; Australian Securities and Investments Commission (ASIC), *Submission 50*, p. 10; NTIBN, *Submission 63*, p. 9; Ms Cecilia Anthony, Industry Professor, Indigenous Policy, Jumbunna Institute for Indigenous Education and Research (Jumbunna), *Committee Hansard*, Canberra, 23 July 2024, p. 36.

²⁶ Ms Naomi Antess, Chief Executive Officer, NTIBN, *Committee Hansard*, Canberra, 23 July 2024, p. 23.

²⁷ Dilin Duwa, *Submission 8*, p. 5.

²⁸ Dilin Duwa, *Submission 8*, p. 3.

funding, BLADE could be further enhanced to provide data about Indigenous businesses.²⁹ The ABS noted that this enhancement would require the establishment of an agreed definition of Indigenous business (discussed further below) as well as integration of data from various Indigenous business registries.³⁰

- 3.25 The ABS further submitted that it expects to release more information in early 2025 about the consultation process with Aboriginal and Torres Strait Islander peoples around ways to capture employment data more frequently.³¹
- 3.26 The development of a perpetual longitudinal dataset had the support of the Department of Industry, Science and Resources. It submitted that the work had ‘strong potential to enable departmental analysis on how the Commonwealth can best support First Nations economic empowerment’.³²
- 3.27 The Australian Sustainable Finance Institute (ASFI) proposed a nationally consistent framework for corporate disclosures in relation to First Nations impacts and outcomes. It suggested such disclosure requirements would be a ‘transformative step’, meeting the needs of investors and stakeholders for ‘high-quality, comparable information’, while also facilitating better data collection and analysis ‘at scale’. ASFI advised that it is currently leading a First Nations Disclosure project in collaboration with its First Nations Reference Group, and would welcome the Australian Government’s support.³³ At a public hearing, ASFI explained that ‘disclosures bring better practice’,³⁴ drawing an analogy to legislatively required climate change disclosures:

What has played out with climate disclosures is—as soon as you are encouraging and requiring disclosure, that means that better practice is almost automatically generated because corporates, generally, are not comfortable disclosing unmitigated risks or disclosing opportunities without a plan to capitalise on those opportunities. That’s the rationale and the reason for the interest and support for more consistent and credible disclosures right across the corporate and financial institution ecosystem across Australia.³⁵

- 3.28 Corporate reporting mechanisms were similarly supported in a submission from Mr Tyson McEwan.³⁶

²⁹ Australian Bureau of Statistics (ABS), *Submission 104*, p. 3.

³⁰ ABS, *Submission 104*, p. 3.

³¹ ABS, *Submission 104.1*, pages 1–2.

³² Department of Industry, Science and Resources (DISR), *Submission 69*, p. 5.

³³ Australian Sustainable Finance Institute (ASFI), *Submission 15*, p. 5.

³⁴ Ms Tiarne Shutt, Program Lead, First Nations and Finance, ASFI, *Committee Hansard*, Canberra, 24 September 2024, p. 9.

³⁵ Ms Kristy Graham, Chief Executive Officer, ASFI, *Committee Hansard*, Canberra, 24 September 2024, p.13.

³⁶ Mr Tyson McEwan, *Submission 51*, pages 4–6.

Supporting First Nations business development

3.29 Although Aboriginal and Torres Strait Islander peoples have a long history of trade and commerce,³⁷ intergenerational impacts of colonisation and the deliberate exclusion of First Nations peoples from the economy, have meant that the vibrant First Nations business sector that has emerged today is relatively new.³⁸ Australian Government policies and programs have had an important role in helping to build the capability of Aboriginal and Torres Strait Islander peoples to run successful private enterprises that contribute to economic self-determination.

First Nations procurement policies

3.30 Like with other small businesses, one of the key drivers for the rapid growth of the Indigenous business sector in recent years has been the Australian Government's IPP (Box 3.2), as well as similar procurement policies introduced by state and territory governments and private sector companies.³⁹ In general terms, these policies are designed to increase procurement from Aboriginal and Torres Strait Islander businesses, including by setting minimum targets for the awarding of contracts. IBA told the Committee that, since being established in 2015, the IPP has generated over \$9.5 billion in contracting opportunities.⁴⁰

Box 3.2 Indigenous Procurement Policy

The primary purpose of the Australian Government's IPP is to 'stimulate Indigenous entrepreneurship, business and economic development, providing Indigenous Australians with more opportunities to participate in the economy'.⁴¹ The IPP has three elements:

- Annual targets for the volume and value of contracts to be awarded to Indigenous businesses by the Commonwealth and each Portfolio.

³⁷ Aarnja Ltd, *Submission 22*, p. 1; Australian National University First Nations Portfolio, *Submission 48*, p. 2; Mr Tyson McEwan, *Submission 51*, p. 1.

³⁸ Associate Professor Michelle Evans, Director, Dilin Duwa, *Committee Hansard*, Melbourne, 19 July 2024, p. 11; Mr Rueben Berg, Co-Chair, First Peoples Assembly of Victoria, *Committee Hansard*, Melbourne, 19 July 2024, p. 30; First Australians Capital, *Submission 56*, pages 4–5.

³⁹ For example, Fortescue Metal Group and Rio Tinto. See Business Council for Sustainable Development, *Submission 71*, p. [6]; Dr Zannie Langford and Dr Richard Martin, *Submission 17*, p. 6. See also Business Council of Australia 2023, *Raising the Bar: A guide for Business Council of Australia members to support the growth of Indigenous businesses*.

⁴⁰ IBA, *Submission 34*, p. 7.

⁴¹ National Indigenous Australians Agency (NIAA), 'Indigenous Procurement Policy', <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-ipp>, accessed 28 August 2024.

- The Mandatory Set Aside (MSA) requires that Indigenous businesses be given an opportunity to demonstrate value for money before a general approach to market. The MSA applies to procurements to be delivered in remote Australia and for all other procurements wholly delivered in Australia valued between \$80,000–\$200,000 (GST inclusive).
- Indigenous employment and business participation targets apply to contracts wholly delivered in Australia valued at \$7.5 million or more in 19 industries, known as Mandatory Minimum Indigenous Participation Requirements (MMR).⁴²

3.31 Under the IPP, the annual percentage target for the volume of contracts awarded to First Nations businesses is set at three per cent, while the target for the value of contracts is increasing progressively in accordance with Table 3.1.

Table 3.1 IPP annual targets: value of contracts awarded to Indigenous enterprises

Financial year	Target (by value of contracts)
2019–20	1 per cent
2020–21	1.25 per cent
2021–22	1.5 per cent
2022–23	1.75 per cent
2023–24	2 per cent
2024–25	2.25 per cent
2025–26	2.5 per cent
2026–27	2.75 per cent
2027–28	3 per cent

Source: National Indigenous Australians Agency, *Indigenous Procurement Policy*, December 2020, p. 12.

3.32 According to the National Indigenous Australians Agency (NIAA), in the 2022–23 financial year the Australian Government and all its portfolios exceeded their targets of three per cent of the number and 1.75 per cent of the value of accessible contracts being awarded to Indigenous businesses.⁴³ This resulted in more than 1,400 businesses securing at total of more than 12,000 new contracts with Commonwealth agencies, valued at over \$1.4 billion.⁴⁴

⁴² NIAA, 'Indigenous Procurement Policy', <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-ipp>, accessed 28 August 2024.

⁴³ NIAA, 'Indigenous Procurement Policy', <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-ipp>, accessed 28 August 2024.

⁴⁴ NIAA, 'Indigenous Procurement Policy', <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-ipp>, accessed 28 August 2024.

- 3.33 The majority of participants in the inquiry supported the IPP. The Northern Australia Indigenous Reference Group told the Committee that the IPP creates opportunities for Aboriginal and Torres Strait Islander enterprises to ‘grow and prosper, [which] not only contributes to the economic development of Aboriginal and Torres Strait Islander communities but also helps in addressing socio-economic disparities that have historically marginalised our people’.⁴⁵ Alongside other improvements (discussed in part below), it recommended increasing the IPP targets to a minimum of four per cent of both the number and value of contracts being awarded to Indigenous businesses, in order to ‘better align with population parity’.⁴⁶
- 3.34 Supply Nation described the impact of the IPP on Indigenous businesses as ‘massive’. Ms Kate Russell, Supply Nation’s Chief Executive Officer, told the Committee that the ‘tier 2’ effects of the policy go beyond the direct procurement by government:
- Let’s take the Olympic Games as an example. In the future, the government is going to build some stadiums; it’s an imaginary example. There might not be an Indigenous supplier who is tier 1 who is a prime contractor to build a stadium, and that contract may go to someone like JLL. As a part of that, because of the government’s commitment of three per cent of contestable spend going to an Indigenous business, it would be up to JLL to also meet that target. I think this is often misunderstood. Yes, government itself is a huge procurer of Indigenous businesses, but it also supports and facilitates spend through corporates who are contracting to government.⁴⁷
- 3.35 However, many contributors also noted the IPP’s limitations. For example, Dr Langford and Dr Martin wrote that the opportunities provided by the IPP are concentrated in a relatively narrow range of sectors. To better support rural business growth and employment outcomes, they recommended ‘expanding the reach of the IPP across a wider range of industries [and] preferencing enterprises from businesses which already demonstrate strong social benefits and training and employment in rural areas’.⁴⁸ The National Native Title Council similarly argued that the IPP should be amended to specifically encourage procurement through Traditional Owner representative institutions in regional, remote and very remote locations.⁴⁹

⁴⁵ Northern Australia Indigenous Reference Group, *Submission 66*, p. [7].

⁴⁶ Northern Australia Indigenous Reference Group, *Submission 66*, p. [8]. The submission noted that Aboriginal and Torres Strait Islander peoples make up approximately 3.8 per cent of Australia’s population.

⁴⁷ Mrs Kate Russell, Chief Executive Officer, Supply Nation, *Committee Hansard*, Canberra, 24 September 2024, p. 4.

⁴⁸ Dr Zannie Langford and Dr Richard Martin, *Submission 17*, p. 6. Emphasis in original.

⁴⁹ National Native Title Council, *Submission 62*, p. 15.

- 3.36 Ms Jocelyn King of First Nations Capital told the Committee that the IPP has been an ‘enormous enabler’ but emphasised that it is ‘not the only enabler’. She argued that, currently, small business engagement with the IPP is limited by their difficulties in accessing capital.⁵⁰
- 3.37 Ms Shannon Mallison, representing Yarpa, told the Committee that procurement policies had an important role to play in driving behavioural change and overcoming unconscious bias against Indigenous businesses.⁵¹ However, she argued that it is also important to avoid ‘unrealistic expectations’ about the power of the policy and to ensure that that Indigenous businesses are not solely dependent on their status as an Indigenous business to succeed.⁵²
- 3.38 The New South Wales (NSW) Indigenous Chamber of Commerce (ICC) submitted that ‘further information, awareness and training’ was needed across government to ensure the ‘proper application’ of the IPP and the analogous NSW Aboriginal Procurement Policy.⁵³
- Business owners often advise they have to explain the application of these policies to a purchasing officer or representative of an agency, and business owners further advise that despite meeting the criteria of both the procurement value / activity and the applicable section of the policies, they were required to undertake a formal tender process, or not invited to tender at all.⁵⁴
- 3.39 The First Nations Foundation made a similar point in its submission, pointing to a recent report of the Australian Small Business and Family Enterprise Ombudsman that found ‘several imperfections’ in mechanisms intended to foster First Nations entrepreneurship and commercial opportunities, including ‘a poor understanding of exemptions for First Nations businesses, a disconnect between [Commonwealth Procurement Rules] and mandatory Whole-of-Australian-Government panels, and conflicting incentives between sovereign capability policies and the overarching rules designed to further small-to-medium enterprises and First Nations businesses’.⁵⁵
- 3.40 The IPP is currently being reviewed by the Australian Government. At a public hearing, the NIAA told the Committee that while there has been success in the IPP, the review provides an opportunity to address some of the challenges.⁵⁶

⁵⁰ Ms Jocelyn King, Executive Director, First Nations Capital, *Committee Hansard*, Canberra, 23 July 2024, p. 17.

⁵¹ Ms Shannon Mallison, Acting Director, Yarpa, *Committee Hansard*, Canberra, 23 July 2024, pages 10–11.

⁵² Ms Mallison, Yarpa, *Committee Hansard*, Canberra, 23 July 2024, p. 11.

⁵³ New South Wales (NSW) Indigenous Chamber of Commerce (ICC), *Submission 84*, p. [2].

⁵⁴ NSW ICC, *Submission 84*, p. [2].

⁵⁵ First Nations Foundation, *Submission 6*, p. 6.

⁵⁶ Mr Ben Burdon, Group Manager, Economic Empowerment Group, NIAA, *Committee Hansard*, Canberra, 28 June 2024, p. 24.

- 3.41 The NSW Government told the Committee about the recent review of its Aboriginal Procurement Policy and encouraged the Committee to consider its recommendations.⁵⁷

‘Blak-cladding’ concerns

- 3.42 One of the challenges being examined as part of the NIAA’s IPP review is the perceived issue of ‘blak-cladding’.⁵⁸ While there is no agreed meaning of the term,⁵⁹ it can be generally understood to refer to non-Indigenous businesses unfairly taking advantage of programs and policies such as the IPP that are intended to benefit First Nations businesses.

- 3.43 Multiple participants in the inquiry raised their concerns about blak-cladding with the Committee.⁶⁰ For example, Ms Gill Mailman, representing the Northern Australia Indigenous Reference Group, described blak-cladding as the ‘biggest problem’ with the IPP:

It’s a cutthroat thing out there. If someone can find a way that they can get into this IPP and make a lot of money, that money is not going where it was intended to, which is to building the capacity and capability of the Aboriginal and Torres Strait Islander peoples.⁶¹

- 3.44 The most significant concerns about blak-cladding raised with the Committee involved joint ventures between Aboriginal and Torres Strait Islander-led and non-Indigenous organisations. For example, Mr John O’Driscoll, of Western Australia’s Indigenous Emerging Business Forum Aboriginal Corporation, identified joint ventures as the ‘No. 1’ barrier for First Nations businesses.⁶² He told the Committee that the Indigenous partner often did not benefit from these arrangements:

A true joint venture is where two entities enter into an agreement, and both entities benefit. The joint ventures that are happening here in this state, under these projects that were just mentioned, are absolutely black-cladding. The reason is that there is no upskilling of the Aboriginal partner. They’re basically

⁵⁷ Mr Shaun Cumming, Director, First Nations Economic Wellbeing, Treasury, New South Wales, *Committee Hansard*, Canberra, 24 September 2024, p. 49.

⁵⁸ NIAA 2023, *Indigenous Procurement Policy (IPP) reform: Discussion Paper*, p. 11.

⁵⁹ Associate Professor Kerry Bodle et al, *Submission 37*, pages [3]–[4]; Ms Russell, Supply Nation, *Committee Hansard*, Canberra, 24 September 2024, p. 1.

⁶⁰ Ms Gill Mailman, Member, Northern Australia Indigenous Reference Group, *Committee Hansard*, Canberra, 28 June 2024, p. 51; Ms Laura Thompson, Chief Executive Officer and Co-Founder, Clothing the Gaps, *Committee Hansard*, Melbourne, 19 July 2024, p. 38; Ms Deb Barwick, Chief Executive Officer, NSW ICC, *Committee Hansard*, Canberra, 23 July 2024; ASIC, *Submission 50*, p. 10; Associate Professor Kerry Bodle et al, *Submission 37*, pages [3]–[4]; NTIBN, *Submission 63*, p. 13; NSW Government, *Submission 95*, pages 5–6; First Nations Affairs, *Submission 70*, p. 1; DISR, *Submission 69*, p. 6; Charles Darwin University, *Submission 58*, p. 9; First Nations Foundation, *Submission 6*, p. 10.

⁶¹ Ms Mailman, Northern Australia Indigenous Reference Group, *Committee Hansard*, Canberra, 28 June 2024, p. 51.

⁶² Mr John O’Driscoll, Chief Executive Officer, Indigenous Emerging Business Forum Aboriginal Corporation, *Committee Hansard*, Perth, 2 September 2024, p. 46.

getting a wage 99 per cent of the time, and as soon as that project is done, 'See ya later'. That is not a joint venture.⁶³

- 3.45 Ms Naomi Antess, Chief Executive Office of the NTIBN, warned the Committee about power imbalances in some joint ventures and cited an example of a non-Indigenous company that had benefited from the IPP for more than 12 years in circumstances where the Indigenous partner subcontracted 'all of the work back to the non-Indigenous entity'.⁶⁴ Ms Antess argued for turnover caps and for skills transfer to the Indigenous partner within a certain timeframe to be mandatory.⁶⁵
- 3.46 Ms Deb Barwick, of the NSW ICC, also raised concerns about large corporate organisations setting up an Indigenous consulting arm, which then competed with the Indigenous-owned and controlled businesses that the chamber seeks to support.⁶⁶
- 3.47 Ms Susan Moylan-Coombs, of the Business Council for Sustainable Development Australia, was more optimistic in her evidence to the Committee. She acknowledged that there had been concerns with joint ventures in the past, but considered this to be a diminishing problem as awareness has improved and the Indigenous business sector has grown:

Now the tide is turning, people are much more aware of it, and Indigenous entrepreneurs are getting much more business savvy. So I think it's had a focus put on it and it will probably end up being phased out, and Indigenous business operators and entrepreneurs will be operating under their own steam and agency.⁶⁷

Defining a First Nations business

- 3.48 According to IBA, defining a First Nations business can be complex because of the many legal structures available. As such, IBA has developed its own processes for testing the structure of entities seeking support.⁶⁸ The IBA explained that its process depended on the entity type and may include:
- shareholding structures include at least 50 per cent First Nations shareholding
 - financial, economic, and social benefits and outcomes for Aboriginal and Torres Strait Island peoples and communities, and/or
 - First Nations partners or shareholders must be actively involved in the management and decision making of the business.⁶⁹

⁶³ Mr O'Driscoll, Indigenous Emerging Business Forum Aboriginal Corporation, *Committee Hansard*, Perth, 2 September 2024, p. 47.

⁶⁴ *Committee Hansard*, Canberra, 30 September 2024, p. 19.

⁶⁵ *Committee Hansard*, Canberra, 30 September 2024, p. 19.

⁶⁶ Ms Barwick, NSW ICC, *Committee Hansard*, Canberra, 23 July 2024, p. 44.

⁶⁷ Ms Susan Moylan-Coombs, Board Director, Business Council for Sustainable Development Australia, *Committee Hansard*, Canberra, 23 July 2024, p. 25.

⁶⁸ IBA, *Submission 34*, p. 6.

⁶⁹ IBA, *Submission 34*, p. 6.

3.49 IBA added that ‘actively involved’ can mean the First Nations parties regularly:

- perform, or manage the performance of services the business provides
- manage the sale of goods and services of the business
- manage other business activities, or
- exercise control over activities related to business finance, strategy, and growth.

This is a flexible approach that accommodates the unique circumstances of the businesses, while ensuring only eligible businesses receive support.⁷⁰

3.50 For the purposes of the IPP, a business must be at least 50 per cent First Nations owned to be considered an Indigenous enterprise.⁷¹ The NIAA contracts Supply Nation (Box 3.3) to maintain a free registry of Indigenous enterprises that meet this definition, known as Indigenous Business Direct. Businesses may also be recognised as Indigenous enterprises if they are registered under the Office of The Registrar for Indigenous Corporations, or if a procuring official documents steps taken to assure themselves that the business is at least 50 per cent Indigenous owned.⁷²

Box 3.3 Supply Nation

Supply Nation is a not-for-profit organisation that aims to grow the Aboriginal and Torres Strait Islander business sector through the ‘promotion of supplier diversity in Australia’.⁷³

Supply Nation’s work helps both governments and the private sector to find First Nations businesses across Australia to partner with or buy from.

It is free and voluntary for a business to register with Supply Nation.⁷⁴

Supply Nation uses a five-step process to make sure businesses are at least 50 per cent First Nations owned, and conducts yearly and spot check audits to ensure the business still meets the criteria.⁷⁵ It also receives updates about ownership changes from the Australian Securities and Investments Commission (ASIC) in real time and reassesses businesses each year for eligibility.

There are stricter rules for joint ventures to be able to access the IPP. To be eligible, joint ventures must be 50 per cent First Nations owned and controlled and have a plan to grow:

- the First Nations business partner’s capability
- it’s First Nations workforce.⁷⁶

⁷⁰ IBA, *Submission 34*, p. 6.

⁷¹ NIAA, *Indigenous Procurement Policy*, December 2020, p. 10.

⁷² NIAA, *Indigenous Procurement Policy*, December 2020, p. 10.

⁷³ Supply Nation, *Submission 10*, p. 2.

⁷⁴ NIAA 2023, *Indigenous Procurement Policy (IPP) reform: Discussion Paper*, p. 7.

⁷⁵ NIAA 2023, *Indigenous Procurement Policy (IPP) reform: Discussion Paper*, p. 7.

⁷⁶ NIAA 2023, *Indigenous Procurement Policy (IPP) reform: Discussion Paper*, p. 7.

Supply Nation reviews each joint ventures' progress against these plans every year.⁷⁷

As at September 2024, there were more than 5,000 businesses registered with Supply Nation.⁷⁸ In 2022–23, Supply Nation:

- conducted 4,390 audits
- evaluated 853 new registrations.⁷⁹

3.51 Apart from Supply Nation, there are also a variety of state-based Indigenous business directories, such as the Aboriginal Business Directory Western Australia (WA). The Aboriginal Business Directory WA is supported by the Indigenous Emerging Business Forum Aboriginal Corporation and the Industry Capability Network.⁸⁰ The Industry Capability Network told the Committee about the success of one of its members, a South Australian-based Indigenous business known as Intract Australia (see Box 3.4).⁸¹

Box 3.4 Intract Australia

Intract is an Indigenous company involved in civil construction, building construction, building maintenance, asbestos remediation and demolition services. It primarily works with the Department of Defence, Tier 1 contractors and the South Australian Department of Infrastructure and Transport. Most of its work is secured through First Nations Participation Policies.⁸² Intract specialises in projects in remote and regional areas.⁸³

Intract is reportedly one of Australia's largest private sector employers of First Nations personnel, with more than 100 Indigenous staff in 16 offices and workshops across Australia.⁸⁴ The majority of staff are South Australia based, followed by the Northern Territory, including Darwin, Katherine and Arnhem Land. It also operates in the Torres Strait. For interstate work, the company recruits through direct employment, internal pre-employment training programs and Indigenous labour hire companies.⁸⁵

⁷⁷ NIAA 2023, *Indigenous Procurement Policy (IPP) reform: Discussion Paper*, p. 7.

⁷⁸ Ms Russell, Supply Nation, *Committee Hansard*, Canberra, 24 September 2024, p. 4.

⁷⁹ NIAA 2023, *Indigenous Procurement Policy (IPP) reform: Discussion Paper*, p. 7.

⁸⁰ Industry Capability Network, *Submission 74*, p. 3; Mr O'Driscoll, Indigenous Emerging Business Forum Aboriginal Corporation, *Committee Hansard*, Perth, pages 46, 50.

⁸¹ Industry Capability Network, *Submission 74*, pages 9–10.

⁸² Industry Capability Network, *Submission 74*, p. 9.

⁸³ Intract Indigenous Contractors n.d, *The Intract Way: Closing the Gap for Indigenous Australians*, p. [5].

⁸⁴ Industry Capability Network, *Submission 74*, p. 9.

⁸⁵ Industry Capability Network, *Submission 74*, p. 9.

Intract reports that it adopts a ‘Job First. Train on the job, stay on the job’ approach to employment.⁸⁶ It invests in its employees with ‘comprehensive in-house programs that support education, training and upskilling, cultural safety in the workplace, flexible employment models and pastoral care including financial counselling and support’.⁸⁷ It also assists its employees in other ways, such as help applying for home loans, support for families and school attendance, and assistance opening savings accounts and creating budgets.⁸⁸

- 3.52 The NSW ICC told the Committee that there is currently a lack of public reporting on Indigenous procurement policies, which reduces both accountability and compliance. It recommended that the publishing of reports on Indigenous procurement and participation should be obligatory, and subject to more rigorous auditing. It added that it had received examples from its members ‘on several occasions’ about contracts ‘not having any Aboriginal participation at all even though it has been a requirement’.⁸⁹
- 3.53 The Northern Australia Indigenous Reference Group similarly recommended improving transparency and accountability in Indigenous procurement by:
- Strengthening monitoring and compliance measures in funding agreements and procurement contracts between the Commonwealth and the States and Territories and between governments and contractors.
 - Applying financial and other penalties in funding agreements when stated Indigenous procurement outcomes are not met.
 - Funding an Audit Office or Compliance Officers to ensure the mandatory minimum requirements have been applied to contracts. In addition to reporting noncompliance, the auditor will also have the authority to enact penalties for noncompliance.⁹⁰
- 3.54 The NIAA’s IPP review has proposed a range of reforms to address concerns about blak-cladding. One of the key proposals is to strengthen the definition of Indigenous business to require a least 51 per cent First Nations ownership, management and control.⁹¹
- 3.55 The NIAA notes that, although all states and territories except the Northern Territory currently only require 50 per cent ownership in procurement policies, there has been a trend toward 51 per cent requirements in overseas jurisdictions, including the United States, South Africa and Canada.⁹² Meanwhile, the National Agreement on Closing the Gap already defines an Aboriginal and Torres Strait Islander organisation as a business, charity, or not for profit organisation that has at least 51 per cent

⁸⁶ Intract Indigenous Contractors n.d., *The Intract Way: Closing the Gap for Indigenous Australians*, p. [5].

⁸⁷ Intract Indigenous Contractors n.d., *The Intract Way: Closing the Gap for Indigenous Australians*, p. [3].

⁸⁸ Intract Indigenous Contractors n.d., *The Intract Way: Closing the Gap for Indigenous Australians*, p. [3].

⁸⁹ NSW ICC, *Submission 84*, p. [3].

⁹⁰ Northern Australia Indigenous Reference Group, *Submission 66*, p. [9].

⁹¹ NIAA 2023, *Indigenous Procurement Policy (IPP) reform: Discussion Paper*, p. 16.

⁹² NIAA 2023, *Indigenous Procurement Policy (IPP) reform: Discussion Paper*, p. 14.

Aboriginal and/or Torres Strait ownership and/or directorship and 'is operated for the benefit of Aboriginal and Torres Strait Islander communities'.⁹³

- 3.56 There was strong support amongst participants in the inquiry for the proposed strengthening of the definition of First Nations business.⁹⁴ The Northern Australia Indigenous Reference Group recommended that there should be a consistent requirement of at least 51 per cent Indigenous ownership and control, with consideration given to a 'tiered' approach in which businesses and contractors that are fully Indigenous owned and controlled receiving first preference.⁹⁵ The Group also recommended applying IPP requirements to the full supply chain, 'including head contractors, sub-contractors and suppliers'.⁹⁶
- 3.57 Dilin Duwa, however, cautioned that any proposal to increase the definition of an Indigenous business to a minimum 51 per cent ownership would exclude 88 per cent of all currently trading partnerships that have 50 per cent Indigenous ownership.⁹⁷ It suggested discussion is needed about the application of the definition for registries 'as compared to a more general acceptable Indigenous business definition for businesses not choosing to register for procurement and visibility reasons'.⁹⁸
- 3.58 Kerry Bodle et al submitted that the 'potential for non-Indigenous owned businesses to access contracts through the IPP via the MMRs component of the policy' is a concern that requires greater focus, arguing that this aspect of the IPP appears to be the most at risk of not meeting the policy's overarching objectives if 'strict compliance' is not ensured.⁹⁹ They called for 'tightened compliance standards' for not only Indigenous businesses, but also non-Indigenous businesses accessing the scheme.¹⁰⁰
- 3.59 In contrast, the ASFI reported that current verification processes for determining the status of First Nations businesses 'can impose significant administrative burdens' and called for the Government to create 'streamlined' verification processes in consultation with First Nations communities and organisations.¹⁰¹ ASFI also cautioned that a 51 per cent First Nations ownership requirement may create unintentional barriers to growth in business capital, as access to diverse funding sources like venture capital and crowdfunding 'often entail changes in ownership structures'.¹⁰² ASFI argued for a more 'nuanced' approach to ensure that First Nations businesses

⁹³ NIAA 2023, *Indigenous Procurement Policy (IPP) reform: Discussion Paper*, p. 10.

⁹⁴ Supply Nation, *Submission 10*, p. 5; NTIBN, *Submission 63*, pages 13–14; Northern Australia Indigenous Reference Group, *Submission 66*, p. [8]; NSW ICC, *Submission 84*, p. [4]; Ms Mailman, Northern Australia Indigenous Reference Group, *Committee Hansard*, Canberra, 28 June 2024, p. 51; Ms Moylan-Coombs, Business Council for Sustainable Development Australia, *Committee Hansard*, Canberra, 23 July 2024, p. 25; Ms Anthony, Jumbunna, *Committee Hansard*, Canberra, 23 July 2024, p. 36.

⁹⁵ Northern Australia Indigenous Reference Group, *Submission 66*, p. 8.

⁹⁶ Northern Australia Indigenous Reference Group, *Submission 66*, p. 8.

⁹⁷ Dilin Duwa, *Submission 8*, p. 4.

⁹⁸ Dilin Duwa, *Submission 8*, p. 4.

⁹⁹ Associate Professor Kerry Bodle et al, *Submission 37*, p. [4].

¹⁰⁰ Associate Professor Kerry Bodle et al, *Submission 37*, p. [4].

¹⁰¹ ASFI, *Submission 15*, p. 10.

¹⁰² ASFI, *Submission 15*, p. 10.

can continue to access preferential procurement as they grow and attract more investors.¹⁰³

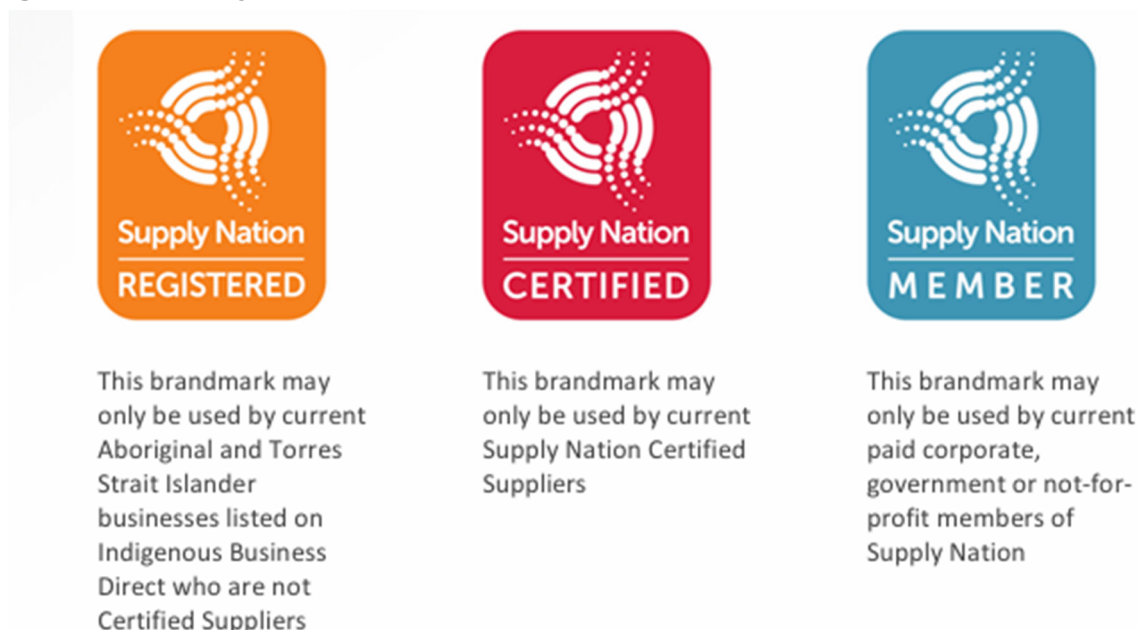
Certification and labelling

3.60 As part of its public register, Supply Nation recognises two ‘levels’ of ownership for First Nations businesses:

- ‘Registered’ businesses: are certified as being at least 50 per cent Indigenous owned, including equal partnerships with non-Indigenous owners.
- ‘Certified’ businesses: are certified as being 51 per cent or more Indigenous owned, managed and controlled, consistently with the NIAA’s proposal for a stronger definition of First Nations business.¹⁰⁴

3.61 Supply Nation has developed verification branding (Figure 3.1) as a way for businesses to show their level of registration or certification status. It also provides ‘membership’ branding for paid government and corporate buying organisations which ‘share our vision of a prosperous, vibrant and sustainable Indigenous business sector’.¹⁰⁵

Figure 3.1 Supply Nation verification brands



Source: Supply Nation, ‘Use of Supply Nation verification brands’.¹⁰⁶

¹⁰³ Ms Shutt, ASFI, *Committee Hansard*, Canberra, 24 September 2024, pages 12, 14.

¹⁰⁴ Supply Nation n.d., ‘Supply Nation overview fact sheet’, *Fact Sheet*, <https://supplynation.org.au/resources/fact-sheets/>, accessed 17 September 2024.

¹⁰⁵ Supply Nation n.d., ‘Supply Nation overview fact sheet’, *Fact Sheet*, <https://supplynation.org.au/resources/fact-sheets/>, accessed 17 September 2024.

¹⁰⁶ Available at <https://supplynation.org.au/resources/fact-sheets/>, accessed 17 September 2024.

3.62 Ms Laura Thompson, the Chief Executive Officer and Co-Founder of Indigenous retailer Clothing The Gaps, supported the development of a product certification logo similar to the 'Made in Australia' logo to identify authentic products made by Aboriginal businesses.¹⁰⁷ She argued that such certification should be followed by a government-funded marketing campaign to educate consumers about the benefits of supporting Aboriginal and Torres Strait Islander businesses:

We say it all the time: 'Where you spend your dollar is a vote on what country and what world you want to see'. Certainly, supporting black self-determination when you purchase any product, whether that be coffee or tea, is one way that you can actually support reconciliation in this country. That sort of messaging on a grand scale, supported by the government, would certainly raise the profile of so many Aboriginal businesses, which I believe would then get us to a point where we're able to think of what exporting would look like.¹⁰⁸

3.63 Ms Thompson noted that, currently, many Indigenous retailers are struggling due to cost of living pressures in the economy and because businesses selling directly to individuals do not benefit from government procurement policies or other forms of financial support.¹⁰⁹ Ms Thompson advocated for an Indigenous retail association to be formed to collectively promote Aboriginal and Torres Strait Islander retailers, help those businesses learn off each other and to facilitate mentorship from and collaborations with non-Indigenous companies.¹¹⁰

3.64 Supply Nation told the Committee that while its logos are already used by many Indigenous businesses to identify themselves, the lack of a consistent definition of Indigenous business across the Commonwealth, states and territories is the main challenge to establishing a widely recognised 'Australian-made' style logo for Indigenous businesses.¹¹¹

3.65 New Zealand and Canada have both established trademark labels. Launched in 2002, Toi Iho is a trademark for quality and authenticity in Māori arts, developed through extensive consultation. The trademark was managed by Creative NZ until 2009 when they decided to remove funding. The administration of the trademark transferred to the Toi Iho Charitable Trust in 2013. The Trust maintains a register of artists and supports the advancement of Māori art.¹¹²

3.66 In 1958, the Canadian Government established the Igloo Tag Trademark, 'the internationally-recognised symbol of authenticity for Inuit visual arts for over six decades.'¹¹³ The Inuit Art Foundation took full ownership and control of the trademark in 2017 after the then Indigenous and Northern Affairs Canada (INAC) determined it was most appropriate to transfer the trademark to an Inuit-led arts

¹⁰⁷ Ms Thompson, *Committee Hansard*, Melbourne, 19 July 2024, p. 38.

¹⁰⁸ Ms Thompson, *Committee Hansard*, Melbourne, 19 July 2024, p. 38.

¹⁰⁹ Ms Thompson, *Committee Hansard*, Melbourne, 19 July 2024, pages 37, 40.

¹¹⁰ Ms Thompson, *Committee Hansard*, Melbourne, 19 July 2024, pages 38–39, 40.

¹¹¹ Ms Russell, Supply Nation, *Committee Hansard*, Canberra, 24 September 2024, p. 2.

¹¹² Toi Iho 2024, 'Mō mātou. About us', <https://www.toiho.org.nz/about>, accessed 4 November 2024.

¹¹³ Inuit Art Foundation n.d., 'About the Igloo Tag', <https://www.inuitartfoundation.org/igloo-tag-trademark/about-igloo-tag>, accessed 4 November 2024.

organisation. The trademark is applied to Inuit art including sculptures, textile art, crafts, ceramics, jewellery, and fashion goods. Licensees are assigned a unique identification number and are not allowed to let anyone else use the Igloo Tag Trademark. Organisations promoting Inuit art (such as galleries which promote and have Inuit art for sale) are also bound by the Inuit Art Foundation's guidelines, which provide information on how the trademark can be used in marketing and promotional materials.¹¹⁴

- 3.67 The Saami Council owns the Sámi Made trademark which can be used on by physical and digital products (clothes, jewellery, lávvus, books, food products, cosmetics, souvenirs).¹¹⁵
- 3.68 Some Latin American countries (Panama, Bolivia, Peru and Columbia) also have legislated trademark laws stipulating 'that one may not register any sign which consists in the name, distinctive words, letters, characters or signs used by indigenous communities without the express agreement of the relevant communities'.¹¹⁶
- 3.69 Chapter 5 considers evidence received to this inquiry on supporting First Nations producers and businesses to protect their resources and traditional knowledge through Certification Trademarks (CTMs) and Geographical Indicators (GIs).¹¹⁷

Indigenous Chambers of Commerce and other business networks

- 3.70 Despite the growing success of the First Nations business sector, the Committee heard from participants in the inquiry that there remains a need for government investment in services to help build the capability and capacity of individual businesses.¹¹⁸
- 3.71 There are range of organisations currently providing dedicated support services to First Nations businesses. The Committee benefited from the views of several of these organisations during the inquiry, including:
- *NSW Indigenous Chamber of Commerce*, an independent, Indigenous controlled and self-funded not-for-profit organisation representing more than 500 majority-

¹¹⁴ Inuit Art Foundation n.d., 'About the Igloo Tag', <https://www.inuitartfoundation.org/igloo-tag-trademark/about-igloo-tag>, accessed 4 November 2024.

¹¹⁵ Sámi Trademarks n.d., 'Sámi Made', <https://samitrademarks.com/om-sami-made/>, accessed 4 November 2024.

¹¹⁶ European Commission 2024, 'Latin America – How Latin America countries protect their traditional knowledge through IP', https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/how-latin-america-countries-protect-their-traditional-knowledge-through-ip-2020-01-16_en, accessed 4 November 2024.

¹¹⁷ See Chapter 5, paragraphs 5.28–5.41.

¹¹⁸ Dr Zannie Langford and Dr Richard Martin, *Submission 17*, p. 3; Tagai Kemer Kemer Zugubal, *Submission 89*, p. 5; Queensland Nurses and Midwives' Union, *Submission 33*, p. 4; South Australian Aboriginal Community Controlled Organisation Network, *Submission 93*, p. 3; First Nations Clean Energy Network, *Submission 82*, p. 8.

owned Aboriginal and Torres Strait Islander enterprises in NSW. It operates two business hubs and seeks to offer a 'one stop shop service to government and industry buyers who are committed to diversity in their supply chain and workforce'.¹¹⁹

- *Northern Territory Indigenous Business Network*, the peak body representing Indigenous Businesses in the Northern Territory 'assists with establishing, nurturing, and growing an interconnected network of Indigenous owned businesses throughout the NT'.¹²⁰ The Indigenous Business Network provides services through its Indigenous Business & Employment Hub which 'connects Indigenous businesses and entrepreneurs to industry, opportunities and employment advice [as well as supporting] Indigenous Job seekers'.¹²¹
- *Yarpa*, a partnership between the NSW Aboriginal Land Council and the Australian Government, provides 'business advice, training and support across an array of key business areas to First Nation businesses at all stages of the business lifecycle; Industry Relationship and Strategic Partnerships Managers access to professional training and development; and works with employers to understand the First Nations employment landscape and support them to create pathways to meaningful employment'.¹²²
- *Indigenous Emerging Business Forum Aboriginal Corporation*, 'focuses on encouraging and assisting employment and business development opportunities for First nations peoples'. One of their 'key objectives is to bridge the digital divide, allowing for greater access to information and technology for community and economic development'.¹²³
- *Noongar Chamber of Commerce and Industry* supports 'contact between Aboriginal owned businesses and the broader WA business community'. Services provided include 'business coaching throughout the life cycle of a business, managing the interaction between cultural awareness and commercial engagement, employment/training, procurement, and project management'.¹²⁴
- *Waalitj Hub* delivers programs designed to 'increase the retention of Aboriginal and Torres Strait Islander students in school, assist Aboriginal and Torres Strait Islander jobseekers into employment or further vocational training and/or study, and support and mentoring to Aboriginal and Torres Strait Islander young people in touch with the youth justice system'.¹²⁵

¹¹⁹ NSW ICC, *Submission 84*, pages [1]–[2].

¹²⁰ NTIBN, *Submission 63*, p. 2.

¹²¹ NTIBN n.d., 'Empowering Indigenous Businesses and Job Seekers in the Northern Territory', <https://ntibn.com.au/hub/>, accessed 14 October 2024.

¹²² Yarpa 2024, 'Supporting Yarpa members. Our Services', <https://yarpa.com.au/services/>, accessed 14 October 2024.

¹²³ Indigenous Emerging Business Forum Aboriginal Corporation 2024, 'About us', <https://iebf.org.au/>, accessed 14 October 2024.

¹²⁴ Noongar Chamber of Commerce and Industry n.d., 'Overview', <https://www.ncci.com.au/overview>, accessed 14 October 2024.

¹²⁵ Waalitj Hub 2024, 'About us', <https://wf.org.au/about/>, accessed 14 October 2024.

- *Western Australian Indigenous Tourism Operators Council*, focusses on ‘developing markets, building business capacity, and working towards varying income streams to limit seasonality’. The Tourism Operators Council is ‘the peak non-for-profit organisation representing Aboriginal tourism in Western Australia with close to 200 members and a steady growth of newcomers every year’.¹²⁶
 - *Maganda Makers Business Club* provides support for ‘Kimberley Indigenous Women who are aspiring, emerging and growing as women in business’.¹²⁷
- 3.72 Some of these organisations have been established with funding from governments,¹²⁸ whereas others are largely or entirely self-funded by their membership.¹²⁹
- 3.73 While Indigenous Chambers of Commerce and Indigenous business networks across the country are playing a critical role in strengthening the financial, commercial, and corporate capability and capacity of First Nations businesses, many reported they were critically underfunded and that for some their long-term sustainability was uncertain.
- 3.74 Furthermore, Enterprise and Training Company Limited proposed the establishment of a ‘centre of excellence’ that would ‘cultivate best practices and evidence-based information to enhance First Nations employment and training outcomes’.¹³⁰
- 3.75 Indigenous-owned consulting firm First Nations Affairs argued that there is ‘far greater opportunity for First Nations led and tailored training to suit the unique responsibilities, obligations and operations of Indigenous businesses’.¹³¹ It called for investments in such training to be focused on ‘sustainability and nation building’, and for increased investment and support to be provided for Indigenous chambers of commerce.¹³²
- 3.76 The Australian Government has provided funding to establish Indigenous Business and Employment Hubs in Adelaide, Perth and Western Sydney and the Northern Territory.¹³³ The hubs are intended to provide ‘wrap-around’ support to First nations businesses, including via mentoring, business advice, training and access to financial services.¹³⁴ The NTIBN described its hub as a ‘one-stop-shop providing tailored support to Indigenous Businesses and Job Seekers through a case management and

¹²⁶ Western Australian Indigenous Tourism Operators Council, *Submission 100*, p. 1; Western Australian Indigenous Tourism Operators Council n.d., ‘Our history’, <https://www.waitoc.com/about-us/corporate/our-history>, accessed 14 October 2024.

¹²⁷ Maganda Makers Business Club 2024, ‘About us’, <https://magandamakers.business/about/>, accessed 14 October 2024.

¹²⁸ For example, Yarpa and Waalitj Hub

¹²⁹ For example, Indigenous Emerging Business Forum and NSW ICC.

¹³⁰ Enterprise and Training Company Limited, *Submission 7*, p. 3.

¹³¹ First Nations Affairs, *Submission 70*, p. 1.

¹³² First Nations Affairs, *Submission 70*, pages 1–2.

¹³³ NTIBN, *Submission 63*, p. 3.

¹³⁴ Australian Government 2024, ‘Indigenous Business and Employment Hubs’, <https://business.gov.au/expertise-and-advice/indigenous-business-and-employment-hubs>, accessed 12 September 2024.

coordination of services approach'.¹³⁵ It uses a 'hub-and-spoke' model, with the main hub in Darwin and satellite offices in Alice Springs, Katherine and Tennant Creek.¹³⁶

- 3.77 At a public hearing, the NTIBN's Chief Executive Officer, Ms Antess, noted that the contract for the Northern Territory hub was the only one of the four that went to competitive tender, as well as the only one that was awarded to a (non-statutory) Indigenous entity.¹³⁷ Ms Antess advocated for the Australian Government to invest more in Aboriginal and Torres Strait Islander-owned hubs and to work more closely with Indigenous chambers of commerce.¹³⁸
- 3.78 The Australian Government also funds AusIndustry Regional Managers who work with First Nations businesses in various locations across the states and territories.¹³⁹ The Regional Managers provide First Nations businesses 'access to market opportunities, connections, and networks across the economy'.¹⁴⁰
- 3.79 Austrade told the Committee about the suite of trade services and programs that it uses to provide ongoing support to First Nations businesses seeking to engage in export. This includes the 'TradeStart' network of regionally based advisors, which are available to assist First Nations businesses to overcome the range of challenges that businesses face when choosing to export.¹⁴¹ Austrade reported that, during 2023–24, it worked closely with 70 First Nations exporters and had a target to provide bespoke trade services to 35 export-ready First Nations businesses during the year.¹⁴² Austrade provided a case study on Aldridge Railway Signals, a First Nations exporter which has previously received Austrade support (see Box 3.5).

Box 3.5 Aldridge Railway Signals

Aldridge Railway Signals is a Supply Nation-certified Indigenous business based in Sydney. It designs and manufactures railway signalling products in Australia for both domestic and overseas rail projects.¹⁴³

Aldridge Railway Signals has delivered projects in a range of export markets, including Indonesia, Taiwan, Malaysia, Singapore, Hong Kong and Thailand. It previously received support from both Austrade and the NSW Government through the TradeStart initiative to help it develop these export markets.¹⁴⁴

¹³⁵ NTIBN, *Submission 63*, p. 5.

¹³⁶ NTIBN, *Submission 63*, pages 5–6.

¹³⁷ Ms Antess, NTIBN, *Committee Hansard*, Canberra, 23 July 2024, p. 18.

¹³⁸ Ms Antess, NTIBN, *Committee Hansard*, Canberra, 23 July 2024, p. 24.

¹³⁹ See Australian Government 2024, 'AusIndustry', <https://business.gov.au/expertise-and-advice/ausindustry>, accessed 16 September 2024.

¹⁴⁰ Department of Industry, Science and Resources, *Submission 69*, p. 12.

¹⁴¹ Austrade, *Submission 81*, p. 8.

¹⁴² Austrade, *Submission 81*, p. 1.

¹⁴³ See 'Aldridge', <https://railsignal.com/>, accessed 16 September 2024.

¹⁴⁴ Austrade, *Submission 81*, pages 7–8.

Aldridge Railway Signals won Austrade's National Export Award for Indigenous Exporter of the Year in 2023. Managing Director David Aldridge encouraged other Indigenous businesses to use their networks and government resources to explore exporting pathways:

There are a lot of people out there who help Indigenous exporters and they are just there for the asking. You've got Supply Nation, Austrade, Export Nation. There are other Indigenous exporters that are always happy to help too.¹⁴⁵

- 3.80 ASFI submitted that strategic business advisory services for First Nations businesses are 'pivotal in guiding First Nations enterprises through complex market landscapes and regulatory environments, ensuring they can maximise their commercial potential'. It added:

These advisory services also help bridge the gap between traditional knowledge and contemporary business practices, facilitating the integration of cultural values into business models that appeal to a broader market. This integration not only preserves cultural integrity but also enhances the market uniqueness of First Nations businesses, increasing their competitiveness.¹⁴⁶

- 3.81 However, ASFI also highlighted the importance tailoring support programs in a way that is appropriate to the needs and stages of each community.¹⁴⁷

- 3.82 In a joint submission on behalf of multiple Kimberley-based Aboriginal business owners and operators and other community stakeholders, Aarnja Limited (Aarnja) told the Committee that there were around 150 Aboriginal businesses in the Kimberley, comprising seven to eight per cent of the total business sector.¹⁴⁸ However, Aarnja submitted that 'entrenched systemic barriers' and 'bureaucratic red tape' had been identified as issues constraining economic opportunities and independence for Indigenous peoples.¹⁴⁹ It noted that a particular frustration was a 'lack of business support that is culturally responsive, inclusive and secure to adequately meet the person-centred needs of Aboriginal peoples entering or existing within business'.¹⁵⁰ It added:

There is also an extremely unrealistic expectation that Aboriginal business owners/operators must immediately be experts across the whole operations of their business from marketing, administration, finance, human resources in addition to actual delivery. This unrealistic expectation placed on Aboriginal business owners/operators is further overlaid with challenges of business readiness, personal capacity both financial and academic, access to training and support, market demand, and established competition.¹⁵¹

¹⁴⁵ Austrade, *Submission 81*, p. 8.

¹⁴⁶ ASFI, *Submission 15*, p. 6.

¹⁴⁷ ASFI, *Submission 15*, p. 6.

¹⁴⁸ Aarnja Limited, *Submission 22*, p. 1.

¹⁴⁹ Aarnja Limited, *Submission 22*, p. 1.

¹⁵⁰ Aarnja Limited, *Submission 22*, p. 2.

¹⁵¹ Aarnja Limited, *Submission 22*, p. 2.

- 3.83 Aarnja argued that these factors resulted in a ‘predetermined trajectory’ for the premature collapse of many First Nations businesses.¹⁵² The submission called for an urgent ‘overhaul’ of current business support programs and services directed at ensuring they can provide the ‘intensive person-centred support’ that is necessary to enable Indigenous peoples to successfully transition from social welfare to economic independence.¹⁵³ It recommended establishing an First Nations business support hub and/or Chambers of Commerce and industry in the region; a review of existing business support programs; and the establishment of an Indigenous business helpline with access to legal services.¹⁵⁴
- 3.84 Several other inquiry participants also called for greater government investment in First Nations business support in regional and remote areas.¹⁵⁵ Such investment was broadly supported by the submission from Dr Langford and Dr Martin, who suggested that supporting small businesses and regional and remote businesses is ‘likely to generate proportionally stronger benefits for Indigenous workers than support for larger Indigenous businesses’ due to their higher rates of employment of First Nations staff.¹⁵⁶
- 3.85 Ms Antess told the Committee about the NTIBN’s desire to do more outreach to remote communities. She reported that while the Network undertakes some remote support within its current contract, more funding would be needed for that to be expanded:
- The difficulty is our budget to travel and, as you know, getting out to those places. Our mob actually don't have the infrastructure for online stuff all of the time. ... There needs to be more consistency around funding that would enable travel and getting specialist people into community to do those workshops. But I would say that, while we’re supporting remote community at the moment, and we are doing a fair amount, way over and above our requirement because we know how important it is, it is very difficult to do that without the dollars.¹⁵⁷
- 3.86 Good Return is part of a collaboration that has established the Maganda Makers Business Club (Box 3.6), a network supporting Indigenous women in the Kimberley. Good Return told the Committee that many existing rural Indigenous business support programs have inherently ‘Anglo-European assumptions about business, family, wealth, a linear business growth trajectory and the role of economic development intermediaries’.¹⁵⁸ It argued that while existing approaches ‘have merit and can work in some circumstances’, they can also ‘have unintended consequences and exacerbate trauma [and are] not well suited to very rural and remote

¹⁵² Aarnja Limited, *Submission 22*, p. 2.

¹⁵³ Aarnja Limited, *Submission 22*, p. 3.

¹⁵⁴ Aarnja Limited, *Submission 22*, p. 3.

¹⁵⁵ For example, Ms Barwick, NSW ICC, *Committee Hansard*, Canberra, 23 July 2024, p. 47; NTIBN, *Submission 63*, p. 6; Business Council for Sustainable Development Australia, *Submission 71*, p. 6; Northern Australia Indigenous References Group, *Submission 66*, p. 16; Chartered Accountants Australia & NZ, *Submission 45*, p. 2; Indigenous Art Code Lid, *Submission 85*, p. 2.

¹⁵⁶ Dr Zannie Langford and Dr Richard Martin, *Submission 17*, p. 3.

¹⁵⁷ Ms Antess, NTIBN, *Committee Hansard*, Canberra, 23 July 2024, p. 22.

¹⁵⁸ Good Return, *Submission 18*, p. [2].

communities'.¹⁵⁹ Good return called for 'system change' in the services and organisations supported by the Australian Government, with a bigger role for Indigenous-led intermediaries and an emphasis on improving the accessibility and appropriateness of services for those aspiring to self-employment or business.¹⁶⁰ It also called for support for women's collectives and a greater role for women leaders in formal program design.¹⁶¹

Box 3.6 Maganda Makers Business Club

The Maganda Makers Business Club is an initiative led by Kimberley Indigenous Women that aims to nurture, champion and support women in business. The Club was established through a collaboration between Good Return, Kimberley Jiyigas and the Menzies Foundation. It seeks to support local women to gain more confidence in their understanding of business, so that business can be used to build wealth and drive social and economic transformation across the Kimberley.¹⁶²

The Maganda Makers Business Club consists of nearly 150 Kimberley Indigenous women. It places Indigenous cultural values and business practices at its forefront, to foster a balanced relationship between people, Country and community. Its members 'firmly reject the notion that a life connected to their native tribal Country and working closely with their families should lead to poverty or social, economic, or political exclusion'.¹⁶³

- 3.87 Community First Development (CFD) noted that they had received a four-year surge in requests for governance support prior to 2019.¹⁶⁴ In its research report, *Good governance leads to good relationships*, the CFD found that:

First Nations' governance is working. Structures, systems and entities interacting with communities should be designed to strengthen First Nations' governance and whole of community engagement. It showed the importance of skilled First Nations' negotiators in community, who we termed delegated authorities, who navigate the third space where First Nations and mainstream governance practices meet.¹⁶⁵

- 3.88 Ms Antess told the Committee about the NTIBN's plans to roll out a robust program and set of tools to support Indigenous governance and management in remote communities and towns. She reported that corporate governance training packages previously funded by the Australian Government have been 'dumbed down versions'

¹⁵⁹ Good Return, *Submission 18*, p. [2].

¹⁶⁰ Good Return, *Submission 18*, p. [3].

¹⁶¹ Good Return, *Submission 18*, p. [4].

¹⁶² Maganda Makers Business Club 2024, 'Welcome', <https://magandamakers.business/>, accessed 5 September 2024.

¹⁶³ Good Return, *Submission 18*, p. [1].

¹⁶⁴ Community First Development, *Submission 88*, p. 7.

¹⁶⁵ Community First Development, *Submission 88*, p. 7.

compared to mainstream packages, adding that it is ‘very disappointing to see how “cute” and not real they are for our people’.¹⁶⁶

3.89 While the Committee heard from various state and territory based chambers of commerce, business networks and other organisations supporting First Nations businesses, there is currently no national peak body for the First Nations business sector.¹⁶⁷ The NTIBN submitted that the absence of a unified national peak body had ‘compounded’ the unique challenges faced by Indigenous businesses and prevented them from reaching their full potential.¹⁶⁸ The National Indigenous Business Chamber Alliance was established in 2022 to help address this issue, and intends to take responsibility for:

- certification of 51 per cent or greater ownership of Indigenous businesses
- advocating on behalf of Indigenous businesses, including for fair and equitable regulations
- providing a uniform platform for Indigenous businesses to engage with government
- facilitating domestic and international trade opportunities for Indigenous businesses
- owning and controlling data, ensuring Indigenous businesses have the right to collect, manage and use their data for their own benefit and in accordance with their cultural values and traditions.¹⁶⁹

3.90 A national body to represent the Indigenous business sector was also supported by other submitters.¹⁷⁰ The NIAA told the Committee that it is working with the National Indigenous Business Chamber Alliance to identify how it can support its effort to establish itself as a national peak body.¹⁷¹

Committee comment

National longitudinal First Nations business dataset

3.91 The growing Aboriginal and Torres Strait Islander business sector provides significant opportunities to advance the economic self-determination of Aboriginal and Torres Strait Islander peoples. The sector also makes a significant and growing contribution to the wider Australian economy. Data presented to the Committee indicates that the sector already generates more than \$16 billion in annual revenue and employs upwards of 115,000 people.¹⁷² Moreover, for every dollar of revenue

¹⁶⁶ Ms Antess, NTIBN, *Committee Hansard*, Canberra, 23 July 2024, p. 22.

¹⁶⁷ NTIBN, *Submission 63*, p. 14.

¹⁶⁸ NTIBN, *Submission 63*, p. 14.

¹⁶⁹ NTIBN, *Submission 63*, p. 15.

¹⁷⁰ First Nations Affairs, *Submission 70*, p. 2; Dr Luke Williams, *Submission 13*, p. 4; Jumbunna, *Submission 25*, p. 18; Australians for Native Title and Reconciliation, *Submission 92*, p. 10.

¹⁷¹ NIAA, *Submission 63*, p. [5].

¹⁷² Dilin Duwa, *Submission 8*, p. 3.

earned by a First Nations business, an estimated \$4.41 of social and economic value is generated.¹⁷³

- 3.92 The Committee was pleased to hear about examples of Aboriginal and Torres Strait Islander peoples establishing thriving and innovative businesses that have helped transform communities. With Aboriginal and Torres Strait Islander businesses far more likely to employ Aboriginal and Torres Strait Islander staff than other businesses, ongoing support for the sector is essential for achieving the employment targets set out in the National Agreement on Closing the Gap.
- 3.93 Despite the growth in the Indigenous business sector, the inquiry has revealed the significant structural and institutional barriers faced by entrepreneurs and businesses and risks to the long-term growth of the sector. The Committee strongly supports embracing broader Commonwealth Government fiscal, economic, and legislative levers to address the systemic inequalities and to support growth in Australia's economy.
- 3.94 The Committee also notes that data relating to the economic contribution of First Nations businesses needs to be improved. There is currently no complete data picture or central way to capture the economic contribution of Indigenous peoples and business. There was strong support amongst contributors to the inquiry for better longitudinal data to measure the contribution of the sector and the impact of policies. A more complete data picture on the economic participation of Aboriginal and Torres Strait Islander peoples would help support targeted measures to boost First Nations economic prosperity and build the evidence base that is desperately required to inform policy development and program design. This is also vital to strengthening the public narrative of Aboriginal and Torres Strait Islander people and supports financial institutions and banks to make informed and genuine risk-based lending decisions.

Recommendation 2

- 3.95 The Committee recommends that the Australian Government fund a national longitudinal Indigenous economic and business dataset to understand the composition and economic contribution of First Nations business to the Australian economy.**

Indigenous Procurement Policy

- 3.96 The Australian Government's IPP, coupled with similar schemes managed by state and territory governments, have been important drivers for the rapid growth of the First Nations business sector. These policies have been highly successful and there was near universal support during the inquiry for them to be continued and strengthened.

¹⁷³ NTIBN, *Submission 63*, p. 4; Department of Industry, Science and Resources, *Submission 69*, p. 5.

- 3.97 The IPP is currently more than halfway towards its phased in target of three per cent Indigenous procurement, to be achieved by 2027–28. Existing targets have been met and exceeded over multiple years. The Committee considers there is an opportunity in the current review of the IPP to further increase the ambition of the policy, such as by phasing in an increased target of four per cent Indigenous procurement. This would more closely reflect parity with the proportion of Australia’s population that identifies as an Aboriginal and/or Torres Strait Islander person.
- 3.98 The Committee acknowledges the concerns raised by multiple participants in the inquiry about the practice of so-called ‘blak-cladding’ to take advantage of preferential procurement policies. The Committee was particularly concerned to hear about instances where non-Indigenous companies have partnered with First Nations organisations without the First Nations partner having effective control over the management of the company, or without the skills transfer and employment outcomes that are the purpose of the policy having occurred. While there were differing accounts of the extent of this problem, it is clear to the Committee that more work needs to be done to address blak-cladding so that confidence in the IPP can be maintained.
- 3.99 One part of the solution will be to strengthen the definition of ‘Indigenous business’ under the IPP. There was strong support in the inquiry for increasing the proportion of First Nations ownership required to be eligible for preferential procurement from 50 to 51 per cent, and rewarding higher rates of Indigenous ownership, management, and employment. Stronger measures to ensure that the First Nations partners in joint venture arrangements are genuinely benefiting from participation in the partnership were also supported.
- 3.100 The Committee encourages the Australian Government to work with its state and territory counterparts to develop a consistent definition of an Indigenous business that can be applied to preferential procurement policies nationally.

Recommendation 3

- 3.101 The Committee recommends that the Australian Government, in its review of the Indigenous Procurement Policy, consider:**
- **an increase to the procurement target**
 - **the definition of an Indigenous business, and mechanisms to identify and recognise businesses who exceed the targets (e.g. through tiered criteria).**

Recommendation 4

- 3.102 The Committee recommends that the Australian Government investigate the practice of blak-cladding and policies to combat it.**

Support for Indigenous Chambers of Commerce and business networks

3.103 The Committee acknowledges the increasingly important role that state and territory-based Indigenous chambers of commerce and other grass roots business networks play in supporting First Nations businesses. The Committee notes groups are First Nations managed and controlled and have formed organically as the First Nations business sector has grown. Despite the growing success of the First Nations business sector, the Committee acknowledges there remains a need for government investment in services to help build the capability and capacity of individual businesses.

Recommendation 5

3.104 The Committee recommends that the Australian Government consider support for Indigenous Chambers of Commerce and similar business networks to boost their delivery of financial, commercial, and business capability services.

Business advisory campaign

3.105 The Committee heard during the inquiry that although there is a broad range of federal, state, and territory programs and services available to support First Nations businesses at all stages of the business lifecycle, their effectiveness can be hampered by low levels of awareness in the business community, particular for newer enterprises.

3.106 There are resources and services available for Aboriginal and Torres Strait Islander businesses. Raising awareness of these resources ensure that Aboriginal and Torres Strait Islander business owners are well-informed about the tools at their disposal, enabling them to make informed decisions and leverage available support effectively.

Recommendation 6

3.107 The Committee recommends that the Australian Government launch an awareness campaign and establish a central resource with information on federal, state, and territory government business advisory services for First Nations businesses.

Mentorship program for First Nations women entrepreneurs

3.108 The Committee was particularly pleased to hear about the success of First Nations women who have started businesses and received compelling evidence during the inquiry about the need to provide further tailored support.

- 3.109 The NTIBN noted that ‘a lot of that one-on-one mentoring, coaching and networking is in demand in terms of service delivery for our female Indigenous business owners’.¹⁷⁴
- 3.110 Good Return commented that supporting women’s collectives was ‘one way to build the capacity of a region, join up siloed service providers and support a community to lead the change it wishes to see’.¹⁷⁵
- 3.111 In 2022, IBA conducted focus groups with Aboriginal and Torres Strait Islander women, girls, and Sista Girls, which found that there was a ‘the lack of programs developed and led by Aboriginal and Torres Strait Islander women’.¹⁷⁶
- 3.112 The Committee is of the view that piloting an entrepreneurial or mentorship program for aspiring Aboriginal and Torres Strait Islander businesswomen presents a transformative opportunity to drive economic empowerment, cultural preservation, and community development. Addressing the unique challenges faced by Indigenous businesswomen and providing tailored support, can unlock their potential and create a ripple effect of positive change.

Recommendation 7

- 3.113 The Committee recommends that the Australian Government pilot an entrepreneurial and business mentorship program for aspiring Aboriginal and Torres Strait Islander women, and explore how it can improve support for Aboriginal and Torres Strait women in business.**

¹⁷⁴ Ms Anstess, NTIBN, *Committee Hansard*, Canberra, 30 September 2024, p. 21.

¹⁷⁵ Good Return, *Submission 18*, p. 4.

¹⁷⁶ IBA, *Submission 34*, p. 10.



4. Enhancing access to capital and activating the Indigenous Estate

- 4.1 This chapter discusses opportunities to enhance access to capital and activating and leveraging the Indigenous Estate to foster economic development for Aboriginal and Torres Strait Islander peoples.

Enhancing and fast-tracking access to finance and capital

- 4.2 Throughout the inquiry, difficulties in accessing finance and capital were identified as some of the most significant barriers to economic self-determination for Aboriginal and Torres Strait Islander peoples. Inquiry participants largely attributed these difficulties to the long history of economic exclusion, including through the dispossession of land, displacement of people, unfair or stolen wages, and other discriminatory practices.¹ Mr Reuben Berg, Co-Chair of the First People's Assembly of Victoria, told the Committee that the current need for economic self-determination 'stems from the generational impacts of colonisation' and the inability for Indigenous peoples to fully participate in society:

We were prohibited, because of the impact of colonisation and the discriminatory practices, from participating in the economy as other communities had, and that has left a lasting legacy, particularly in terms of intergenerational wealth. It's just not something that exists within our communities. And so we've never had the opportunity to leverage from wealth to generate more wealth. We see it happen all the time for other communities, even if it's as simple as getting a loan from your parents so you can start your own business. That's just not an opportunity that our communities have had across generations. That has a significant impact on where we see ourselves today.²

¹ See, for example, Department of Agriculture, Fisheries and Forestry (DAFF), *Submission 9*, page 5–6; Jumbunna Institute for Indigenous Education and Research (Jumbunna), *Submission 25*, p. 9; First Australians Capital, *Submission 56*, p. 5; National Native Title Council, *Submission 62*, pages 4–5; Mr Phil Usher, Chief Executive Officer, First Nations Foundation, *Committee Hansard*, Melbourne, 19 July 2024, p. 2.

² *Committee Hansard*, Melbourne, 19 July 2024, p. 30.

- 4.3 Mr Lachlan McDaniel of the Jumbunna Institute for Indigenous Education and Research (Jumbunna) told the Committee that in addition to the low levels of intergenerational wealth within First Nations families, there continues to be systemic biases and a 'trust deficit' in the investment industry that makes it difficult to obtain finance.³ Mr McDaniel spoke about his own experience in establishing a native food business known as Native Foodways:

It was extremely difficult for us to get startup capital to get this business underway. Within the investment community, we were seen as being not only too commercial for philanthropic funding but also too social for capital investment funding. We wanted to give back to our communities too much to be able to attract funding.⁴

- 4.4 The Departments of Agriculture, Fisheries and Forestry and Industry Science and Resources, Charles Darwin University, Screen Australia, the Queensland and New South Wales Governments, Dja Dja Wurrung Clans Aboriginal Corporation and the National Native Title Council, were all of the view that difficulty accessing commercial finance and capital continued to be an impediment for First Nations businesses, communities and peoples.⁵

- 4.5 Professor Peter Yu, Vice-President, First Nations Portfolio, Australian National University, agreed that there were 'historical and other barriers that exist in terms of accessing finance from normal financial institutions, banks' as well as a 'level of discrimination and prejudice that exists'.⁶ Professor Yu commented that in order to build capability, 'a number of things need to happen simultaneously':⁷

...even though we have those percentages of land assets, we have very little capability in our corporations. That's emerging, but our prescribed body corporates who are the statutory or regulatory bodies holding native title in trust have very little resources in terms of being able to adequately interface and participate with third-party interests to access and use their lands for economic development. There's a question of investing in governance and management capability. I think there is a need to look at this question of how the existing government special investment vehicles are considerate of the nature of how it might provide the flow of capital should there be a particular carve-off considered.⁸

³ Mr Lachlan McDaniel, Associate Dean (Research), Jumbunna, *Committee Hansard*, Canberra, 23 July 2024, pages 35–36.

⁴ Mr McDaniel, Jumbunna, *Committee Hansard*, Canberra, 23 July 2024, p. 36.

⁵ DAFF, *Submission 9*, p. 5; DISR, *Submission 69*, p. 5, Charles Darwin University, *Submission 58*, p. 7; Screen Australia, *Submission 12*, p. 3, Queensland Government, *Submission 97*, p. 32, New South Wales Government, *Submission 95*, p. 16, Dja Dja Wurrung Clans Aboriginal Corporation, *Submission 80*, p. 5; Mr Jamie Lowe, Chief Executive Officer, National Native Title Council, *Committee Hansard*, 19 July 2024, p. 50.

⁶ Professor Peter Yu, Vice-President, Australian National University (ANU) First Nations Portfolio, *Committee Hansard*, Canberra, 30 September 2024, p. 2.

⁷ Professor Yu, ANU First Nations Portfolio, *Committee Hansard*, Canberra, 30 September 2024, p. 3.

⁸ Professor Yu, ANU First Nations Portfolio, *Committee Hansard*, Canberra, 30 September 2024, p. 3.

- 4.6 The Dilin Duwa Centre for Indigenous Business Leadership (Dilin Duwa) submitted that finance markets are generally ‘not yet ready’ to provide capital to small businesses in their early stages, and this problem is exacerbated for First Nations businesses because of their ‘lower levels of collateral, limited access to personal wealth, and the banking sector’s lack of confidence in the sector’. Dilin Duwa submitted that these factors make it difficult for First Nations businesses to ‘attain low-cost finance, build a customer base, win contracts, and establish links with reliable suppliers’.⁹
- 4.7 The First Nations Foundation noted that First Nations led businesses faced challenges in accessing capital as they did not meet ‘meet traditional lending criteria, such as fixed assets for security’; the banks Western framework, in particular the six C’s lending criteria, ‘holds subjective bias towards First Nations peoples’ and ‘entrepreneurs have struggled to obtain finance for business expansion, despite demonstrated economic viability, due to stringent lending requirements’.¹⁰
- 4.8 The First Nations Foundation highlighted the Australian Small Business and Family Enterprise Ombudsman’s recent report reviewing the 2022 implementation of changes to the Commonwealth Procurement Rules (CPRs), which found that the mechanism aimed at fostering First Nations commercial opportunities and entrepreneurship was inadequate. Inadequacies identified included a lack of understanding regarding exemptions for Indigenous businesses, and conflicts between government sovereign capability policies and those designed to foster small-to-medium enterprises and First Nations businesses.¹¹
- 4.9 The Northern Territory Business Network (NTIBN) submitted that access to capital is the greatest barrier to growing and sustaining Indigenous businesses.¹² It noted a lack of data regarding the sources of capital for existing Indigenous businesses, existing government and private sector spending, and their impact on the broader economy.¹³ NTIBN also argued that mining projects on Country would have far more impact on the economic growth by investing capital instead of royalties.¹⁴
- 4.10 NTIBN suggested business loans with a no payback period of three to five years to allow businesses to establish themselves, stating, ‘You’ve got to reinvest your working capital back into the business over a number of years to build it up, to remain viable and stable’.¹⁵ In particular, it highlighted the need for capital and supports for businesses owned and operated by Indigenous women.¹⁶

⁹ Dilin Duwa Centre for Indigenous Business Leadership, *Submission 8*, pages 4–5.

¹⁰ First Nations Foundation, *Submission 6*, p. 5.

¹¹ First Nations Foundation, *Submission 6*, p. 10.

¹² Ms Naomi Anstess, Chief Executive Officer, Northern Territory Business Network (NTIBN), *Committee Hansard*, 30 September 2024, Canberra, p. 18.

¹³ Ms Anstess, NTIBN, *Committee Hansard*, 30 September 2024, Canberra, pages 23–24.

¹⁴ Ms Anstess, NTIBN, *Committee Hansard*, 30 September 2024, Canberra, p. 22.

¹⁵ Ms Anstess, NTIBN, *Committee Hansard*, 30 September 2024, Canberra, p. 25.

¹⁶ Ms Anstess, NTIBN, *Committee Hansard*, 30 September 2024, Canberra, p. 21.

- 4.11 Supply Nation concurred, submitting that limited access to capital is a barrier affecting growth of the First Nations economy. This challenge affects Indigenous entrepreneurs embarking on start-ups and small businesses wishing to expand. Obstacles include a lack of collateral, credit history or financial literacy, as well as access to mainstream financial institution. Supply Nation submitted that improving access to capital can advance First Nations self-determination and economic resilience.¹⁷
- 4.12 Ms Shannon Malison, Acting Director of Yarpa, confirmed to the Committee at a public hearing that for large-scale businesses, such as construction businesses, access to capital can be an issue. Ms Malison advised that without generational wealth, it is hard to grow businesses. Access to large amounts of capital enables businesses to scale up and scale up quickly. Though she noted that for smaller businesses, capacity building and addressing market need is the real focal point. She advised that access to capital is the second step, stating that, 'If you can get [the first step] right, you have more chance of accessing capital'.¹⁸
- 4.13 Jumbunna also noted that not fitting into mainstream risk profiles limits access to commercial lending opportunities. Other investment industry barriers include systemic bias and a trust deficit. This, Jumbunna advised:
- A trust deficit can impact First Nations businesses [through] difficulty in attracting low-cost finance, building a customer base, obtaining contracts or establishing links with reliable suppliers.¹⁹
- 4.14 First Australians Capital is an Indigenous-led financial services organisation that was created in 2016 to promote and support First Nations-led enterprises.²⁰ It submitted that a legacy of exclusion, high levels of financial stress, and bias and discrimination have created systemic barriers to economic self-determination for First Nations peoples, including being 'locked out' of capital markets.²¹ It argued that ongoing barriers to economic participation include an inability for First Nations-led businesses to meet mainstream lending criteria, challenges in accessing 'impact capital', and difficulties in securing finance to fulfil large-scale procurement contracts.²²
- 4.15 First Australians Capital recommended a range of systemic changes to address these inequities and to empower First Nations-led economic participation, including:
- inclusive finance strategies, such as such as community-led finance and tailored loan products, to improve access to capital and financial services
 - reform to 'impact investment' frameworks to recognise and support Indigenous economic priorities

¹⁷ Supply Nation, *Submission 10*, pages 3–4.

¹⁸ Ms Shannon Mallison, Acting Director, Yarpa, *Committee Hansard*, 9 July 2024, p. 9.

¹⁹ Jumbunna, *Submission 25*, p 9.

²⁰ First Australians Capital, *Submission 56*, p. 4.

²¹ First Australians Capital, *Submission 56*, p. 5.

²² First Australians Capital, *Submission 56*, pages 5-6.

- support for innovative financing mechanisms, such as social impact bonds and blended finance approaches, including First Australians Capital’s ‘catalytic capital’ model
 - education programs and outreach campaigns to increase awareness and understanding of Indigenous entrepreneurship and cultural diversity among investors, financial institutions, and the broader public.²³
- 4.16 At a public hearing, First Australian Capital’s Executive Director, Ms Jocelyn King, added that the superannuation industry and Commonwealth funding entities such as the Northern Australia Infrastructure Facility, the Northern Territory Aboriginal Investment Corporation and the National Reconstruction Fund could be required to make a certain amount of their funds available to invest in Indigenous ventures:
- The total value of Australian superannuation is currently approximately \$3.5 trillion. [Imagine] how fast we could close the gap if just three per cent of that was invested in Indigenous led funds.²⁴
- 4.17 The Australian Sustainable Finance Institute (ASFI)—whose membership includes many of Australia’s largest banks and superannuation funds—similarly highlighted the barriers that First Nations businesses face in accessing mainstream finance.²⁵ It attributed these barriers to historical economic exclusion, stringent requirements and prevailing attitudes and biases.²⁶ ASFI called for a ‘rethinking’ of traditional investment criteria to support localised capital delivery solutions for First Nations businesses.²⁷
- 4.18 ASFI acknowledged the ‘critical roles’ of Indigenous Land and Sea Corporation (ILSC) and Indigenous Business Australia (IBA) (discussed below), but considered that enhancing financial frameworks to support the growing First Nations business sector could involve ‘expanding the functions or capital-raising capacities of current institutions or establishing new ones’.²⁸ ASFI suggested that a framework similar to Canada’s First Nations Fiscal Management (FMA) Act should be considered.²⁹ Canada’s FMA Act is discussed further in Chapter 7. ASFI also supported blended finance solutions to improve the attractiveness of investments that ‘might otherwise be too risky or unappealing for private investors alone’, and catalytic capital to help ‘address specific funding gaps that conventional financing often overlooks’.³⁰

²³ First Australians Capital, *Submission 56*, pages 9-10.

²⁴ Ms Jocelyn King, Executive Director, First Australians Capital, *Committee Hansard*, Canberra, 23 July 2024, p. 14.

²⁵ Australian Sustainable Finance Institute (ASFI), *Submission 15*, pages 2 and 7.

²⁶ ASFI, *Submission 15*, pages 7–8.

²⁷ ASFI, *Submission 15*, pages 7–8.

²⁸ ASFI, *Submission 15*, p. 8.

²⁹ ASFI, *Submission 15*, p. 8.

³⁰ ASFI, *Submission 15*, p. 9.

- 4.19 The First Nations Clean Energy Network put forward a number of objectives calling for access to financial support ‘through government and private sector financing initiatives to enable participation at the household, community, and large-scale project levels.’³¹
- 4.20 IBA made several suggestions aimed at increasing access to finance and capital for First Nations businesses and commercial enterprises:
- 1 Increase access to finance and capital for First Nations businesses and commercial enterprises by permitting IBA to borrow and raise capital.
 - 2 Provide funding and resources for First Nations organisations and communities to undertake pre-finance activities that develop project concepts to the stage of being investment ready.
 - 3 Adjust investment mandates and financing criteria to ensure fairer and more equitable access to the multiple existing funding opportunities across government, including through Commonwealth special investment vehicles.
 - 4 Facilitate planning, coordination, and collaboration across the Commonwealth, state, territory, and local governments to maximise impact, minimise duplication, and foster a strong community-led response, particularly at a regional and local level.
 - 5 Channel private and philanthropic capital towards First Nations assets and enterprises through innovative and catalytic finance approaches.³²
- 4.21 Innovative financing mechanisms such as social impact bonds, microfinance, equity and crowdfunding were also supported by the Business Council for Sustainable Development (BCSD) Australia.³³
- 4.22 Law Council of Australia highlighted the support and facilitation of access to capital and markets, including the Indigenous Procurement Policy (IPP), business hubs, and market information about First Nations businesses, the sector can be lifted ‘into the next frontier’.³⁴
- 4.23 The joint submission from the National Indigenous Australians Agency (NIAA) and the Treasury noted that access to finance, among others, is a barrier across OECD countries, and that they and other Commonwealth departments are exploring ways to remove these barriers and unlock opportunities. According to their submission, the Australian Government intends to strengthen the ability of the IBA to leverage their capital for investment in First Nations businesses.³⁵

³¹ First Nations Clean Energy Network, *Submission 82*, p. 18.

³² IBA, *Submission 34*, p. 2.

³³ Business Council for Sustainable Development (BCSD) Australia, *Submission 17*, p. [6].

³⁴ Law Council of Australia, *Submission 96*, pages 13–14.

³⁵ National Indigenous Australians Agency (NIAA) and The Treasury, *Submission 64*, pages [3–4].

Housing and home ownership

- 4.24 The Australian Banking Association (ABA) highlighted the role of home ownership in facilitating economic self-determination:

Housing is an important building block to a person's wellbeing. It not only gives individuals shelter and security but has the capacity to meet longer-term goals in economic development, education and the community.³⁶

- 4.25 However, multiple participants in the inquiry identified that the low levels of home ownership amongst Aboriginal and Torres Strait Islander peoples is a barrier to accessing capital to grow business. First Australians Capital submitted that First Nations peoples' historic inability to own land or borrow for housing has led to 'significantly lower home ownership rates compared to non-Indigenous peers'.³⁷ Australians for Native Title and Reconciliation (ANTAR) told the Committee that First Nations peoples are 'disproportionately locked out of the housing market and wealth creation', with approximately 42 per cent of Indigenous peoples owning a home in 2021 compared to 68 per cent of the total population.³⁸
- 4.26 Ms Shannon Mallison of the Yarpa business hub told the Committee that the lack home ownership constrains First Nations businesses' ability to rapidly scale up to take advantages of opportunities that may arise.³⁹
- 4.27 The ABA submitted that 'unique challenges' have contributed to no private home ownership on First Nations-titled land, which is a 'significant barrier' to economic self-empowerment in those areas.⁴⁰ While acknowledging that the barriers to home ownership are 'multi-faceted', it partly attributed the low levels of home ownership to the complexities of statutory land tenure arrangements on First Nations-titled land, including land held under the *Native Title Act 1993* (Cth) and the various Commonwealth, state and territory legislative land rights regimes.⁴¹
- 4.28 The ABA recommended that 'community-led, place-based collaborations' be used to address barriers to home ownership on First Nations-titled land. It submitted:
- Private home ownership may not be appropriate for all communities on First Nations-titled land but should be a possibility where the community wishes to pursue it, given its ability to unlock economic opportunities and self-determination.⁴²

³⁶ Australian Banking Association (ABA), *Submission 32*, p. 5.

³⁷ First Australians Capital, *Submission 56*, p. 6.

³⁸ Australians for Native Title and Reconciliation (ANTAR), *Submission 92*, p. 5.

³⁹ Ms Mallison, Yarpa, *Committee Hansard*, Canberra, 23 July 2024, pages 11–12.

⁴⁰ ABA, *Submission 32*, p. 5.

⁴¹ ABA, *Submission 32*, p. 5.

⁴² ABA, *Submission 32*, p. 6.

- 4.29 The Land Back Foundation identified the low levels of home ownership in remote communities as a barrier to unlocking capital:

Many small businesses use the capital of their home as equity for their investment. In remote locations the majority of housing for First Nations people is social housing. To access the equity in the home the small business owner needs to own the home.⁴³

- 4.30 The Land Back Foundation suggested reforms to the Commonwealth and states and territories agreement on social housing to ‘unlock debt equity in the home for long-term tenants’, supported by no- or low-interest loans administered by government or by IBA.⁴⁴ The Land Back Foundation also suggested funding for subsidised homes for First Nations tenants, funding for Not-for-Profits administering home ownership initiatives, and the construction of new homes using local products.⁴⁵

- 4.31 Aboriginal Housing Victoria reported that currently only 46 per cent of Aboriginal Victorians own or are purchasing their own home, compared to 68 per cent of the general population, with very little reduction in this gap over the past five years.⁴⁶ It expressed concern that, without improvements to home ownership rates, the benefits of improvements made in relation to Aboriginal education, employment and business ‘will not translate to an intergenerational wealth transfer and better long-term economic independence’.⁴⁷

- 4.32 Aboriginal Housing Victoria recommended a range of initiatives to improve home ownership and address historical dispossession, including reduced or zero interest rates; government guarantees in lieu of deposits and lenders mortgage insurance; grants to individuals; enabling renters to buy community and public housing; and other innovative policy solutions such as shared equity and community land trusts. Aboriginal Housing Victoria also recommended systemic interventions to improve Indigenous households’ access to capital, to improve housing affordability and supply.⁴⁸

- 4.33 The Coalition of Aboriginal and Torres Strait Islander Peak Organisations (Coalition of Peaks) noted that housing is a crucial enabler to provide stability and safety for individuals and their families, highlighting the success of their housing loans program.⁴⁹

⁴³ Land Back Foundation, *Submission 11*, p. 2.

⁴⁴ Land Back Foundation, *Submission 11*, p. 2.

⁴⁵ Land Back Foundation, *Submission 11*, p. 3.

⁴⁶ Aboriginal Housing Victoria, *Submission 76*, p. 1.

⁴⁷ Aboriginal Housing Victoria, *Submission 76*, p. 2.

⁴⁸ Aboriginal Housing Victoria, *Submission 76*, pages 1–2.

⁴⁹ Ms Patricia Turner, Lead Convener, Coalition of Aboriginal and Torres Strait Islander Peak Organisations (Coalition of Peaks), *Committee Hansard*, 24 September 2024, Canberra, pages. 18–19.

Indigenous Business Australia

- 4.34 The purpose of the corporate Commonwealth entity IBA is to ‘support Aboriginal and Torres Strait Islander financial inclusion and economic independence by providing access to finance and capital as well as skills, knowledge, and networks’.⁵⁰ IBA provides home loans, business finance and support, and other pathways to enable wealth building and prosperity. IBA’s activities address gaps in the provision of financial products and services that are not being met by commercial lenders and the broader market.⁵¹
- 4.35 IBA reported that it had, to date, supported more than 21,000 First Nations peoples into home ownership.⁵² IBA emphasised the importance of housing and home ownership for achieving positive intergenerational outcomes:
- Homeownership is an important way for families to establish and build wealth over time. It also allows them to focus on other areas of their lives such as improving health, education, and employment, and aspiring for more.⁵³
- 4.36 As prescribed in section 146(b) of the Aboriginal and Torres Strait Island Act, IBA is required to protect and grow the money under its management to facilitate the activities it delivers for the benefit of Indigenous peoples.⁵⁴ IBA told the Committee that it had grown its total assets from \$1.5 billion in 2019 to over \$2 billion currently, and that it has an aspiration to continue to grow its asset base to \$2.5 billion by 2028.⁵⁵
- 4.37 IBA intends to reach over 10,000 more Aboriginal and Torres Strait Islander peoples in the next five years by providing home loans, business lending and support services, and investment options.⁵⁶
- 4.38 Although IBA receives appropriations and capital injections from the Australian Government to expand its impact and deliver outcomes, IBA claimed that this ‘simply is not enough to meet demand in the future’.⁵⁷ It noted, however, that in the 2024–25

⁵⁰ IBA, *Submission 34*, p. 3.

⁵¹ IBA, *Submission 34*, p. 3.

⁵² IBA, *Submission 34*, p. 11.

⁵³ IBA, *Submission 34*, p. 11.

⁵⁴ IBA, *Submission 34*, p. 3.

⁵⁵ IBA, *Submission 34*, p. 3.

⁵⁶ IBA, *Submission 34*, p. 4.

⁵⁷ IBA, *Submission 34*, p. 4.

Budget the Australian Government announced its intention to enhance IBA's ability to leverage its capital.⁵⁸ IBA submitted that additional capital would enable it to provide:

- More home loans resulting in safe, stable, and suitable housing for First Nations families.
- More business finance resulting in secure employment, training and skills, and more job opportunities for First Nations business owners and their employees.
- More investment opportunities with First Nations people resulting in steady revenue, financial security and empowerment, and more job opportunities for First Nations communities.⁵⁹

Indigenous Land and Sea Corporation

- 4.39 The ILSC is a corporate Commonwealth entity established in response to the High Court's Mabo judgement in 1992. The ILSC describes its role as a 'strategic funder and facilitator', complementing the *Native Title Act 1993* and 'supporting First Nations people to access, use, and Care for Country on their own terms to achieve their aspirations'.⁶⁰
- 4.40 The ILSC's primary grants program, 'Our Country, Our Future', is used to invest in projects in urban, regional, remote and rural Australia based on 'measurable benefit' for Aboriginal and Torres Strait Islander peoples. ILSC assists groups to purchase freehold land (or acquire leasehold interest in land) and water-related rights, as well as supporting First Nations landholders to manage, use and/or care for land or waters already under their control.⁶¹
- 4.41 The ILSC is funded via the Aboriginal and Torres Strait Islanders Land and Sea Future (ATSILSF) Fund, which is a \$2.14 billion fund that provides annual and discretionary additional payments to the ILSC to acquire and manage land, water and water-related rights.⁶² The purpose of the fund is to provide a capital base from which the ILSC can draw incomes to acquire land and water-related rights for the benefit of First Nations peoples.⁶³

⁵⁸ IBA, *Submission 34*, p. 4, citing Australian Government, *Budget 2024–25, Budget Measures: Budget Paper No. 2*, 14 May 2024, p. 65.

⁵⁹ IBA, *Supplementary Submission 34.1*, p. 5.

⁶⁰ Indigenous Land and Sea Corporation (ILSC), *Submission 53*, p. 1.

⁶¹ ILSC, *Submission 53*, p. 2.

⁶² ILSC, *Submission 53*, p. 4.

⁶³ Law Council of Australia, *Submission 96*, p. 10.

- 4.42 The ILSC reported that the annual payment from the fund was around \$62.2 million in 2023–24. However, noting large increases in the average value of its projects, the ILSC submitted that the current drawdown model set out in the *Aboriginal and Torres Strait Islander Land and Sea Future Fund Act 2018* (ATSILSF Fund) is ‘not sufficient’.⁶⁴ The ILSC said that it is considering ‘a range of options to secure sustainable funding reform’ to enable it to continue to grow and meet demand.⁶⁵
- 4.43 The Law Council of Australia noted that from the mid-1990s until 2019, when its management was transferred to the Future Fund, most capital from the ATSILSF Fund was invested in low yield term deposits, rather than a more balanced investment strategy, in order to comply with statutory restrictions.⁶⁶ The Law Council cited reports showing that the average annual return achieved during that period was only 4.2 per cent for the ATSILSF Fund, compared to 8.5 per cent for the Future Fund, which suggested there would have been hundreds of millions of dollars of additional funding for the ILSC if the funds had been invested instead.⁶⁷ The Law Council recommended that the Australian Government consider an injection of funds into the ATSILSF Fund to help address this ‘lost opportunity’.^{68, 69}
- 4.44 The Coalition of Peaks recommended that the IBA and ILSC conduct a review to better align their operations with the National Agreement on Closing the Gap, particularly for the four priority reforms.⁷⁰

Activating and leveraging the Indigenous Estate

- 4.45 The ‘Indigenous Estate’ can refer to both the tangible and intangible aspects of Indigenous culture collectively held by Aboriginal and Torres Strait Islander peoples.⁷¹ For the purposes of this report, the Indigenous Estate refers to lands and waters under the care and control of Aboriginal and Torres Strait Islander peoples and communities through ownership, management or rights of use for customary purposes.⁷²

⁶⁴ ILSC, *Submission 53*, p. 4.

⁶⁵ ILSC, *Submission 53*, p. 4.

⁶⁶ Law Council of Australia, *Submission 96*, pages 10–11.

⁶⁷ Law Council of Australia, *Submission 96*, p. 11.

⁶⁸ Law Council of Australia, *Submission 96*, p. 11.

⁶⁹ The Law Council also made recommendations for similar reforms and an injection of funds in relation to the Aboriginal Benefits Account, which manages royalties from mining on Indigenous land in the Northern Territory.

⁷⁰ Coalition of Peaks, *Submission 67*, p. 2; Ms Turner, Coalition of Peaks, *Committee Hansard*, 24 September 2024, Canberra, p. 20.

⁷¹ ILSC 2021, *Unlocking the Indigenous Estate: Corporate Plan 2021–22: Strategy to 2025*, p. 11.

⁷² See ILSC, *Unlocking the Indigenous Estate: Corporate Plan 2021–22: Strategy to 2025*, p. 11; IBA, *Submission 34*, p. 12; Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) 2023, *Australia’s forests and forestry glossary*, DAFF, p. 20.

- 4.46 According to the ILSC, First Nations peoples have legally recognised rights across 57 per cent of Australia’s landmass.⁷³ This figure is predicted to increase to 72 per cent by 2030.⁷⁴ IBA reported that, in 2020, the Indigenous Estate consisted of:
- 134 million hectares (17 per cent of Australia’s land) that is Indigenous owned
 - 174 million hectares (22 per cent of Australia’s land) that is under Indigenous management, comprising of 141 million hectares that are Indigenous managed and 33 million hectares that are Indigenous co-managed
 - 337 million hectares (44 per cent of Australia’s land) that is subject to other special rights for Indigenous people.^{75, 76}
- 4.47 In addition, as of 30 June 2023, more than 113,000 square kilometres of Australia’s sea country was subject to Aboriginal and Torres Strait Islander peoples’ rights or interests.⁷⁷
- 4.48 Outcome 15 under the National Agreement on Closing the Gap is that ‘Aboriginal and Torres Strait Islander peoples maintain a distinctive cultural, spiritual, physical, and economic relationship with their land and waters’. The Agreement’s targets include a 15 per cent increase in the areas of land and sea that are subject to Aboriginal and Torres Strait Islander peoples’ legal rights or interests by 2030.⁷⁸
- 4.49 However, many submitters to this inquiry highlighted the need to improve the ability for Aboriginal and Torres Strait Islander peoples to leverage the Indigenous Estate for economic development.
- 4.50 The Federation of Victorian Traditional Owner Corporations (FVTOC) highlighted the important role of the First Nations economy—in which communally held rights, including property rights, are not vested in individuals but where any economic or cultural benefit from their use ‘accrues to the collective, or “nation” as a whole’. It argued that prioritisation of the First Nations economy has the potential to ‘fast track the addressing of issues of individual disadvantage’ while making ‘significant progress on the journey self-determination’. The Federation considered that the ‘creation of, grant to, and recognition and protection of, property, economic, procedural and/or cultural rights vesting in the collective’ is key to growing the First Nations economy.⁷⁹ However, at a public hearing, the Federation’s Chief Executive

⁷³ ILSC, *Submission 53*, p. 2.

⁷⁴ ILSC, *Submission 53*, p. 2.

⁷⁵ IBA, *Submission 34*, p. 12, citing ABARES 2020, *Australia’s Indigenous land and forest estate*, <https://www.agriculture.gov.au/abares/forestsaustralia/forest-data-maps-and-tools/spatial-data/indigenous-land-and-forest#australias-indigenous-forest-estate-2020>, viewed 8 August 2024.

⁷⁶ The IBA submission notes that these areas of land are not mutually exclusive and there is substantial overlap.

⁷⁷ Department of Industry, Science and Research (DISR), *Submission 69*, p. 10.

⁷⁸ National Agreement on Closing the Gap, targets 15a and 15b, cited by South Australian Aboriginal Community Controlled Organisation Network (SAACCON), *Submission 93*, pages 1–2.

⁷⁹ Federation of Victorian Traditional Owner Corporations (FVTOC), *Submission 40*, p. 3.

Officer, Mr Paul Paton, identified a lack of property rights as a key economic constraint:

The way we see it, noting the very little land base that Traditional Owners hold in Victoria, the lack of property rights is an inhibitor to supporting economic development. That's not unique; it's demonstrated in the broad parcels of land that are under freehold title and the public land that has limited ability to have economic opportunities applied to it through the processes of native title, the Traditional Owner Settlement Act and the cultural heritage functions that Traditional Owners hold. Not having those property rights makes it more difficult for Traditional Owners to attract capital and investment to be able to practise culture on Country, utilise cultural knowledge through businesses such as cultural tourism and heal country using intellectual property through cultural fire management of country.⁸⁰

- 4.51 The Cooperative Research Centre for Developing Northern Australia (CRCNA) told the Committee that the demand for its 2022 funding program for First Nations-led projects aimed at activating the Indigenous Estate was oversubscribed by 1,500 per cent, with only six per cent of projects to be funded.⁸¹ This suggests that many potential economic opportunities on the Indigenous Estate are not being realised.
- 4.52 The Department of Agriculture, Fisheries and Forestry (DAFF) advised that it is committed to 'activating the economic value of land and sea resource rights to enhance the productivity, resilience, innovation and sustainability of the Australian food and fibre supply chain' and that it 'welcomes opportunities to explore how greater commercial and economic activation of collectively held land tenure can better support First Nations economic self-determination within the current legislative framework'.⁸²

Native title and land rights

- 4.53 Native title rights and interests have been recognised over around 50 per cent of the Australian landmass. This figure is expected to increase to over 65 per cent by 2030.⁸³ Already, more than 60 per cent of Australian resource projects—including both exploration and extraction—operate on land covered by a native title claim or determination.⁸⁴
- 4.54 Participants in the inquiry identified the inability of First Nations peoples to use native title land for commercial purposes as a significant barrier to economic self-determination.⁸⁵ ANTAR explained in its submission that 'fundamental limitations in

⁸⁰ Mr Paul Paton, Chief Executive Officer, FVTOC, *Committee Hansard*, Melbourne, 19 July 2024, p. 20.

⁸¹ Cooperative Research Centre for Developing Northern Australia (CRCNA), *Submission 98*, p. 2.

⁸² DAFF, *Submission 9*, pages 2 and 7.

⁸³ ILSC, *Submission 53*, p. 5.

⁸⁴ DISR, *Submission 69*, p. 7.

⁸⁵ For example, DAFF, *Submission 9*, p. 6; Land Back Foundation, *Submission 11*, pages 3–4; IBA, *Submission 34*, p. 12; Mr Tyson McEwan, *Submission 51*, p. 2; ILSC, *Submission 53*, p. 4;

legislation’ and ‘severe underfunding’ of the bodies established to manage the native title interests of First Nations peoples ‘limit their capacity to leverage land-based assets to achieve their cultural, social, environmental and economic aspirations’:⁸⁶

For example, banks do not lend against land held under native title because native title is an inalienable bundle of rights, rather than a form of freehold title that is transferable to the bank in the event that a [Prescribed Body Corporate] defaults on a loan. This means that even where First Nations communities hold native title under terms of exclusive possession, they cannot use this to attract capital or commercial loans necessary for economic development.⁸⁷

- 4.55 The Kimberley Land Council (KLC) similarly noted that the *Native Title Act 1993* prohibits native title holders from using their rights and interests in land as collateral for finance; and claimed that is one of only four statutory land title regimes that expressly prohibits rights and interests in land being sold, leased, or mortgaged.⁸⁸ It submitted:

Now that the post-determination era has largely been reached, it is more important than ever to consider how the native title regime can facilitate economic development and deliver tangible benefits for native title holders well into the future. Legislative and policy changes to enable native title holders to easily access capital for projects on native title land would be transformational in terms of opening up economic development opportunities.⁸⁹

- 4.56 Despite the constraints, the KLC reported that some native title holders in the Kimberley had developed successful businesses and enterprises on native title lands and/or traditional Country, sometimes involving freehold tenure.⁹⁰ It highlighted savanna fire management carbon projects which have been used to generate ‘tens of millions of dollars’ for Prescribed Body Corporates (PBCs) and communities in the north Kimberley (see Box 4.1).⁹¹

Box 4.1 Case study: Savanna fire management carbon projects

An example of value-aligned industry in the Kimberley has been the development of savanna fire management carbon projects. The KLC has played a lead role in the registration of Aboriginal-owned carbon projects under the Australian Government’s Australian Carbon Credit Unit (ACCU) Scheme. These projects have been transformative for PBCs and communities in the Northern Kimberley, generating tens of millions of dollars in income over the past decade.

First Australians Capital, *Submission 56*, p. 9; Kimberley Land Council (KLC), *Submission 83*, p. 5; ANTA, *Submission 92*, pages 5–6, 18–19. Mr Matt Lowe, Deputy Secretary, Agriculture, Fisheries and Forestry Policy Group, DAFF, *Committee Hansard*, 28 June 2024, Canberra, p. 40.

⁸⁶ ANTA, *Submission 92*, p. 5.

⁸⁷ ANTA, *Submission 92*, pages 5–6.

⁸⁸ KLC, *Submission 83*, p. 5.

⁸⁹ KLC, *Submission 83*, p. 5.

⁹⁰ KLC, *Submission 83*, p. 5.

⁹¹ KLC, *Submission 83*, p. 9.

Aboriginal-led savanna fire management carbon projects improve biodiversity and landscape outcomes, educate communities, build mitigation and adaptation strategies for climate change, and create culturally aligned jobs and revenue streams for individuals, families, communities and organisations in the Kimberley. Projects use traditional knowledge of early dry-season burning and modern scientific practices to reduce the amount of greenhouse gas emissions released into the atmosphere from unmanaged and potentially dangerous late-season wildfires. This abatement is measured, and carbon credits are generated, which can then be sold to government, industry or large emitters of greenhouse gasses.

Kimberley Traditional Owners, with the support of the KLC, have so far registered seven savanna fire management carbon projects under the ACCU Scheme. To date, 1,532,171 ACCUs have been generated for KLC-supported carbon projects.⁹²

- 4.57 The ILSC highlighted the lack of fundamental reform to the *Native Title Act 1993* over the past 30 years, submitting that legislative reform is 'critical to enhancing the value of native title rights' and enabling self-determination for First Nations peoples.⁹³

It noted that:

Native title rights and interests are generally limited to 'the purpose of satisfying their personal, domestic or non-commercial communal needs'. This creates significant barriers for native title holders to pursue their economic, social and cultural self-determination, as set out in the United Nations Declaration on the Rights of Indigenous Peoples.⁹⁴

- 4.58 Specifically, the ILSC called for sections of the *Native Title Act 1993* that prevent native title interests and rights being used for commercial purposes to be amended or removed:⁹⁵

Reforms to the Act should enable native title holders to continue to hold their native title rights in perpetuity, but to create appropriate fungible rights in native title lands under their own terms and in co-existence with other land users that may apply to those lands. This would enable First Nations peoples to achieve greater economic, social, cultural, and environmental benefits that include their ownership and management of land and water related rights.⁹⁶

⁹² KLC, *Submission 83*, p. 9.

⁹³ ILSC, *Submission 53*, p. 5.

⁹⁴ ILSC, *Submission 53*, p. 4.

⁹⁵ ILSC, *Submission 53*, p. 5.

⁹⁶ ILSC, *Submission 53*, p. 5.

- 4.59 Professor Peter Yu, Vice-President of the First Nations Portfolio at the Australian National University (ANU) also supported the commercial leveraging of native title interests, but emphasised the importance of retaining native title:⁹⁷

The question is how do you leverage those assets and what level of available capital is there to be able to do that? How is that to be deployed and under what circumstances so that you're able to, firstly, ensure that you can protect your native title rights and interests without jeopardising the nature of impairment or extinguishment [of native title].⁹⁸

- 4.60 The ILSC noted that feedback it had received from First Nations peoples highlighted the limitations under the existing *Native Title Act 1993*, which prevent native title land from being used for economic development as it is not considered a fungible, or interchangeable, commodity:

We also heard a bit about reforms of the Native Title Act, and in particular the ability to have some form of fungibility criteria for native title lands. This is not a new conversation that we've heard. We've certainly heard in the vast majority of native title determinations, in particular where there are coexisting rights—that is, it's not exclusive possession but non-exclusive position—people speaking a lot about the ability to have fungible titles so they can get involved in economic development in those forms of determinations.⁹⁹

- 4.61 The FVTOC stated that to take advantage of economic development projects, native title and other land rights mechanisms should be enabled to operate more like freehold title:

We need to think of some novel ideas about how we transfer resources to Traditional Owners to be able to have a stake in those types of projects. Those barriers that exist through the mechanisms such as native title and the Traditional Owner Settlement Act don't facilitate any handover of freehold title, as we call it, which is equivalent to any other landholder. That doesn't apply; therefore, those opportunities are not realised.¹⁰⁰

- 4.62 DAFF pointed to the current Australian Law Reform Commission (ALRC) review of the 'future acts' regime within the *Native Title Act 1993* as an opportunity to better activate collectively held land to support First Nations economic self-determination through 'significant opportunities' in the agriculture, fisheries and forestry sectors.¹⁰¹

⁹⁷ Professor Yu, ANU First Nations Portfolio, *Committee Hansard*, Canberra, 30 September 2024, p. 6.

⁹⁸ Professor Yu, ANU First Nations Portfolio, *Committee Hansard*, Canberra, 30 September 2024, p. 6.

⁹⁹ Mr Joseph (Joe) Morrison, Group Chief Executive Officer, ILSC, *Committee Hansard*, 30 September 2024, Canberra, p. 11.

¹⁰⁰ Mr Paton, FVTOC, *Committee Hansard*, Melbourne, 19 July 2024, p. 21.

¹⁰¹ DAFF, *Submission 9*, pages 7–8.

4.63 The future acts regime concerns proposed actions or developments that affect native title and establishes procedures to be followed to allow for future acts to be validly enacted.¹⁰² The review was initiated by the Australian Government in response to a recommendation of the Joint Standing Committee on Northern Australia in its report on the destruction of Juukan Gorge.¹⁰³ Among other things, the terms of reference for the review include:

- [having regard to] the opportunity for the native title system to contribute significantly to social, cultural, environmental and economic outcomes for First Nations people, businesses, organisations and communities
- options to support native title groups, project proponents and governments to share in the benefits of development on native title land, including opportunities for native title groups to lead or co-lead development, and for ensuring native title groups receive commensurate and timely compensation for the diminution of native title rights and interests caused by future acts
- whether the Native Title Act appropriately provides for new and emerging industries engaging in future acts.¹⁰⁴

4.64 The ALRC has been asked to provide its report to the Australian Government by 8 December 2025.¹⁰⁵

4.65 In addition to constraints within the *Native Title Act 1993*, some inquiry participants identified the complexity of interactions between the *Native Title Act 1993* and the various Commonwealth, state and territory legislative land rights regimes as a barrier to leveraging the Indigenous Estate.¹⁰⁶

4.66 The NSW Government highlighted the opportunity for legislative reform to improve interaction between the NSW and Commonwealth Acts and ‘unlock the full economic benefit of land’.¹⁰⁷

4.67 ANTAR submitted that, due to the ‘narrow conditions’ under which LALCs can claim land under the *Aboriginal Land Rights Act 1983* (NSW), the lands returned ‘are almost invariably on the urban fringes, fully vegetated and conservation zoned, with little to no infrastructure in place’.¹⁰⁸ It argued that on the ‘rare occasion’ that the land returned has inherent economic value, it is ‘prohibitively expensive’ for the LALC to

¹⁰² Attorney-General’s Department n.d., ‘Future acts regime’, <https://www.ag.gov.au/legal-system/native-title/future-acts-regime>, accessed 26 August 2024.

¹⁰³ See Joint Standing Committee on Northern Australia 2024, *A Way Forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge*.

¹⁰⁴ Australian Law Reform Commission (ALRC) 2024, ‘Terms of Reference’, <https://www.alrc.gov.au/inquiry/review-of-the-future-acts-regime/terms-of-reference/>, accessed 26 August 2024.

¹⁰⁵ ALRC 2024, ‘Terms of Reference’, <https://www.alrc.gov.au/inquiry/review-of-the-future-acts-regime/terms-of-reference/>, accessed 26 August 2024.

¹⁰⁶ ABA, *Submission 32*, p. 5; New South Wales Government, *Submission 95*, p. 11.

¹⁰⁷ New South Wales Government, *Submission 95*, p. 11.

¹⁰⁸ ANTAR, *Submission 92*, p. 6.

extract that value through development, in part due to the offset liabilities that would be incurred under the NSW Biodiversity Offset Scheme.¹⁰⁹ ANTAR considered this to be a contemporary example of ‘the ways in which Government policy and legislation are designed to block First Nations Peoples from taking full and proper control of their financial futures’.¹¹⁰

- 4.68 Mr James Morgan submitted that although large areas of the Northern Territory have been granted as unalienable freehold title under the *Aboriginal Land Rights Act 1976* (NT),¹¹¹ applications for commercial use of such land are lengthy and could take up to three years.¹¹² Mr Morgan argued that this limits the ability for Aboriginal peoples to use their land to build wealth and forces them to seek work off Country or assistance elsewhere.¹¹³

PBCs and Traditional Owner institutions

- 4.69 Prescribed Body Corporates (PBCs) are corporations that are required to be established by native title holders following a determination under the *Native Title Act 1993* to manage and protect their native title rights and interests. A PBC may be an existing corporation or a newly established body. When a PBC is officially registered, it becomes a Registered Native Title Body Corporate (RNTBC), but most often the term PBC continues to be used to describe the body.¹¹⁴

- 4.70 PBCs have a range of statutory and non-statutory functions as part of their role in managing Traditional Owners’ native title rights and interests. In particular, PBCs are required under the *Native Title Act 1993* to consult with and obtain consent from Traditional Owners regarding any decisions that surrender or affect native title rights and interests. A PBC is therefore the first point of contact for government and other parties wishing to undertake activities on native title land. Matters that PBCs are required to deal with include:

- proposals for work that will affect native title (future acts)
- Indigenous land usage agreements negotiated between governments, companies and the PBC
- consultations with native title holders, and documenting evidence of consultations and consent
- exercising, negotiating, implementing and monitoring native title agreements

¹⁰⁹ ANTAR, *Submission 92*, p. 6.

¹¹⁰ ANTAR, *Submission 92*, p. 6.

¹¹¹ Roughly 50% of the NT and roughly 85% of the NT coastline has been granted as inalienable freehold title under the *Aboriginal Land Rights Act 1976* (NT); see Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) 2016, *Native Title Information Handbook: Northern Territory*, https://aiatsis.gov.au/sites/default/files/research_pub/native_title_information_handbook_2016_nt_2.pdf.

¹¹² Mr James Morgan, *Submission 72*, p. [2].

¹¹³ Mr James Morgan, *Submission 72*, p. [2].

¹¹⁴ AIATSIS n.d., ‘PBC: About PBCs’, <https://nativetitle.org.au/learn/role-and-function-pbc/about-pbcs>, accessed 18 September 2024.

- consulting with and considering the views of relevant native title representative bodies and native title service providers
- considering compensation matters, and bringing native title compensation applications in the Federal Court
- bringing future native title application cases in the Federal Court.¹¹⁵

4.71 PBCs have additional obligations under the *Corporations (Aboriginal and Torres Strait Islander Act) 2006* and may hold money in trust for native title holders. PBCs may also need to deal with matters under other state, territory or Commonwealth legislation regarding land and water management; tenure issues; biodiversity and environmental protection; cultural heritage; and land use planning.¹¹⁶ If they have capacity, individual PBCs may voluntarily engage in other activities, such as cultural projects, economic development, training and employment activities for the benefit of their communities.¹¹⁷

Resource constraints

4.72 The Law Council of Australia described the regulatory framework for native title holders as ‘complicated and difficult to navigate’.¹¹⁸ It reported that native title applicants rely on advice from legal practitioners for establishing and maintaining PBCs,¹¹⁹ but there is a ‘significant gap...between the resources available to PBCs and RNTBCs and the perpetual mandatory regulatory costs they face’.¹²⁰ The Law Council suggested that either reform to the way PBCs are funded or reform to the regulatory burden on PBCs is required to improve their financial sustainability:

As a threshold issue, PBCs must be enabled to develop the capabilities and capacity to effectively and efficiently deal with their native title, heritage and cultural obligations, and be in a position to then pursue expanded aspirational goals. This will include resourcing the skills and capacity training (such as project management and business development skills) necessary for activating native title assets. Smaller PBCs and those in more remote locations may require greater support to meet the challenges posed by factors such as size and geographical isolation.

¹¹⁵ AIATSIS n.d., ‘PBC: About PBCs’, <https://nativetitle.org.au/learn/role-and-function-pbc/about-pbcs>, accessed 18 September 2024.

¹¹⁶ AIATSIS n.d., ‘PBC: About PBCs’, <https://nativetitle.org.au/learn/role-and-function-pbc/about-pbcs>, accessed 18 September 2024.

¹¹⁷ AIATSIS n.d., ‘PBC: About PBCs’, <https://nativetitle.org.au/learn/role-and-function-pbc/about-pbcs>, accessed 18 September 2024.

¹¹⁸ Law Council of Australia, *Submission 96*, p. 11.

¹¹⁹ Prescribed Bodies Corporate (PBCs) are bodies established by native title holders to manage and protect their native title rights and interests after a native title determination. A PBC becomes a Registered Native Title Body Corporate (RNTBC) once it is officially registered with the National Native Title Tribunal. However, the term PBC most often continues to be used post-registration and is used interchangeably with RNTBC in this report.

¹²⁰ Law Council of Australia, *Submission 96*, pages 11–12.

- 4.73 The National Native Title Council similarly highlighted the potential role of PBCs and other Traditional Owner Representative Institutions (TORIs) to ‘act as a driver of self-determination’,¹²¹ and considered that this potential role has been ‘thwarted’ by short sighted government policies.¹²² It described PBCs as being caught in a ‘federation black hole’ with respect to funding:

The state governments have not funded them because they are created by Commonwealth statute. The Commonwealth sees them as part of the state-led “land management” processes. As a result, the only PBC dedicated funding program is the Commonwealth’s Basic Support Funding of a \$80,000 grant. Beyond this, PBCs can try some level of cost recovery from proponents under the PBC Fees Regulations (if there are relevant ‘future acts’ on their Country). The fees that a PBC can charge under this structure are designed to ensure that a PBC will never make money through future act fees under the Regulations. This design criteria is said to arise from the constitutional limitations of ensuring that the fees imposed by PBCs cannot be characterised as tax.¹²³

- 4.74 The South Australian Aboriginal Community Controlled Organisation Network told the Committee about the range of economic opportunities that exist on native title estates, including of short-term opportunities such as nature repair, pest control, cultural burning, and land and community works; as well as long-term opportunities such as agriculture, aquaculture and renewables.¹²⁴ However, it argued that PBCs currently lack the time, skills, knowledge and funds required to pursue those opportunities in a self-determined way:

Currently, if a PBC is involved in a project on their Native Land Estate, it is because they were engaged by another entity (commercial or Government). In these situations, PBCs are restricted to being reactive in a predetermined context. ...PBCs could be supported to pursue their own opportunities by having access to the skills and knowledge to identify, assess and create their own projects on Country. This is the only way economic development on Country can be truly self-determined.¹²⁵

- 4.75 The Australian Indigenous Governance Institute told the Committee that the administrative burdens placed on First Nations organisations are often higher than for non-Indigenous organisations due to their lack of reliable long-term funding. The Institute reported that, of 3,041 organisations registered with the Office of Indigenous Corporations, 72 per cent have a consolidated operating income of less than \$100,000. The Institute considered that the time and energy these organisations spend on dealing with administrative tasks are a barrier to their success, and their

¹²¹ National Native Title Council, *Submission 62*, p. 1.

¹²² National Native Title Council, *Submission 62*, p. 8.

¹²³ National Native Title Council, *Submission 62*, p. 9.

¹²⁴ SAACCON, *Submission 93*, p.14.

¹²⁵ SAACCON, *Submission 93*, p.13.

limited resources meant were less likely to have capacity to invest in governance development.¹²⁶

4.76 Other organisations similarly called for reforms to the funding of PBCs. The KLC reported that more than half of the 31 PBCs in the Kimberley are ‘completely unstaffed and rely on volunteer work from members and directors and support from the KLC to function’.¹²⁷ It argued that PBCs ‘have not been set up to prosper’, with the majority receiving only basic support funding from the Australian Government, averaging around \$70,000 per year, which cannot be used for economic development or employing part- or full-time staff.¹²⁸

4.77 The KLC submitted that investing in PBCs ‘makes sense’, as there is ‘significant opportunity for Aboriginal people to utilise PBCs as vehicles for economic development’. However, it argued that the current lack of ‘secure and adequate funding’ for PBCs is ‘severely hampering their ability to build capacity and participate in economic development’.¹²⁹

4.78 At a public hearing, the National Native Title Council’s Chief Executive Officer, Mr Jamie Lowe, added that PBCs are:

...struggling just to meet their cultural and statutory obligations under the 35 pieces of legislation sitting with the Commonwealth, let alone with the states. Their ability to then go to that next step and really mature as a regional authority that could represent their people but also access business opportunities on country—we’ve got 30 or 40 great examples, but then we’ve got 200 examples where that’s not the case. So, we’re imploring the Commonwealth to inject resourcing just to fulfil the statutory obligations, let alone to create jobs for the mob.

4.79 Ms Karrina Nolan, Co-Chair of the First Nations Clean Energy Network, likewise told the Committee that PBCs, land councils and other Traditional Owner groups are ‘sorely lacking capacity and resourcing’, leaving them ill equipped to respond to the various project proposals put forward by proponents.¹³⁰

4.80 The Minerals Council of Australia submitted that the fact that compensation given to Traditional Owners under Native Title Agreements is considered ‘non-assessable non-exempt income’ for tax purposes can inhibit their ability to access finance:

Lenders generally prefer stable and regular income that can be verified and used to assess ability to repay. The non-assessable non-exempt income [Native Title Agreement] payments create difficulties for Traditional Custodians to obtain commercial financing options that are necessary to finance longer term projects,

¹²⁶ Australian Indigenous Governance Institute, *Submission 19*, p. 2.

¹²⁷ KLC, *Submission 83*, p. 6.

¹²⁸ KLC, *Submission 83*, p. 7.

¹²⁹ KLC, *Submission 83*, p. 6.

¹³⁰ Ms Karrina Nolan, Co-Chair, First Nations Clean Energy Network, *Committee Hansard*, Melbourne, 19 July 2024, p. 42.

such as mining and associated processing facilities, that have intergenerational benefits.¹³¹

Examples of success

4.81 The National Native Title Council highlighted the Victorian model of funding for Registered Aboriginal Parties (RAPs) as a success story. RAPs are appointed under the *Aboriginal Heritage Act 2006* (Vic) and include the four Victorian PBCs and seven other groups that collectively exercise statutory cultural heritage responsibility for 75 per cent of Victoria's land area.¹³² In 2012, a parliamentary committee recommended that the Victorian Government review the level of assistance provided to RAPs to 'reflect the principle that [RAPs] undertake the management and protection of Aboriginal heritage on behalf of all Victorians'.¹³³ In response, the Victorian Government implemented base funding of \$0.5 million for each RAP, enabling them to grow revenue through enterprise activities and rapidly improve employment outcomes.¹³⁴ The National Native Title Council concluded:

The example of Victorian RAPs illustrates that the TORI sector when appropriately supported by government policy and even modest funding can grow, become self-sustaining, generate employment, and serve as a powerful vehicle for First Nations economic self-determination.¹³⁵

4.82 The Dja Dja Wurrung Clans Aboriginal Corporation (DJAARA) is a representative body for the Dja Dja Wurrung People of Central Victoria. DJARRA is a RAP and in 2013 signed a Recognition and Settlement Agreement with the State of Victoria under the *Traditional Owner Settlement Act 2010* (Vic)¹³⁶. The Recognition and Settlement Agreement formally recognises the Dja Dja Wurrung People's right to maintain their 'spiritual, material and economic relationship with the land and its resources'.¹³⁷ The agreement does not provide the Dja Dja Wurrung People with commercial hunting, fishing or forestry rights, but does allow for some limited collection of forest products for commercial purposes, subject to environmental legislation and other terms and conditions.¹³⁸

¹³¹ Minerals Council of Australia, *Submission 5*, p. 4.

¹³² National Native Title Council, *Submission 62*, p. 10.

¹³³ National Native Title Council, *Submission 62*, pages 10–11, citing Parliament of Victoria, Environment and Natural Resources Committee, *Inquiry into the Establishment and Effectiveness of Registered Aboriginal Parties*, November 2012, p. 114.

¹³⁴ National Native Title Council, *Submission 62*, pages 10–12.

¹³⁵ National Native Title Council, *Submission 62*, p. 12.

¹³⁶ The *Traditional Owner Settlement Act 2010* (Vic) provides an alternative process to the *Native Title Act 1993* (Cth) by providing for an out-of-court settlement of native title and delivery of land justice (see <https://www.forestsandreserves.vic.gov.au/land-management/what-we-do/the-traditional-owner-settlement-act-2010>).

¹³⁷ Dja Dja Wurrung Clans Aboriginal Corporation, *Submission 80*, pages 1–2.

¹³⁸ See State Government of Victoria, First Peoples – State Relations, 'Dja Dja Wurrung Recognition and Settlement Agreement', <https://www.firstpeoplesrelations.vic.gov.au/dja-dja-wurrung-recognition-and-settlement-agreement>, accessed 15 August 2024; Dja Dja Wurrung Clans Aboriginal Corporation and The State of Victoria, *Recognition and Settlement Agreement under the Traditional Owner Settlement Act 2010* (Vic), 28 March 2013, Vol 1, pages 91–92.

- 4.83 One of DJAARA’s strategic objectives is to grow its asset base and ‘use it wisely and sustainably to generate economic benefit for Dja Dja Wurrung People’. Since the agreement was signed, DJAARA has established three Dja Dja Wurrung enterprises:
- DJANDAK: engaged in state and local government projects and delivering services in natural resource management, landscaping and cultural services
 - DUMAWUL: focusing on cultural tourism, cultural education and creative arts
 - DJAKITJ: a food and fibre enterprise. See Box 4.2 for more details.

Box 4.2 DJAKITJ—Dja Dja Wurrung food and fibre enterprise

DJAKITJ is a food and fibre enterprise launched by DJARRA in May 2023 on a property near Bendigo that was bought back by investing \$1.6 million of its own funds. DJAKITJ means ‘dining room’ in the Dja Dja Wurrung language.

DJAKITJ is developing several projects around native Australian ingredients. The ILSC has provided more than \$3.5 million in funding for capital costs to establish potentially the largest yabby farm in the Southern Hemisphere. The farm will have more than 50 yabby ponds, a brood stock and hatchery facility, and research and development areas for aquaculture, native plants and bush foods.

DJAKITJ has also partnered with the Australian Government through its Smart Farming Partnerships program to lead research into the viability of growing Kangaroo Grass as an agricultural cereal crop. The project is using science-based evidence to select the best-yielding varieties for varying climates and growing conditions.¹³⁹

- 4.84 Mr Rodney Carter, Group Chief Executive Officer of DJAARA, described the group’s corporate structure as a ‘unique success story’ that was resulting in significant improvements to economic outcomes:

Looking at healing country, we’ve inadvertently found that we’ve healed people, and we’re a significant contributor to local, regional and now the state’s economy. Ten years ago, when I started as the CEO, we had six employees, our annual budget was \$600,000 and we had one subsidiary entity. Last year we traded at \$28 million, we have over 200 employees, and we are a significant partner and contributor to multimillion dollar projects.¹⁴⁰

¹³⁹ Dja Dja Wurrung Clans Aboriginal Corporation, *Submission 80*, p. 3

¹⁴⁰ Mr Rodney Carter, Group Chief Executive Officer, Dja Dja Wurrung Clans Aboriginal Corporation, *Committee Hansard*, Melbourne, 19 July 2024, p. 25.

4.85 Mr Troy McDonald, Chair and Director of the Gunaikurnai Land and Waters Aboriginal Corporation, noted similar success had been replicated in other Traditional Owner corporations in Victoria.¹⁴¹ The Gunaikurnai people had native title recognised and entered a Recognition and Settlement Agreement with the State of Victoria in 2010.¹⁴² Since then, the Gunaikurnai Land and Waters Aboriginal Corporation has grown to employ around 100 people, 75 to 80 per cent of whom are Aboriginal staff.¹⁴³ Mr McDonald highlighted the ‘multiplier effect’ that this success has had on the regional economy:

So here’s the multiplying factor: of that 75 per cent of our staff—and let’s say it’s 75 people—each one is caring for an elder and for kids, are now buying a house, are paying their taxes and are contributing in their local economies. They’re getting their kids to school and the getting their kids educated. It’s a major capability uplift there. What would be happening if we didn’t have native title or Traditional Owner settlement in Victoria? Where would those 75 people be? ...in a lot of cases these people never had jobs before.¹⁴⁴

4.86 Dr Matthew Storey, Legal Representative for the National Native Title Council, similarly held up the Victorian experience as an example to demonstrates how the broader economy benefits when Traditional Owner organisations are sufficiently funded:

What you’re seeing is that, once you build the capacity of those organisations to effectively discharge their statutory functions, they also start adopting additional economic functions. The benefits of that economic growth are located in the region where the PBC or whatever Traditional Owner organisation exists. That way, very effectively, you can both target regional and remote unemployment and deliver a human rights agenda by ensuring economic self-determination and a broader implementation of FPIC and a range of other measures in the [United Nations Declaration on the Rights of Indigenous Peoples].¹⁴⁵

4.87 The Australian Indigenous Governance Institute highlighted the Yawuru Corporate Group, associated with the Yawuru PBC, as an example of a First Nations-led organisation that is successfully advancing the economic development—and social and cultural wellbeing—of its people (see Box 4.3).

¹⁴¹ *Committee Hansard*, Melbourne, 19 July 2024, p. 34.

¹⁴² Mr Troy McDonald, Chair and Director, Gunaikurnai Land and Waters Aboriginal Corporation, *Committee Hansard*, Melbourne, 19 July 2024, p. 34; Gunaikurnai Land and Waters Aboriginal Corporation, ‘Recognition Settlement Agreement’, <https://gunaikurnai.org/our-community/know-your-rights/recognition-settlement-agreement/>, accessed 19 August 2024.

¹⁴³ Mr McDonald, Gunaikurnai Land and Waters Aboriginal Corporation, *Committee Hansard*, Melbourne, 19 July 2024, p. 34.

¹⁴⁴ Mr McDonald, Gunaikurnai Land and Waters Aboriginal Corporation, *Committee Hansard*, Melbourne, 19 July 2024, p. 34.

¹⁴⁵ Dr Matthew Storey, Legal Representative for the National Native Title Council, *Committee Hansard*, Melbourne, 19 July 2024, p. 50.

Box 4.3 Yawuru Corporate Group

Yawuru native title was recognised by the Federal Court in 2006, in and around Broome, Western Australia. The Yawuru Corporate Group ‘develops economic, cultural and social sustainability’ to enable the Yawuru people to ‘enjoy their land, values and culture in perpetuity, while enhancing their families and the community in which they live’.¹⁴⁶

The group has developed a range of programs aimed at achieving *mabu liyan* (a sense of well-being and living the ‘good life’), including language revitalisation, strengthening cultural practices and participation, best practice land and sea management, innovative home ownership approaches, and developing pathways for local economic participation.¹⁴⁷ Professor Yu, of the ANU, is a Yawuru man and was recently Group Chief Executive Officer.¹⁴⁸ He has written:

Despite operating in a highly constrained legal and political environment, Yawuru are successfully building the physical and institutional infrastructure necessary to thrive in the modern economy, on our own terms. While a key objective is to empower our people through individual and collective wealth creation, the fundamental point is that this objective is being met through culturally integrated strategies, so that our investment outcomes also contribute to *liyan*, not just our financial bottom line.¹⁴⁹

Nyamba Buru Yawuru is part of the group’s corporate structure. It was established as part of the 2010 Yawuru Native Title Agreement. Nyamba Buru Yawuru manages group’s commercial assets, employs staff, undertakes development and engages in business to generate sustainable income.¹⁵⁰ In doing so, Nyamba Buru Yawuru develops the economic, cultural and social sustainability for the Yawuru people to enjoy their land, values, community and culture.¹⁵¹ Nyamba Buru Yawuru’s success was recognised at Reconciliation Australia’s 2018 Indigenous Governance Awards.¹⁵²

¹⁴⁶ Australian Indigenous Governance Institute, *Submission 19*, p. 4.

¹⁴⁷ Australian Indigenous Governance Institute, *Submission 19*, p. 4, quoting Professor Peter Yu, ‘Rebuilding the Yawuru Nation: Activating Cultural Assets for Economic Growth and Stability’ in D. E. Smith et al (eds), *Developing Governance and Governing Development: International Case Studies of Indigenous Futures, Indigenous Nations and Collaborative Futures* (Lanham: Rowman & Littlefield, 2021), p. 234.

¹⁴⁸ ANU n.d., ‘Professor Peter Yu’, <https://www.anu.edu.au/about/university-executive/professor-peter-yu>, accessed 19 September 2024.

¹⁴⁹ Australian Indigenous Governance Institute, *Submission 19*, p. 4, quoting Professor Peter Yu, ‘Rebuilding the Yawuru Nation: Activating Cultural Assets for Economic Growth and Stability’ in D. E. Smith et al (eds), *Developing Governance and Governing Development: International Case Studies of Indigenous Futures, Indigenous Nations and Collaborative Futures* (Lanham: Rowman & Littlefield, 2021), p. 234.

¹⁵⁰ Nyamba Buru Yawuru 2020, ‘Governance’, <https://www.yawuru.org.au/about/governance/>, accessed 19 September 2024).

¹⁵¹ Reconciliation Australia, ‘Indigenous Governance Awards 2018’, <https://www.reconciliation.org.au/our-work/indigenous-governance/indigenous-governance-awards/indigenous-governance-awards-2018/> (viewed 19 September 2024).

¹⁵² Reconciliation Australia 2018, ‘Indigenous Governance Awards 2018’, <https://www.reconciliation.org.au/our-work/indigenous-governance/indigenous-governance-awards/indigenous-governance-awards-2018/>, accessed 19 September 2024.

Mechanisms to build capacity

- 4.88 Many submissions called for funding for PBCs and other TORIs to be increased.¹⁵³
- 4.89 The National Native Title Council and the KLC both endorsed previous recommendations from the Joint Standing Committee on Northern Australia for an independent fund to be established, using revenue from all Australian governments and proponents negotiating with PBCs, to provide increased funding to PBCs.¹⁵⁴ The Australian Government agreed to the recommendation ‘in principle’, and noted that ‘numerous reports’ from native title and industry groups had made similar recommendations over the past decade, but has not yet established such a fund.¹⁵⁵ The Australian Government’s response stated:
- The proposed independent fund would consider how government funding could supplement the user pays system to ensure that those PBCs requiring additional corporate and operational support receive it. The Australian Government will further consider how proponents and industry can provide additional contributions to PBCs for negotiation and agreement making on their lands. We will work with business, industry and PBCs to further explore what these options may be. PBCs operate in areas where there have been native title determinations. It will also be important to consider arrangements where other land tenure arrangements are in place, or where there are sites of cultural importance in locations without native title recognised or statutory land rights resolved.¹⁵⁶
- 4.90 Mr Reece O’Brien, representing the FVTOC, described the Victoria’s Self-Determination Fund as a ‘financial bedrock’ that Traditional Owners could ‘tap into’ to support economic development.¹⁵⁷ Mr Reuben Berg, Co-Chair of the First People’s Assembly of Victoria noted that the Self-Determination Fund is managed through a trust, is overseen by Victoria’s First Peoples, and contains multiple ‘firewalls’ to ensure probity and strong governance.¹⁵⁸ He added that although the Self-Determination Fund was initially established using funds from the Victorian Government, it is ‘open’ to funds from other sources, including the Australian

¹⁵³ Ms Turner, Coalition of Peaks, *Committee Hansard*, 24 September 2024, Canberra, pages 20–21; Mr James Morgan, *Submission 72*, p. 2; KLC, *Submission 83*, p. 6; ANTA, *Submission 92*, pages 5 and 10; SAACCON, *Submission 93*, p. 3; CRCNA, *Submission 98*, p. 7.

¹⁵⁴ National Native Title Council, *Submission 62*, pages 9–10; KLC, *Submission 83*, p. 7, citing Joint Standing Committee on Northern Australia 2021, *A Way Forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge*, (Recommendation 7); Joint Standing Committee on Northern Australia 2022, *The engagement of traditional owners in the economic development of northern Australia*, (Recommendation 1).

¹⁵⁵ National Native Title Council, *Submission 62*, p. 10.

¹⁵⁶ Australian Government 2022, *Australian Government response to the Joint Standing Committee on Northern Australia’s: A Way Forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge (2021) and Never Again: Inquiry into the destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia: Interim Report (2022)*, p. 11.

¹⁵⁷ Mr Reece O’Brien, Principal Advisor, Economic Development, FVTOC, *Committee Hansard*, Melbourne, 19 July 2024, p. 22.

¹⁵⁸ Mr Reuben Berg, Co-Chair, First People’s Assembly of Victoria, *Committee Hansard*, Melbourne, 19 July 2024, p. 31.

Government and philanthropic donations.¹⁵⁹ Mr Berg considered that there is no need for duplication via multiple other funds.¹⁶⁰

- 4.91 Bishop Tolowa Nona, in a submission on behalf of Tagai Kemer Kemer Zugubal (TKKZ), made a particularly emotive plea to the Committee about the need for long-term strategic funding for Torres Strait communities:

Our Knowledge-Keepers are dying. Our communities do not receive the funding and support they are entitled to, we see a stark difference in the support offered to Torres Strait Islanders who do not live on the mainland. We will continue this work until we are able to achieve the closing the gap targets and until we see our People flourish. We remain determined to secure strategic funding and given the lives of our Community are at stake, we cannot settle for program funding which can be removed or discontinued with a change in government on the mainland.¹⁶¹

- 4.92 TKKZ has proposed that the Australian Government funding be used to finance the ‘establishment and further development of TKKZ into a professionally managed, well-resourced and adequately equipped Indigenous community-controlled NGO’.¹⁶²

- 4.93 The Australian Indigenous Governance Institute recommended a ‘concerted effort to fund Indigenous-led organisations’, with particular emphasis on strengthening organisational governance.¹⁶³ Professor Yu stated there is a need to invest in governance capability to enable PBCs to negotiate with third party interests.¹⁶⁴ The ILSC supported this approach in terms of developing the capability to deal with proponents and attract investments.¹⁶⁵ Professor Yu also suggested the implementation of a ‘hub-and-spoke’ approach with a central agency providing support services to PCBs.¹⁶⁶

- 4.94 In contrast to other submitters, the NTIBN argued strongly against the ‘preferencing’ of Aboriginal Community Controlled Organisations (ACCOs) over private sector businesses, claiming that funding of the ACCO sector over the past 60 years has not led to significant longer-term improvements to Indigenous outcomes. It argued that a ‘true economic revolution on Country will come from the private sector’.¹⁶⁷ It also warned that while putting money into the ACCO sector is good, it also creates economic monopolies on Country, which reduces competitive pricing and raises prices.¹⁶⁸

¹⁵⁹ Mr Berg, First People’s Assembly of Victoria, *Committee Hansard*, Melbourne, 19 July 2024, p. 32.

¹⁶⁰ Mr Berg, First People’s Assembly of Victoria, *Committee Hansard*, Melbourne, 19 July 2024, p. 32.

¹⁶¹ Tagai Kemer Kemer Zugubal (TKKZ), *Submission 89*, p. 1.

¹⁶² TKKZ, *Submission 89*, Attachment 1, p. 46.

¹⁶³ Australian Indigenous Governance Institute, *Submission 19*, p. 8.

¹⁶⁴ Professor Peter Yu, ANU First Nations Portfolio, *Committee Hansard*, Canberra, 30 September 2024, p. 3.

¹⁶⁵ Mr Morrison, ILSC, *Committee Hansard*, Canberra, 30 September 2024, p. 12.

¹⁶⁶ Professor Peter Yu, ANU First Nations Portfolio, *Committee Hansard*, Canberra, 30 September 2024, p. 9.

¹⁶⁷ NTIBN, *Submission 63*, p. 10.

¹⁶⁸ Ms Anstess, NTIBN, *Committee Hansard*, Canberra, 30 September 2024, pages 18–19.

Committee comment

Enhancing access to finance and capital

- 4.95 Access to finance and capital is one of the most significant barriers to economic self-determination for Aboriginal and Torres Strait Islander peoples. As a result of the colonial experience, Aboriginal and Torres Strait Islander peoples are simply unable to leverage assets and accrue intergenerational wealth to the same extent as other Australians, including access to the transformative potential of philanthropic capital. These problems are exacerbated by lower levels of employment and home ownership, the so called ‘trust deficit’, and inflexible mainstream lending criteria.
- 4.96 Mainstream lenders, investors, and philanthropic foundations need to improve the accessibility of financial services for Aboriginal and Torres Strait Islander peoples. However, alternatives to mainstream finance options will also be needed to support Aboriginal and Torres Strait Islander individuals and organisations who wish to grow their businesses.
- 4.97 The Committee acknowledges the important roles that IBA and the ILSC play. IBA provides an essential service in helping First Nations peoples into home ownership and addressing gaps in the provision of financial products and services that are not being met by mainstream commercial lenders. The ILSC helps Traditional Owner organisations acquire freehold land and water rights that can then be used as a basis for further economic activity.
- 4.98 The Committee was concerned to hear that the funding models for IBA and ILSC are facing challenges, limiting their ability to keep up with current or future demand. The Australian Government should continue to work with both organisations to address these challenges, including through further injection of funds.
- 4.99 The Committee also encourages the Australian Government to work with First Nations peoples and stakeholders in the finance sector to strengthen existing, and develop new, instruments to enhance and fast track Aboriginal and Torres Strait Islander peoples’ access to finance, capital, and philanthropic investment. A range of options including community-led finance, social impact bonds, blended finance approaches, and philanthropic entity to remove investment barriers should be explored. The Australian Government, in cooperation with First Nations peoples, should also consider impediments to responsible lending and capital flow by mainstream banks, financial institutions, and philanthropic foundations.

Recommendation 8

- 4.100 The Committee recommends that the Australian Government strengthen existing, and develop new, instruments to enhance and fast track Aboriginal and Torres Strait Islander peoples’ access to finance and capital.**

Recommendation 9

- 4.101 The Committee recommends that the Australian Government consider impediments to responsible lending and capital flow from mainstream banks and financial institutions to Aboriginal and Torres Strait Islander peoples.**

Activating and leveraging the Indigenous Estate

- 4.102 The Indigenous Estate consists of lands and waters under the care and control of Aboriginal and Torres Strait Islander peoples and communities through ownership, management or rights of use for customary purposes. As of 2024, First Nations peoples have legally recognised rights or interests over 50 per cent of Australia's landmass, with this number predicted to increase to 65 per cent by 2030. Such a vast terrestrial estate should present First Nations peoples with significant economic opportunities.
- 4.103 However, in many cases, successful determinations under the *Native Title Act 1993* and claims under other land rights regimes have not translated to improved economic outcomes for Aboriginal and Torres Strait Islander peoples. The Committee heard that First Nations peoples continue to face barriers in leveraging the inherent value of the lands and seas over which they have rights. The reasons for this are complex and varied, but they include specific restrictions in the *Native Title Act 1993*, the inability to use land as collateral for finance, complex interactions between the *Native Title Act 1993* and other legal regimes, and a lack of resourcing for the PBCs and other representative bodies.
- 4.104 While the Committee recognises that native title alone does not equate to full ownership of land, the Committee acknowledges that a full review of the *Native Title Act 1993* may deliver improvements for leveraging economic opportunities.
- 4.105 The Committee notes that the ALRC's current review the future acts regime under the *Native Title Act 1993*. The Committee recommends that, on completion of the Australian Law Reform Commission Future Acts Regime Review, the Australia Government should consider whether a full review of the *Native Title Act 1993* is required.
- 4.106 It will be important for any reforms to continue to protect underlying native title rights and interests. However, this should not preclude First Nations communities from benefiting from the lands and seas over which they have rights. Innovative approaches to leveraging the Indigenous Estate that do not carry the risk of extinguishing native title, such as long-term leases or 'Indigenous free hold title', should be explored.

Recommendation 10

- 4.107 The Committee recommends that, on completion of the Australian Law Reform Commission Future Acts Regime Review, the Australia Government should consider whether a full review of the *Native Title Act 1993* (Cth) is required.**

Strengthening PBC resourcing and support for Traditional Owner groups

- 4.108 PBCs established under the *Native Title Act 1993*, and other TORIs, have important roles to play in enabling economic self-determination on the Indigenous Estate. The Committee was encouraged to hear about various PBCs and other representative bodies that have made use of modest initial investments of funds to not only protect their native title interests, but to establish business enterprises on Country that improve the social and economic wellbeing of their peoples. While business engaged in by First Nations representative bodies should not come at the expense of private businesses established by First Nations peoples, these examples demonstrate the significant potential for representative bodies to generate new employment opportunities, particularly on Country and in remote areas.
- 4.109 Unfortunately, these examples are a minority. The Committee heard from a broad range of submitters about the persistent underfunding of PBCs and other TORIs. The Committee understands that most PBCs receive only a small amount of basic support funding from the Commonwealth, in the order of \$50,000–\$80,000 annually.¹⁶⁹ This funding is unlikely to be sufficient to enable PBCs to meet their basic statutory obligations, let alone to facilitate the sound governance structures and capabilities needed to drive economic opportunities, or the capacity to negotiate on an equal footing with third party development proponents.
- 4.110 The Committee notes that this is not the first inquiry to hear about the chronic under resourcing of PBCs and Traditional Owner groups. The Committee therefore encourages the Australian Government to ensure resourcing for PBCs is sufficient to enable delivery of its full legislative potential. Similar support for other TORIs that hold rights or interests in lands, outside the *Native Title Act 1993*, including Traditional Owner groups that are recognised under state and territory legal frameworks, should also be considered.
- 4.111 While this Committee has not taken detailed evidence on a precise funding model that should be used, it was clear that additional support is necessary if better economic outcomes are to be achieved. The Committee considers that all PBCs should be funded at a level that will enable them to meet their statutory obligations, enhance their governance structures, and build their capacity to pursue economic opportunities—including but not limited to negotiating with proponents—for the benefit of their peoples and the broader Australian community.

¹⁶⁹ NIAA n.d., 'Capacity building for native title corporations', <https://www.niaa.gov.au/our-work/environment-and-land/capacity-building-native-title-corporations>, accessed 8 October 2024.

Recommendation 11

4.112 The Committee recommends that the Australian Government ensure resourcing for Prescribed Body Corporates in the *Native Title Act 1993* is sufficient to enable delivery of its full legislative potential.



5. The commercial opportunity of protecting Indigenous Cultural and Intellectual Property

- 5.1 Intellectual Property (IP) describes ‘creations of the mind’ by an individual, including inventions, visual arts, literature, names and symbols.¹ According to IP Australia, IP rights support business growth, and are a key productivity and economic driver due to their impact on innovation and the dispersal of ideas.
- 5.2 Australian small businesses who file for an IP right are 16 percent more likely to experience high employment growth than their peers without recent filings over the next three years. Startups that file for IP in their first year are twice as likely to experience high employment growth over the next three years.²
- 5.3 The IP and data landscape is evolving and there are opportunities and risks for advancing First Nations economic prosperity. Protection of Indigenous Cultural and Intellectual Property (ICIP) and data sovereignty can play a critical role in driving the First Nations economy and economic development for Indigenous people.
- 5.4 Despite the potential of IP as a tool to support economic opportunities for First Nations Australians, there remains a gap between First Nations and non-Indigenous Australians in using IP for business. For example, First Nations-led firms and First Nations employees are less likely to be involved with IP. Firms with 50 per cent or more Indigenous leadership are 30–40 per cent less likely to hold IP compared to firms with non-Indigenous leadership.³
- 5.5 ICIP has limited protections under Australian IP laws, including copyright and trademarks, which often allow for legal misappropriation, resulting in the loss of economic benefit and cultural harm to First Nations peoples.⁴ Western IP laws focus

¹ World Intellectual Property Organization (WIPO) n.d., ‘What is Intellectual Property?’, <https://www.wipo.int/about-ip/en/>, accessed 23 September 2024.

² IP Australia, *Submission 47*, p. 3.

³ IP Australia, *Submission 47*, p. 3.

⁴ Productivity Commission 2022, *Aboriginal and Torres Strait Islander visual arts and crafts: Study report*, <https://www.pc.gov.au/inquiries/completed/indigenous-arts/report>, accessed 26 September 2024, p. 144; IP Australia, *Submission 47*, pages 3–4, House Standing Committee on Indigenous Affairs 2018, *Report on the impact of inauthentic art and craft in the style of First Nations peoples*, pages 51–58; Arts Law Centre of Australia (Arts Law), *Submission 29*, pages [2–3]; Australian Indigenous Governance Institute (AIGI), *Submission 19*, p. 6.

'on individual ownership and commercial exploitation that can be transferred or licensed to others and offer time limited protection'.⁵

- 5.6 ICIP encompasses traditional knowledge and traditional cultural expressions (TCEs), that are often communally owned.⁶ Traditional knowledge encompasses knowledge, skills and practices developed, sustained and passed on for generations within communities, becoming part of their cultural and spiritual identities. This knowledge incorporates know-how resulting from intellectual activities including skills and innovation across areas such as agriculture, science, ecology and medicine. It also includes TCEs such as unique signs and symbols, visual arts, performance, music, ceremonies and narratives. TCEs form part of a community's cultural and social identity and heritage, as well as practices, values and beliefs.⁷ Genetic and other biological resources—medicinal plants, agricultural crops and animal breeds—are also linked with traditional knowledge through their use and conservation over generations.⁸

Modernising IP laws can provide commercial opportunities

- 5.7 Emerging industries offer an opportunity for First Nations peoples to benefit economically from their commercialisation, grow their wealth, and connect with Country, but only if the cultural and traditional knowledge associated with those industries, products, and services are legally and adequately protected.
- 5.8 For example, the native food and botanicals industry provides a wealth of opportunities for the use of First Nations knowledge. The market size of the industry is rapidly growing however less than 15 per cent of the industry identifies as First Nations. There are opportunities to grow the First Nations economy by supporting First Nations producers and businesses to protect their resources and traditional knowledge through Certification Trademarks (CTMs) and Geographical Indications (GIs).
- 5.9 First Nations tourism opportunities have immense potential to preserve and disseminate First Nations knowledge through immersive cultural experiences and educational initiatives directly on Country. Essential to the success of First Nations ventures is robust First Nations governance and branding, safeguarded by IP and ICIP protections.

⁵ Mr Matthew Forno, Acting General Manager, Policy and Stakeholder Group, IP Australia, *Committee Hansard*, 28 June 2024, p. 11.

⁶ Terri Janke and Company (TJC), *Submission 60*, p. 3.

⁷ WIPO n.d., 'Traditional Knowledge', <https://www.wipo.int/tk/en/tk/>, accessed 23 September 2024; WIPO n.d., 'Traditional Cultural Expressions', <https://www.wipo.int/tk/en/folklore/>, accessed 23 September 2024.

⁸ WIPO n.d. 'Genetic Resources', <https://www.wipo.int/tk/en/genetic/>, accessed 23 September 2024; WIPO 2024, 'WIPO Member States Adopt Historic New Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge', *Press release*, 24 May, https://www.wipo.int/pressroom/en/articles/2024/article_0007.html, accessed 23 September 2024.

- 5.10 The Land Back Foundation elaborated by saying that ‘Cultural Capital...provides one of the greatest value propositions for First Nations (bush foods, bush medicines, tourism, etc)’.⁹ Charles Darwin University too advised that:

...the growing recognition of Indigenous knowledge systems presents unique prospects for seeding generational economic growth, particularly in sectors like environmental protection, sustainable land management, cultural tourism, resources extraction and development, and renewable energy development.¹⁰

Protection of traditional knowledge is novel and evolving

- 5.11 While submitters agree that ICIP provides significant opportunities for economic self-determination, the right to protect and safeguard such knowledge and cultural systems is essential for capitalising on these commercial opportunities.

- 5.12 Several international instruments have been agreed acknowledging the rights of Indigenous peoples to the control and protect traditional knowledge and TCEs. Article 31 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms:

...the right to maintain, control, protect and develop...intellectual property over such cultural heritage, traditional knowledge and traditional cultural expressions.¹¹

- 5.13 The *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity* (Nagoya Protocol), provides for a transparent legal framework for the fair and equitable sharing of benefits resulting from the use of genetic resources.¹²

- 5.14 Dr Terri Janke, a Wuthathi, Yadhagana, and Meriam woman and world-renowned expert on ICIP, advises that the Nagoya Protocol can empower First Nations peoples to enter into access and benefit-sharing agreements with companies who wish to use their genetic resources and traditional knowledge for inventions and commercialisation.¹³

⁹ Land Back Foundation, *Submission 11*, pages. [2]–[3].

¹⁰ Charles Darwin University, *Submission 54*, p. 9.

¹¹ United Nations (UN) 2007, *United Nations Declaration on the Rights of Indigenous Peoples*, https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf, accessed 26 September 2024, pages 22–23.

¹² United Nations Environment Programme n.d., ‘About the Nagoya Protocol’, *Convention on Biological Diversity*, <https://www.cbd.int/abs/about/default.shtml>, accessed 27 September 2024.

¹³ Dr Terri Janke, *Committee Hansard*, 23 July 2024, pages 1–2.

- 5.15 In May 2024, World Intellectual Property Organization’s (WIPO) member states, including Australia, agreed to the *Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge* providing provisions specifically for ICIP. It recognises Indigenous peoples’ genetic resources and traditional knowledge, and establishes ‘disclosure requirements for patent applications whose inventions are based on genetic resources and/or associated [traditional knowledge]’.¹⁴
- 5.16 Domestically, IP Australia is considering how the system can better accommodate and support Aboriginal and Torres Strait Islander peoples wishing to benefit from and protect their traditional knowledge. This includes changes that support the cultural integrity and economic potential of ICIP; amendments to trademark and design laws to prevent misappropriation of language and imagery; and to patent and plant breeder’s rights laws to require disclosure of the use of ICIP in new applications.¹⁵
- 5.17 Currently, IP Australia is working to establish stand-alone legislation recognising and protecting traditional knowledge and TCEs, as per the Government’s National Cultural Policy, *Revive*. The initial phase will focus on fake art, merchandise and souvenirs, with the second stage to explore ways to enshrine broader ICIP rights in Australian law.¹⁶
- 5.18 Other protective initiatives undertaken by IP Australia include online resources. Advice is available for Indigenous businesses on how to engage with the IP system and protect ICIP. While non-Indigenous businesses are encouraged to improve their awareness and understanding of ICIP, and the importance of consultation and obtaining free, prior and informed consent before using ICIP.¹⁷ It also employs traditional knowledge experts, including Aboriginal and Torres Strait Islander employees, to make and manage decisions on IP applications for trademarks, designs and patents which are identified as containing ICIP within current laws.¹⁸
- 5.19 An Indigenous Knowledge Panel is also being established to advise IP Australia on traditional knowledge issues and ways to improve the IP system, and support Aboriginal and Torres Strait Islander peoples, communities and business to protect and benefit from their ICIP.
- 5.20 Dr Janke acknowledges the work currently being undertaken by the Australian Government and IP Australia to protect traditional knowledge and TCEs within the visual arts and crafts market from misappropriation. But advises that economic self-determination can be further supported through the broad recognition and protection of ICIP, both the tangible and intangible. This includes how ICIP can be recorded and

¹⁴ WIPO 2024, ‘WIP Member States Adopt Historic New Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge’, *Press release*, 24 May, https://www.wipo.int/pressroom/en/articles/2024/article_0007.html, accessed 26 September 2024.

¹⁵ IP Australia, *Submission 47*, pages 4–5.

¹⁶ IP Australia, *Submission 47*, pages 4–5; Australian Government 2023, *Australia’s Cultural Policy for the next five years: Revive – A place for every story, a story for every place*, pages 9, 31–33, 97–98; Mr Forno, IP Australia, *Committee Hansard*, 28 June 2024, pages 11–12; Ms Edwina Lewis, Director, Policy and International Affairs, IP Australia, *Committee Hansard*, 28 June 2024, p. 13.

¹⁷ IP Australia, *Submission 47*, pages 4–5.

¹⁸ IP Australia, *Submission 47*, pages 4–5.

used, and with a focus on free, prior and informed consent for how knowledge is commercialised and benefit sharing. As such, Dr Janke advises the Australian Government to consider opportunities for broader domestic ICIP legislation and regulations, along with the ratification of the Nagoya protocol and recent WIPO Treaty.¹⁹

- 5.21 The Arts Law Centre of Australia (Arts Law) agrees that amending Australia's current IP system and protections 'are key to unlocking capital and leveraging [ICIP]'.²⁰ The Australian Indigenous Governance Institute also notes that 'First Nations voices should drive governmental initiatives on unlocking economic capital and leveraging [IP]'.²¹
- 5.22 The Federation of Victorian Traditional Owner Corporations (FVTOC) concurs that:
- ...legislative protection of ICIP for Traditional Owners would, in the same way that mainstream intellectual property protection drives innovation, invention, creative expression and creative input, essentially provide...an economic base for them to be able to launch from.
- 5.23 Australian Native Title and Reconciliation (ANTAR) also recommends enshrining of UNDRIP principles, including free, prior and informed consent, through national legislation.²²
- 5.24 IBA suggests promoting and utilising other business supports in addition to legislative reforms. IBA advised the Committee it is working to roll out the Law Way workshop by Terri Janke and Company (TJC) to its customers. Additionally, through its business support program, IBA facilitates a workshop series in which businesses discuss how and what information is shared, including cultural knowledge and stories. As part of this, IBA also connects businesses with Indigenous-owned law firms, such as TJC, Marrawah Law and Parallax Legal, to learn how they can protect their ICIP.²³ Ms Stella de Cos, IBA Director of Community and Customer Experience, told the Committee, '[we] make sure they understand that that's their asset. It's not for anybody else to monetise or capitalise off'.²⁴
- 5.25 Legislative and regulatory reforms, and other business supports, that improve ICIP protections can provide increased opportunities for economic self-determination and growth, but also increase economic opportunities across various industries, as discussed below.

¹⁹ Dr Janke, *Committee Hansard*, 23 July 2024, pages 2–3; TJC, *Submission 60*, p. 3.

²⁰ Arts Law, *Submission 29*, p. [3].

²¹ AIGI, *Submission 19*, p. 3.

²² Australian Native Title and Reconciliation, *Submission 92*, p. 4.

²³ Ms Kia Dowell, Executive Director, Strategy and Impact, Indigenous Business Australia (IBA), *Committee Hansard*, 28 June 2024, p. 56; Ms Stella de Cos, Director, Community and Customer Experience, IBA, *Committee Hansard*, 28 June 2024, p. 57.

²⁴ Ms de Cos, IBA, *Committee Hansard*, 28 June 2024, p. 57.

Bush foods and botanicals

- 5.26 The bush foods and botanicals products industry provide significant opportunities for self-determination. The native foods and medicines industry within Australia offers an opportunity for First Nations people to not only connect with their foods systems, but also benefit economically from their commercialisation. A 2020 industry report estimated that the native foods industry held a market retail value of \$80 million with projections indicating that the value would double by the year 2025.
- 5.27 A joint submission co-led by Dr Alana Gall, a Truwulway woman, and Dr Luke Williams, a Gumbaynggirr man, also commented on the potential of the bush foods and medicines industry.²⁵
- 5.28 While the market size of the industry is rapidly growing, less than 15 per cent of the industry identifies as First Nations. There are opportunities for the First Nations economy by supporting First Nations producers and businesses to protect their resources and traditional knowledge through Certification Trademarks (CTMs) and Geographical Indicators (GIs).
- 5.29 Stakeholders drew the Committee's attention to the trend towards and consumer market for native foods and botanicals, while advising their concerns. Concerns raised include a reluctance to introduce products to domestic and international markets because of fear that the product and traditional knowledge is not legally protected and that they cannot compete with larger scale operators who may misappropriate their product, international market barriers, benefit sharing, and business and industry support.
- 5.30 Mr Robert Taylor, a Nhanda man from the mid-west Murchison area, as Chief Executive Officer of the West Australian Indigenous Tourism Operators Council (WAITOC) and board member for Outback Academy Australia, advised that support for protecting ICIP, including GIs, is needed:²⁶

If you've got a bush food product from the south-west, its origin or its DNA should be part of that protection as well.²⁷

- 5.31 Mr Taylor also raised concerns regarding non-Indigenous businesses trading on use of words linked Indigenous cultures for their foods and botanical products:

With the naming of Aboriginal places as well, that becomes a bit of a challenge ...because we see many non-Indigenous businesses starting to name their businesses after those places, but the challenge isn't the fact that they've used a place name; it's the fact that they add the word 'dreaming' after it. There's a company that's doing bush teas in, I think, South Australia that calls their company Lemon Myrtle Dreaming as a tea. We're like, 'Well, why have you

²⁵ Dr Alana Gall and Dr Luke Williams, *Submission 13*, p. 3.

²⁶ Mr Robert Taylor, Chief Executive Officer, West Australian Indigenous Tourism Operators Council (WAITOC), *Committee Hansard*, 2 September 2024, pages 9 and 14.

²⁷ Mr Taylor, WAITOC, *Committee Hansard*, p. 14.

called it that? What's the dreaming context?'...it's very important that we get that intellectual property protected. There have already been many seeds stolen out of Australia already, so we don't want to continue that. We want to try and protect that.

5.32 Submitters have argued that the Government should prioritise ICIP in international trade agreements. For example, Indigenous producers of bush products are increasingly entering international markets and global interest in Indigenous genetic resources and knowledge is growing. Safeguarding ICIP is pivotal for trade considerations such as this, presenting a unique chance to acknowledge and protect Indigenous knowledge and bolster Australia's recognition as a champion of Indigenous self-determination on the global stage.

5.33 International market barriers were raised by Department of Agriculture, Forestry and Fisheries (DAFF). The department submitted that the European Union and United Kingdom (UK) markets are examples of access restrictions. DAFF advised that the UK's Food Standards Agency is presently assessing Australian wattle-seed, mountain pepper, pepper berry and lemon myrtle for market access. However, DAFF notes that even once market access is achieved there is no universally recognised credential for authentic products marketed by First Nations businesses.²⁸

5.34 Supply Nation agreed that bush food and botanicals exporters are facing significant challenges:

There are significant challenges for anyone operating in the agriculture space to make sure that their botanicals and their products talents are recognised. That could be one factor that hinders their ability to either export multiple products or export to multiple markets. For example, in trying to get through, say, a botanical gin product, you need to make sure that you have the right labelling and that the [Food and Drug Administration], for example, in America recognises those products. That is a serious issue.²⁹

5.35 The Kimberley Land Council advised a lack of industry development support, particularly 'technical and scientific research support that aligns with Traditional Owner values, skillsets and assets':³⁰

This understanding of Traditional Owner assets and values should then inform research and industry development across the region. With the support for new Aboriginal-led industries to take off, associated training, employment and business development opportunities will flow that capitalise on the Kimberley's unique cultural profile.³¹

²⁸ Department of Agriculture, Forestry and Fisheries (DAFF), *Submission 9*, p. 4.

²⁹ Ms Kate Russell, Chief Executive Officer, Supply Nation, 24 September 2024, p. 2.

³⁰ Kimberley Land Council (KLC), *Submission 83*, p. 8.

³¹ KLC, *Submission 83*, p. 8.

- 5.36 Nonetheless, there are opportunities to further build a sustainable bush products industry, alleviate these concerns and increase First Nations representation.
- 5.37 Doctors Gall and Williams advocated for a national peak body which can address the industry's overarching issues, such as working with government agencies. The First Nations Bushfood and Botanical Alliance Australia could have become such a body, but without the dedicated funding and support needed, they are now seemingly defunct. The Bushtukka and Botanicals Indigenous Enterprise Cooperative, a new body made up of First Nations primary producers and wild harvesters, has the potential to become a national peak representative body. However, they also require funding to sustain their presence in this ever growing and competitive industry that is dominated by non-Indigenous businesses.³²
- 5.38 Doctors Gall and Williams also advocated for the establishment of a centralised genetic resource database:
- To further strengthen intellectual property claims and begin to document a history of use, funding is needed to help support the development of a centralised database that can host information about genetic resources. This would act as a digital repository for data and knowledges associated with the genetic resources that can be found across the continent. Having such a repository would allow communities to substantiate their claims of traditional use while also acting as a hub for traditional knowledge, which would facilitate the creation of access and benefit sharing agreements and stop the approval of erroneous patents. Furthermore, if intellectual property laws extend to cover traditional knowledges, then having a documented history of use, including traditional and cultural knowledges, would strengthen future claims. The repository would also ensure that knowledge is retained through time, ensuring that knowledge is not lost or forgotten.³³
- 5.39 They noted that the Bushtukka and Botanicals Indigenous Enterprise Cooperative had commenced 'work on what could be considered the first phase of this larger database' which could be supported through additional funding.³⁴
- 5.40 TJC suggest supporting Aboriginal and Torres Strait Islander businesses and producers to protect their resources and ICIP through CTMs and GIs.³⁵ Domestic examples include Bundaberg rum, Australian wine regions, and King Island and Bega cheeses.³⁶

³² Dr Alana Gall and Dr Luke Williams, *Submission 13*, pages 46–7.

³³ Dr Alana Gall and Dr Luke Williams, *Submission 13*, pages 6–7.

³⁴ Dr Alana Gall and Dr Luke Williams, *Submission 13*, p. 7.

³⁵ TJC, *Submission 60*, p. 4.

³⁶ Business Queensland 2024, 'What are geographical indications', <https://www.business.qld.gov.au/running-business/risk/ip/ip-kit/browse-ip-topics/place-names-identifying-the-origin-of-a-product-geographical-indications/definition>, accessed 14 October 2024.

- 5.41 Indeed, Mr Taylor advised the Committee that Outback Academy is working with the CSIRO and Dr Janke on ICIP and GIs protections.³⁷
- 5.42 To further assist Aboriginal and Torres Strait Islander exporters, the Department of Foreign Affairs and Trade (DFAT) is seeking expressions of interest for a representative from the Indigenous bush foods sector for its inaugural cooperation project with WIPO to co-design a training and mentoring program for First Nations exporters. It is hoped this project will provide a better understanding of the gaps, challenges and opportunities for exporters, as well as the ability to protect and manage their ICIP internationally.³⁸
- 5.43 DAFF told the Committee it has provided a traceability projects grant to the Indigenous Land and Sea Corporation (ILSC), who in partnership with the National Farmers' Federation (NFF) and PwC's Indigenous Consulting, is exploring the development of an Indigenous agricultural product framework. This grant is restricted to agricultural products only, but these include bush foods, botanicals and other typical agricultural commodities. While DAFF emphasised, this project is still in the exploratory stage, advised consultation will be held with predominantly First Nations producers, but that non-Indigenous producers have shown interest as well. The ultimate hope of this project is that, within the framework, a credential will be developed for use by Indigenous producers that provides assurance the products being purchased are Indigenous products with 'certain characteristics and parameters'.³⁹
- 5.44 The Northern Territory Indigenous Business Network is supportive of certification initiatives, advising that:
- It is vital that we continue to support traceability and provenance initiatives for Indigenous food and plant-based products, as there is a high demand for these products and the level of skill and cultural knowledge undertaken to produce these products is being undermined in international spaces where Indigenous voices need to be privileged.⁴⁰
- 5.45 While these projects are significant, Jumbunna for Indigenous Education and Research (Jumbunna) advised that a definition for bush foods and the sector's parameters are undefined, creating difficulties. For example, Jumbunna noted that macadamias, while 'being endemic to Australia and an Indigenous food source' are not considered to be a bush food.⁴¹

³⁷ Mr Taylor, WAITOC, *Committee Hansard*, 2 September 2024, p. 14.

³⁸ Ms Skye Reeve, Acting Assistant Secretary, Services, Competition and Intellectual Property Branch, Office of Global Trade Negotiations, Department of Foreign Affairs and Trade, *Committee Hansard*, 24 September 2024, p. 35.

³⁹ Ms Sarah Burr, Assistant Secretary, First Nations Branch, DAFF, *Committee Hansard*, 28 June 2024, p. 44.

⁴⁰ Northern Territory Indigenous Business Network, *Submission 63*, p. 9.

⁴¹ Jumbunna Institute for Indigenous Education and Research, *Submission 25*, p. 16.

5.46 Mr Reece O'Brien, from FVTOC, advised another avenue for protection is through a market mechanism such as that proposed in its 2021 Victorian Traditional Owner Native Foods and Botanical Strategy. FVTOC's strategy, based on four principles—Culture, Country, Community, Commercial—outlines legislative and regulatory reforms, and industry standards, as well as targeting at how consumers choose and purchase products:⁴²

...protecting the integrity and sustainability of the sector by creating mechanisms such as certification and traceability—so that consumers can trust they are buying native foods and botanicals that have cultural provenance.⁴³

5.47 Indeed, FVTOC is soon to launch a campaign focused on ethical consumerism of native foods, that encourages consumers to 'think about where their products come from, where they're sourced and whether they've been produced by Traditional Owners.'⁴⁴

5.48 Despite the need for further action in consideration of these continuing challenges, there are First Nations bush products enterprises that are thriving, including Seven Seasons Spirits (Box 5.1), Bush Medijina (Box 5.2) and Blak Cede (Box 5.3).

Box 5.1 Seven Seasons Spirits—The World's Oldest New Flavours

Seven Seasons Spirits is a craft spirits enterprise, founded by Larrakia man, and former Australian Football League player, Daniel Motlop.

Seven Seasons employs local Larrakia harvesters, who through traditional knowledge and adherence to cultural lores, sustainably wild harvests native ingredients such as green ants, bush apples and yams, boobialla and pepper berry, to create its gins, vodka and liqueur. Of which Seven Season Spirits produces between 60,000–70,000 bottles annually.

Although Mr Motlop sold the majority share of Seven Seasons to Mighty Craft in 2021, his original business intention continues. While maintaining respect for Larrakia culture, Mighty Craft is providing more business support, a wider distribution network and meaningful opportunities and returns for local people in remote communities. Mr Motlop told the Australian Financial Review in 2023, that '[Mighty Craft] have been very respectful of my culture'.⁴⁵

⁴² Mr Reece O'Brien, Principal Adviser, Economic Development, Federation of Victorian Traditional Owner Corporations (FVTOC), *Committee Hansard*, 19 July 2024, p. 24; FVTOC 2021, *Victorian Traditional Owner Native Food and Botanicals Strategy*, <https://fvtoc.com.au/sections/native-foods-botanicals-strategy/>, accessed 15 October 2024, pages 21–23 and 29.

⁴³ FVTOC 2021, *Victorian Traditional Owner Native Food and Botanicals Strategy*, <https://fvtoc.com.au/sections/native-foods-botanicals-strategy/>, accessed 15 October 2024, p. 29.

⁴⁴ Mr O'Brien, FVTOC, *Committee Hansard*, 19 July 2024, p. 24.

⁴⁵ Allen, M 2023, 'Indigenous-run drinks brand scales up – yet stays true to its roots', *Australian Financial Review*, 28 June, <https://www.afr.com/life-and-luxury/food-and-wine/indigenous-run-drinks-brand-scales-up-yet-stays-true-to-its-roots-20230620-p5di3n>, accessed 8 October 2024; Seven Seasons Spirits n.d., 'About Us', <https://www.seven-seasons.com.au/our-story/>, accessed 8 October 2024; NAIDOC n.d., 'Daniel Motlop:

Box 5.2 Bush Medijina – Traditional knowledge. Modern skincare

We want to grow our business from a small seed to a giant tree, so it can stay strong, just like our culture. -Gayangwa Lalara OAM

Bush Medijina – ‘Bush Medicine’ in the local Anindilyakwa language – is a one hundred per cent Indigenous-owned cosmetics brand, using traditional practices and cultural knowledge to make contemporary skincare products from harvested bush botanicals.

Based on Groote Eylandt in the Northern Territory, the brand was created in 2016 by Warningakalina Elders ‘to address the need to build culture and capability across the archipelago [and] positively impact the livelihoods of women, children and families’.

Bush Medijina has an all-female board and eighty per cent of employees are Indigenous. The enterprise provides regular governance, leadership and women’s advocacy opportunities for the team, as well as the wider community, including a work experience program for school-aged girls. Profits from product sales help fund its advocacy and social change initiatives for its employees and the community. The brand advises customers that 100 per cent

The brand has been acknowledged within the broader Australian business community through several award programs – Telstra Business Award winner for NT Social Change Maker, 2019; Indigenous Business Month winner Indigenous Ingenuity Award, 2019; NT Community Achievement Award semi-finalist for Small Business Achiever Award, 2021; Nourished Live Wellness Awards winner Best Products Award for their miracle balm and lip balm, 2021; and Clean + Conscious Awards finalist for their miracle balm, 2021.⁴⁶

National NAIDOC Innovation Award Category’, <https://www.naidoc.org.au/award-finalist/daniel-motlop>, accessed 8 October 2024; Allen, M 2017, ‘Australian gin brands: more than 100 and rising fast’, *Financial Review*, 27 June, <https://www.afr.com/life-and-luxury/indigenous-gin-leads-craft-spirit-boom-in-australia-20170511-gw2bec>, accessed 8 October 2024.

⁴⁶ TJC, *Submission 60*, p. 4; IBA, Submission 14, Joint Standing Committee on Northern Australia 2022, *Inquiry into the opportunities and challenges of the engagement of traditional owners in the economic development of Northern Australia*, p. 18; The Fair Trader n.d., ‘Bush Medijina: About the Makers’, <https://thefairtraderstore.com.au/pages/bush-medijina-about-the-makers>, accessed 21 October 2024; Telstra n.d., ‘Bush Medijina’, <https://www.telstra.com.au/small-business/best-of-business-awards/about/our-legacy/bush-medijina>, accessed 21 October, 2024; Indigenous Business Month 2024, ‘Indigenous Business Month Awards’, <https://www.indigenousbusinessmonth.com.au/indigenous-business-month-awards>, accessed 21 October 2024; Awards Australia n.d., ‘Northern Territory Community Achievement Awards’, <https://awardsaustralia.com/community-achievement-awards/nt/previous-winners/>, accessed 21 October 2024.

Box 5.3 Blak Cede

Blak Cede is a social and cultural enterprise on the New South Wales south coast.

Established as Nully Cooking in 2017, Blak Cede has grown to 25 Aboriginal employees, providing culturally appropriate work and educational opportunities for young Aboriginal women and men. To support its enterprise, Blak Cede's initiatives include its native foods garden which supplies its Blak Cede Café. Native foods and plants from the garden are also sold to the local community for their nutritional and medicinal properties. These include wattle seed, macadamia nuts, rainforest plums, lemon myrtle and finger limes.

Blak Cede grows its produce is grown on both Waminda-owned land, and collaborates with other landowners to reserve land to grow native plants, providing an example of how other First Nations enterprises and communities can work with non-Indigenous landholders to protect local environments. Blak Cede has also established partnerships with other local organisations to help grow its initiatives and contribute to the growth of other ecologically and culturally focus Indigenous-owned enterprises.⁴⁷

Visual arts and fashion

- 5.49 The arts industry generates significant economic opportunities for First Nations peoples.⁴⁸
- 5.50 Through the creation of arts, crafts, homewares, designs and fashion, Aboriginal and Torres Strait Islander peoples and communities share and express their knowledge and culture, and create economic opportunities.⁴⁹ The Productivity Commission found that the sale of arts and crafts totalled approximately \$250 million in 2019–20—unfortunately this also included the sale of inauthentic arts and crafts through the misappropriation of ICIP. The Productivity Commission advised the Australian Government to introduce legislation protecting ICIP, mandatory disclosure requirements for Indigenous-style products, and strengthening the Indigenous Art Code's (IartC) ability to monitor and administer its arts industry code of conduct (the Code).⁵⁰
- 5.51 The Code is a voluntary code of conduct for artists, designers, dealers, retailers, and supporters. Signatories to the Code are required to 'ensure they are using fair, ethical and transparent practices when engaging with Aboriginal and Torres Strait Islander artists'.⁵¹ IartC agrees that the introduction of ICIP protections into Australia law is essential, and acknowledges the work currently being undertaken by Creative Australia, IP Australia and the Attorney-General's. However, IartC stresses that development of such legal instruments must ensure that artists have the right to protect and economically benefit from their ICIP in self-determined ways.⁵²

⁴⁷ Waminda South Coast Women's Health and Wellbeing Aboriginal Corporation, *Submission 23*, pages 4–6.

⁴⁸ TJC, *Submission 60*, p. 6.

⁴⁹ TJC, *Submission 60*, p. 6.

- 5.52 Arts Law submits that protections and legal mechanisms, such as those discussed above, ‘for self-determined exploitation of creative expressions [will] allow Aboriginal and Torres Strait Islander artists and communities to generate funds for further investment into businesses and sustainable economic businesses’.⁵³ As such, it recommends three reforms:
- a. amending Australian Consumer Law to tackle the fake art market
 - b. developing a stronger regulatory market framework
 - c. introducing stand-alone legal protections for ICIP.⁵⁴
- 5.53 Dr Janke agrees that with a rising demand for First Nations arts, designs and fashion, but that:
- ...copyright, intellectual property, licensing arrangements and Indigenous Cultural and Intellectual Property Protocols will all be needed to assist this industry grow.⁵⁵
- 5.54 Dr Janke reiterated that current copyright laws are unfit to protect ICIP. The application of copyright is limited to knowledge that is written down or recorded, lasting for 70 years after a creator’s death. Meaning that only expressions of intangible knowledge is protected, not the knowledge itself. Additionally, communal and collective rights are not protected. As such a balance must be struck between protecting individual and communal rights, and how knowledge is protected and nurtured over time. Dr Janke advised the Committee that her development of the True Tracks principles and protocols for Creative Australia, which recognise the nuances of ICIP and customary law practices, could be recognised within Australia’s legal framework.⁵⁶
- 5.55 Dr Janke additionally advised that artificial intelligence (AI) is also exacerbating copyright issues. There are dual aspects to this. The first aspect is the ease with which AI can access and emulate content at the request of users.⁵⁷ While the second aspect highlight by Dr Janke is:
- ...the cultural mismatch, the mixing up and the falsehoods that can arise when AI is creating things.⁵⁸

⁵⁰ Productivity Commission 2022, *Aboriginal and Torres Strait Islander visual arts and crafts: Study report overview*, <https://www.pc.gov.au/inquiries/completed/indigenous-arts/report>, accessed 18 September 2024, pages 2 and 29.

⁵¹ Indigenous Art Code (IartC), *Submission 85*, p. 1.

⁵² IartC, *Submission 85*, p. 5.

⁵³ Arts Law, *Submission 29*, p. [2].

⁵⁴ Arts Law Centre of Australia, *Submission 29*, p. 3.

⁵⁵ TJC, *Submission 60*, p. 6.

⁵⁶ TJC, *Submission 60*, pages 3–4.

⁵⁷ Dr Janke, *Committee Hansard*, 23 July 2023, p. 6.

⁵⁸ Dr Janke, *Committee Hansard*, 23 July 2023, p. 6.

- 5.56 The insidiousness of this is that Indigenous creators and ICIP holders do not know how their works and knowledge are being used. Augmenting this cultural harm is economic harm due to a lack of recognition and fair compensation.⁵⁹
- 5.57 The Aboriginal Art Association of Australia (AAAA) advised the Committee that it is supportive of the Productivity Commission’s recommendations for legislative protection of ICIP, but also offered other opportunities to support the industry. AAAA recommends a comprehensive evaluation of government industry funding, identifying barriers to investment, investing in initiatives that support sector expansion, skills development and employment opportunities.⁶⁰
- 5.58 IartC acknowledges the significant investment the Government has made in Aboriginal and Torres Strait Islander community-owned art centres. But notes that independent artists working outside the art centre model often miss out on access to culturally appropriate skill development and support, and industry participation opportunities.⁶¹
- 5.59 IartC also advises that for Indigenous artists to achieve self-determination and participate freely within the arts industry, artists, whether working independently or through an arts centre, must be able to access readily available and transparent information on their rights, seek independent advice, and act with their own agency without fear of reprimand or coercion.⁶²
- 5.60 Australian Government initiatives include Austrade using its Australia’s Nation Brand to foster the Government’s trade diversification agenda, which includes growing markets for creative and cultural exports. It is also collaborating with the industry to reach the Government’s THRIVE 2030 visitor economy growth targets by supporting cultural and artistic events, as well as ‘incorporating cultural assets into destination marketing and campaigns’. Austrade confirmed to the Committee that it is aware that most merchandise and souvenirs are inauthentic, having been made without permission or licensing from Aboriginal and Torres Strait Islander artists, designers and communities. Austrade made it clear that it recognises these products provide no economic benefit to Indigenous peoples and communities, and commits the Australian Government and industry to ensuring ‘targeted offerings and marketing to visitors include disclosure about the impact of purchasing inauthentic merchandise’.⁶³
- 5.61 As discussed above, IP Australia is currently working to establish stand-alone legislation to protect ICIP, with a focus on fake art, merchandise and souvenirs. Part of this work is to ensure Aboriginal and Torres Strait Islander peoples and communities can exercise greater control over the commercialisation of, and economic benefit from, their traditional knowledge and TCEs.⁶⁴

⁵⁹ Dr Janke, *Committee Hansard*, 23 July 2023, p. 6.

⁶⁰ Aboriginal Art Association of Australia, *Submission 61*, p. 2.

⁶¹ IartC, *Submission 85*, p. 2.

⁶² IartC, *Submission 85*, p. 2.

⁶³ Austrade, *Submission 81*, pages 9–10.

⁶⁴ IP Australia, *Submission 47*, pages 4–5.

- 5.62 While work continues by industry stakeholders and Australian Government agencies to improve ICIP protections for First Nations creators, happily there are non-Indigenous businesses providing examples of good practice in this space. Dr Janke and IP Australia pointed to two examples of non-Indigenous businesses—THE ICONIC and Alperstein Designs—entering into benefit-sharing agreements with Aboriginal and Torres Strait Islander artists and designers.

Box 5.4 THE ICONIC partnership with First Nations + Design

THE ICONIC's First Nations Fashion and Design Incubator Program, a 12-month program which concluded in January 2024, was aimed at supporting the growth of the First Nations fashion industry.

Designers engaged in workshops, tours and experiences guided by numerous industry experts and cultural mentors, who led them through key business aspects such as branding, merchandising and marketing.

As part the program, the retail platform has launched its First Nations Edit with debut capsule collections from its finalists – Pink Fish from Elverina Johnson; Myrrdah from sisters Glenda, Jaunita, ale and Cheryl; and Jarawee from Briana Enoch.⁶⁵

Of the program, TJC commended that:

Positive collaborations and partnerships like these illustrate how commercial collaborations can assist to develop the long-term economic viability of the First Nations fashion industry.⁶⁶

Box 5.5 Alperstein Designs

IP Australia provided a positive example of where a non-Indigenous business has long-established, collaborative relationships with First Nations artists and art centres – Alperstein Designs.

Alperstein Designs is a family business based in Melbourne that supplies retailers with lifestyle gifts and homewares.

⁶⁵ THE ICONIC 2024, 'THE ICONIC FNFD Incubator Program', <https://www.theiconic.com.au/first-nation-fashion-design-incubator-program/>, accessed 21 October 2024.

⁶⁶ TJC, *Submission 60*, p. 6.

All artworks are reproduced under license agreements, with parameters put in place over how the artwork can be used. These agreements are reviewed and renewed periodically. All products are produced with attribution to the artist and information about the artwork. Alperstein Designs ensures each artist has a full understanding of the license agreement before signing, using resources such as legal advice to seek free, prior and informed consent. Royalties paid from products are sent to the artists on an ongoing basis. Final approval for products rests with the artist. Artists retain copyright ownership of their artwork.⁶⁷

Tourism

5.63 The tourism industry is a significant part of both the Australian and First Nations economy, for both domestic and international visitors. Austrade stated in their submission that in June 2023 there were '355,570 tourism-related businesses in Australia'⁶⁸ and approximately one in seven Australian businesses connected to tourism. Austrade highlighted the opportunities this presented to First Nations people in both employment and business ownership, adding:

Around 95 [per cent] of these were small and micro businesses with fewer than 20 employees, with approximately 49 [per cent] having no employees other than the owner. Tourism labour statistics from the [Australian Bureau of Statistics] indicate that in the December quarter 2023, there were 655,400 filled jobs in the visitor economy, representing around [one] in 24 of filled jobs in the economy.⁶⁹

5.64 First Nations culture in particular contributes substantially to Australia's international tourism industry, with one in seven international trips to Australia in 2023 incorporating First Nations activities.⁷⁰ Austrade commented that 'tourism also provides an opportunity to showcase Australia's unique visitor experiences and celebrate the world's oldest living continuous culture' and provided some statistics on the number of international and domestic visitors that 'were actively seeking more First Nations experiences when they travel to and within Australia':⁷¹

...these trips generated a total of \$5.9 billion in international visitor spend when all expenditure across the trip was considered. The total number of international trips incorporating First Nations activities has increased by more than 1.4 times over the 10 years from 2013 to 2023.

In 2023, there were a total of 1.7 million domestic trips that incorporated First Nations activities. ...These trips generated a total of \$3.1 billion in domestic visitor spend. The total number of domestic trips incorporating First Nations activities has more than doubled over the 10 years between 2013 to 2023.⁷²

⁶⁷ IP Australia, *Supplementary Submission 47.1*, pages 1–2.

⁶⁸ Austrade, *Submission 81*, p. 3.

⁶⁹ Austrade, *Submission 81*, p. 3.

⁷⁰ Austrade, *Submission 81*, pages 4–5.

⁷¹ Austrade, *Submission 81*, pages 4–5.

⁷² Austrade, *Submission 81*, pages 4–5.

- 5.65 The Chair of the Noongar Chamber of Commerce and Industry (NCCI), Mr Gordon Cole, told the Committee that the uniqueness of First Nations culture makes tourism the ideal focus of the Indigenous business sector:⁷³
- 5.66 This contribution has been increasing, and Mr Taylor of WAITOC submitted that the Indigenous tourism industry has had ‘remarkable’ market growth both internationally and domestically⁷⁴. The Business Council for Sustainable Development (BCSD) Australia submitted that the growth and success of the Indigenous tourism industry presents an opportunity for both economic and political empowerment. Referencing a paper by Richard Butler on Indigenous tourism and economics, BCSD Australia added that:⁷⁵
- Indigenous tourism is increasingly seen not just as a source of employment but to control a broader range of development opportunities and strengthen regional and national identities. This shift reflects Indigenous peoples’ active participation in tourism, moving beyond traditional roles to leverage tourism for broader economic and political objectives.⁷⁶
- 5.67 In addition to the potential economic and political benefits, TJC suggested that Indigenous tourism also preserved and shared First Nations Knowledge and allowed economic and employment opportunities to take place on Country.⁷⁷

Box 5.6 Wintjiri Wiru - cultural storytelling and drone experience

Wintjiri Wiru is a cultural storytelling and drone experience created by the Wintjiri Wiru Working Groups in partnership with Voyages Indigenous Tourism Australia. The Group comprises senior Anangu from Mutitjulu and Kaltukatjara (Dockers River) who are the custodians of the chapter of the ancestral Mala story told during the Wintjiri Wiru cultural storytelling and drone experience. Wintjiri Wiru features important inma (songs) that have been passed down from generation to generation and narration spoken in Yankunytjatjara and Pitjantjatjara, with English interpretation. The project implements best practice protocols for ICIP to ensure protection, respect, remuneration and recognition of Anangu ICIP in the long term.

Wintjiri Wiru won the 2023 Brolga Northern Territory Tourism Awards, winning Best Aboriginal and Torres Strait Islander Tourism Experience as well the Chair’s Choice for Tourism Excellence.⁷⁸

⁷³ Mr Gordon Cole, Chair, Noongar Chamber of Commerce and Industry (NCCI), *Committee Hansard*, 2 September 2024, p. 8.

⁷⁴ Mr Taylor, WAITOC, *Committee Hansard*, 2 September 2024, p. 10.

⁷⁵ Business Council for Sustainable Development (BCSD) Australia, *Submission 71*, p. 10.

⁷⁶ BCSD Australia, *Submission 71*, p. 10.

⁷⁷ TJC, *Submission 60*, p. 7.

⁷⁸ TJC, *Submission 60*, p. 7; Voyages 2023, ‘Tourism awards for Wintjiri Wiru Honour Anangu culture’, <https://www.voyages.com.au/presscentre/tourism-awards-for-wintjiri-wiru-honour-anangu-culture>, accessed 21 October 2024; Voyages n.d., ‘Contributors. Wintjiri Wiru Working Group’, <https://www.ayersrockresort.com.au/wintjiri-wiru/contributors>, accessed 21 October 2024.

- 5.68 First Nations tourism opportunities have immense potential to preserve and disseminate First Nations knowledge through immersive cultural experiences and educational initiatives directly on Country. Essential to the success of First Nations ventures is robust First Nations governance and branding, safeguarded by IP and ICIP protections.
- 5.69 Austrade highlighted its existing engagements with state and territory tourism agencies with a range of marketing activities which included regional training workshops for tourism organisations in every state and territory, and webinars for tourism businesses.⁷⁹ Austrade also developed a Toolkit to help businesses to build their capacity for sustainability which included guidance on respectful engagement with First Nations culture and peoples, and on the principle of free, prior and informed consent.⁸⁰
- 5.70 Austrade added that they provide the National Indigenous Australians Agency (NIAA) with ongoing support through the implementation of three programs under the Indigenous Tourism Fund. This incorporates grants, mentoring and co-investment alongside states and territories for strategic projects. Austrade noted that this support contributes to Austrade's THRIVE2030, the national strategy for the long-term sustainable growth of the visitor economy.⁸¹ THRIVE 2030 'recognises that Australia's First Nations peoples have the world's oldest unique and continuous culture, and this culture is a key factor in attracting international visitors and encouraging Australians to travel domestically'.⁸² Over 25 per cent of international travellers to Australia are interested in Indigenous guided tours, 20 per cent in Indigenous Storytelling and over 30 per cent in visiting Indigenous sites or communities.⁸³ Both internationally and domestically, there has been strong growth over the last ten years in the number of visitor trips incorporating First Nations activities.⁸⁴
- 5.71 THRIVE 2030 proposes to 'respectively embed First Nations cultures into Australia's brand positioning'.⁸⁵ It proposes the establishment of a First Nations Visitor Economy Partnership to support 'greater participation of First Nations cultures, interpretation, and businesses into the visitor economy'.⁸⁶

⁷⁹ Austrade, *Submission 81*, pages 5–6.

⁸⁰ Austrade, *Submission 81*, p. 6.

⁸¹ Austrade, *Submission 81*, pages 2 and 6.

⁸² Austrade, *Submission 81*, p. 2.

⁸³ Austrade, *Submission 81*, p. 5.

⁸⁴ Austrade, *Submission 81*, p. 4.

⁸⁵ Austrade, *Submission 81*, p. 2.

⁸⁶ Austrade, *Submission 81*, p. 5.

- 5.72 The Commonwealth Government recently announced that it would provide greater support for First Nations Tourism through a First Nations Visitor Economy Partnership. The partnership:
- comprised of First Nations tourism industry representatives from every state and territory, will provide leadership and guidance on respectfully embedding Australia's rich cultural heritage in our tourism offerings
 - will investigate and establish a permanent First Nations national tourism peak body.⁸⁷
- 5.73 Additional programs aimed at increasing economic opportunities for First Nations people in the tourism sector include:
- the Indigenous Tourism Fund which supports First Nations people in the travel and tourism industry through grants, mentoring and co-investment in strategic projects
 - the First Nations Tourism Mentoring Program which is designed to connect businesses with skilled, experienced and culturally respectful tourism industry specialists who are providing one-on-one guidance, advice and support.⁸⁸

Committee comment

Intellectual property has the potential to be an enabler and barrier to economic development

- 5.74 The Committee recognises Aboriginal and Torres Strait Islander peoples' right to their cultural and intellectual property, individually and collectively, including traditional knowledge, cultural expressions and genetic resources.
- 5.75 IP rights are a key driver of productivity and support Australian businesses and the economy through their effect on innovation and the diffusion of ideas. The use of IP in businesses is correlated with increased business growth. The Committee acknowledges that IP has the potential to be both an enabler and a barrier to economic self-determination of First Nations peoples.
- 5.76 The IP and data landscape is evolving and there are opportunities and risks for advancing First Nations economic prosperity. Protection of ICIP and data sovereignty can play a critical role in driving the First Nations economy and economic development for Indigenous peoples.
- 5.77 However, Western and Australia's IP laws are not fit-for-purpose for recognising and protecting ICIP, and Australia's implementation of access and benefit sharing laws is

⁸⁷ Minister for Trade and Tourism, Senator the Hon Don Farrell 2024, 'New partnership a boost for First Nations tourism', *Media release*, 30 October.

⁸⁸ Minister for Trade and Tourism, Senator the Hon Don Farrell 2024, 'New partnership a boost for First Nations tourism', 30 October.

piecemeal and fragmented. This creates significant gaps where the misuse and misappropriation of Indigenous knowledge can occur, resulting in the loss of economic benefits and cultural harm to First Peoples.

- 5.78 The Committee acknowledges the work currently being undertaken by IP Australia, Office of the Arts, NIAA and the Attorney-General's Department to protect traditional knowledge and TCEs within the visual arts and crafts market from misappropriation. The Committee also notes that the second stage of this work will explore ways to enshrine ICIP rights more broadly in Australian law. By investigating robust protection frameworks, we can ensure that the rights of First Nations people over their cultural heritage are respected and upheld.
- 5.79 The Committee also notes the work being undertaken by the ILSC in partnership with the NFF through DAFF's traceability projects grants, in exploring the development of an Indigenous agricultural product framework and certification. Of additional interest to the Committee is the work being undertaken by DFAT in cooperation with WIPO to co-design a training and mentoring program for First Nations exporters.
- 5.80 Authentic First Nations products could offer market advantage or premium if they are appropriately marketed and protected, but a lack of IP protection for cultural knowledge, and authentication/certification/trademark is a barrier.
- 5.81 The modernisation of IP legislation and additional regulatory measures are needed to capitalise on commercial opportunities for ICIP, and to prevent exploitation and unauthorised use of ICIP.
- 5.82 Regulatory options aimed at preventing misappropriation of ICIP in all current and emerging sectors is essential. Establishing clear guidelines and legal repercussions for misappropriation will help maintain the authenticity and respect for First Nations knowledge and cultures.

Recommendation 12

- 5.83 The Committee recommends the Australian Government ratify the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization and the World Intellectual Property Organization's Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge.**

Recommendation 13

- 5.84 The Committee recommends that the Australian Government task IP Australia, Department of Agriculture, Fisheries and Forestry, and Department of Foreign Affairs and Trade to investigate legislative and regulatory options to strengthen the protection, certification, promotion, and marketing of First Nations products and services domestically and internationally.**

Recommendation 14

- 5.85 The Committee recommends the Australian Government task IP Australia as part of its current works to protect Indigenous Cultural and Intellectual Property, to investigate legislative options to strengthen legal protections for collective knowledge and historical rights and opportunities.**

Establishing an Indigenous knowledge database

- 5.86 The data landscape is evolving and there are risks and opportunities for First Nations data sovereignty and cultural knowledge.
- 5.87 The bush food industry has advocated for establishing a centralised database or national registration system to substantiate Indigenous knowledge. This will enable documenting a history of use that can host information about genetic resources. This would act as a digital repository for data and knowledges associated with the genetic resources that can be found in Australia.
- 5.88 Having such a repository would allow communities to substantiate their claims of traditional use while also acting as a hub for traditional knowledge, which would facilitate the creation of access and benefit sharing agreements.
- 5.89 Furthermore, if IP laws extend to cover traditional knowledges, then having a documented history of use, including traditional and cultural knowledges, would strengthen future claims. The repository would also ensure that knowledge is retained through time, ensuring that knowledge is not lost or forgotten.

Recommendation 15

- 5.90 The Committee recommends establishing and funding a centralised database or national registration system to substantiate Indigenous knowledge and facilitate the creation of access and benefit sharing agreements. Such a database would enable a digital repository for data and knowledge associated with genetic resources found in Australia.**

Growing the bush foods and botanicals industry


- 5.91 The bush foods and botanicals industry offer opportunities for Indigenous peoples to not only connect with their foods and medicinal systems, but also benefit economically from their commercialisation. A 2020 industry report estimated that the native foods industry held a market retail value of \$80 million, with projections indicating that the value would double by the year 2025.
- 5.92 While the industry is heavily reliant on bush foods and botanicals that have a long history of use within First Nations communities, a 2022 report stated that Indigenous-owned and operated businesses were generating only one per cent of the industry's produce and dollar value. Aboriginal and Torres Strait Island-led enterprises were

also said to be grossly underrepresented in the supply chain, comprising less than one per cent of producers across the supply chain.

- 5.93 Growing interest in the bush foods and botanicals industry is not only coming from domestic markets, but international consumers are also increasingly seeking out products that come from First Nations producers and suppliers.
- 5.94 Considering that the vast majority of bush foods and botanicals grow in rural and remote settings, there is a real opportunity for a successful First Nations-led industry to create economic opportunities for those located in regional and remote areas of Australia. Importantly, this presents an opportunity for First Nations peoples to build their economic independence while staying on Country and maintaining their cultures and caring for Country.
- 5.95 The Committee acknowledges the fragmentation of the bush food and fibre industry, and the benefits of a sustainable peak industry group for emerging industries that can act as a single voice, and trusted body to help advance the core interests of the industry.

Recommendation 16

- 5.96 The Committee recommends the Australian Government work with the bush foods and fibre industry to establish a sustainable peak industry body.**



6. Vocational training and new industries as a vehicle for economic empowerment

- 6.1 Employment lies at the heart of socioeconomic opportunity. It provides direct economic benefit to individuals and families, including financial security, increased social mobility and access to higher standards of living.
- 6.2 Many contributors to the inquiry highlighted the importance of education and training for enabling economic success. Universities Australia told the Committee that access to and achievement in education is a ‘key measure’ of First Nations economic self-determination.¹
- 6.3 First Nations Australians are significantly disadvantaged when it comes to employment and wages compared to non-Indigenous Australians. The 2021 Census showed that:
- 55.7 per cent of First Nations peoples were employed compared to 77.7 per cent of non-Indigenous people.
 - 53.8 per cent of First Nations women were employed compared to 73.9 per cent of non-Indigenous women.
 - 57.7 per cent of First Nations men were employed compared to 81.7 per cent of non-Indigenous men.
 - The average weekly income for First Nations peoples was \$1,013 compared to \$1,444 for non-Indigenous people.
 - First Nations women earned 74 per cent (\$906) of non-Indigenous women’s weekly income (\$1,224).
 - First Nations men earned 68.1 per cent (\$1,133) of non-Indigenous men’s weekly income (\$1,664).²

¹ Universities Australia, *Submission 14*, p. 3.

² Australian Bureau of Statistics 2022, *Aboriginal and Torres Strait Islander people: Census*.

- 6.4 The Productivity Commission’s Closing the Gap Information Repository indicates that while Target 8 is on track to be met by 2031—increase the proportion of Aboriginal and Torres Strait Islander peoples aged 25–64 who are employed to 62 per cent—Targets 5, 6 and 7—students reaching their full potential and youth are engaged in employment or education—are on track.³
- 6.5 There are also significant geographical differences in the employment rates for Aboriginal and Torres Strait Islander peoples. According to the Australian Institute for Health and Welfare, the employment rate of First Nations peoples in major cities in 2021 was 58 per cent, compared to 30 per cent in ‘very remote’ areas.⁴ Workplace participation also varied considerably across jurisdictions, and with the Australian Capital Territory having a First Nations employment rate of 69 per cent, compared to only 31 per cent in the Northern Territory.⁵
- 6.6 This chapter focuses on the evidence received on vocational training, cultural safety, financial literacy, and new industry opportunities as a vehicle for sustainable employment and economic empowerment for First Peoples.

The Australian Government has made record investments in vocational training

- 6.7 The submission from the Department of Education and Workplace Relations set out a range of Australian Government initiatives aimed at ‘building a bigger, better trained, and more productive First Nations workforce’.⁶ The *Working Future* white paper,⁷ which followed the 2022 Jobs and Skills Summit, sets out the Government’s overarching vision for a ‘dynamic and inclusive labour market in which everyone has the opportunity for secure, fairly paid work’.⁸
- 6.8 Other key initiatives include:
- the creation of one million jobs since May 2022
 - fee-free TAFE and VET places in areas of high demand and skills need—as of 5 November 2024, 30,000 First Nations people have registered in fee-free TAFE
 - funding for Remote Training Hubs, co-designed in partnership with Central Australian communities and the Northern Territory Government

³ Australian Government n.d., ‘Closing the Gap Targets and Outcomes’, <https://www.closingthegap.gov.au/national-agreement/targets>, accessed 5 November 2024.

⁴ National Native Title Council, *Submission 62*, p. 2, citing Australian Institute of Health and Welfare, ‘Employment of First Nations People’, <https://www.aihw.gov.au/reports/australias-welfare/indigenous-employment>, accessed 16 October 2024.

⁵ National Native Title Council, *Submission 62*, p. 2, citing Australian Institute of Health and Welfare, ‘Employment of First Nations People’, <https://www.aihw.gov.au/reports/australias-welfare/indigenous-employment>, accessed 16 October 2024.

⁶ Department of Education and Workplace Relations, *Submission 65*, p. 4

⁷ Australian Government, *Working Future: The Australian Government’s White Paper on Jobs and Opportunities*, September 2023.

⁸ Department of Education and Workplace Relations, *Submission 65*, p. 4.

- establishment of a First Nations Vet Leadership Roundtable co-chaired by the Coalition of Aboriginal and Torres Strait Islander Organisations (Coalition of Peaks) and the Australian Government
- expansion of the Skills for Education and Employment (SEE) program which provides free language, literacy, numeracy and digital literacy assessment and training to eligible job seekers—on the 2022-23 financial year, nine per cent (1,800) of SEE participants were First Nations
- a Net Zero Jobs Plan to support workers, families and communities impacted by the transformation to a net zero economy
- a network of Jobs and Skills Councils to ‘provide industry with a stronger, more strategic voice in ensuring Australia’s vocational education and training sector delivers stronger outcomes for learners and employers, including for First Nations Australians’.⁹

6.9 The Independent Tertiary Education Council Australia pointed out that ‘for every First Nations Australian studying a higher education qualification in 2022, there were around [seven] who were engaged in skills training’.¹⁰ It recommended that the Australian Government:

- expand its focus on supporting First Nations students beyond the existing concentration on degree attainment at public universities to ensure these students are similarly supported at any higher education provider or high-quality skills training provider
- enhance support for delivery of quality training programs to First Nations Australians in rural and remote areas
- through the National Skills Agreement, develop of specific funding programs designed to assist students move through the tertiary system develop tertiary education investment and funding approaches that are neutral regarding educational provider type
- bring together a ‘First Nations workforce development strategy’ to explore and enhance the complementary roles of independent quality Registered Training Organisations and public TAFE colleges in Northern Australia workforce development.¹¹

6.10 Master Electricians Australia advocated for VET to be ‘integrated and streamlined’ into the secondary school curriculum, with an equal level of prioritisation as the Australian Tertiary Admission Rank.¹² It argued that vocational education training in secondary schools would foster ‘safe and supportive learning environments’, encouraging more First Nations students to engage with their secondary school learning as the curriculum is designed to extend beyond the traditional academic

⁹ Department of Education and Workplace Relations, *Submission 65*, pages 5–6.

¹⁰ Independent Tertiary Education Council Australia, *Submission 68*, p. 2.

¹¹ Independent Tertiary Education Council Australia, *Submission 68*, p. 4.

¹² Master Electricians Australia, *Submission 87*, p. 1.

pathways.¹³ It considered that this approach will help normalise STEM careers and foster a more inclusivity and diversity in the STEM sector, expanding the ‘talent pool’ of First Nations people in STEM fields.¹⁴ Opportunities for First Nations people in STEM industries is discussed further below.

- 6.11 The Industry Capability Network suggested that entrepreneurial education be integrated into school curricula, with specialised training programs offered to aspiring First Nations entrepreneurs. It noted that ‘teaching business skills from a young age can inspire future generations to consider entrepreneurship as a viable career path’.¹⁵
- 6.12 Charles Darwin University recommended the development of specialised training programs that are tailored to the needs of remote communities, ‘emphasising practical skills and local relevance’. It also recommended support for education providers to develop strategies for remote community-focused training, ‘tailored for “on Country” delivery’.¹⁶
- 6.13 The Alliance of First Nations’ Independent Education and Training Providers, which comprises four First Nations-owned and operated training and education organisations, discussed the ‘pressing need for a national peak body dedicated to Aboriginal youth and adult education and training’.¹⁷
- 6.14 The Jumbunna Institute for Indigenous Education and Research (Jumbunna) at the University of Technology Sydney attributed improved workplace participation rates in recent decades to a range of initiatives, including increased formal education and training, non-standard recruitment strategies, government procurement policies and explicit First Nations employment targets.¹⁸ However, it submitted that fundamental structural blockages remain. These include a lack of self-determination in relation to matters of Indigenous employment and economic development, a lack of appropriate Indigenous-led data collection, and ‘overt, covert and systemic’ racism in the workplace.¹⁹
- 6.15 The National Health Leadership Forum observed that recent progress toward improved employment rates for Aboriginal and Torres Strait Islander peoples has coincided with strong economic conditions and low overall unemployment rates. It cautioned that employment rates for Aboriginal and Torres Strait Islander peoples often decline at greater rate than for non-Indigenous Australians when conditions decline or moderate.²⁰ The National Health Leadership Forum also submitted that holistic consideration of the issues facing Aboriginal and Torres Strait Islander peoples is necessary, with employment and economic participation not considered in

¹³ Master Electricians Australia, *Submission 87*, p. 1.

¹⁴ Master Electricians Australia, *Submission 87*, p. 3.

¹⁵ Industry Capability Network, *Submission 74*, p. 6.

¹⁶ Charles Darwin University, *Submission 58*, p. 7.

¹⁷ Alliance of First Nations’ Independent Education and Training Providers, *Submission 91*, pages 2, 6–7

¹⁸ Jumbunna Institute for Indigenous Education and Research (Jumbunna), University of Technology Sydney, *Submission 25*, p. 3.

¹⁹ Jumbunna, *Submission 25*, p. 3.

²⁰ National Health Leadership Forum, *Submission 55*, pages 4–5.

isolation of education, health, safety and security, and other individual, family, community and societal factors.²¹

- 6.16 The National Indigenous Australians Agency (NIAA) and The Treasury submitted that the First Nations Economic Partnership is an opportunity to build on the Australian Government's objectives with 'partnerships to achieve place-based change, and to overcome barriers to employment and economic opportunities'.²²

Employment services and other First Nations employment support

- 6.17 The Australian Government operates three main employment services:

- Workforce Australia, administered by the Department of Employment and Workplace Relations, operates across all non-remote areas of Australia. As at 31 May 2024, 14.4 per cent (98,140) of Workforce Australia's caseload consisted of First Nations peoples.²³
- Disability Employment Services, administered by the Department of Social Services, is the main employment service for people with disability, illness and/or health condition.²⁴
- Community Development Program (CDP), administered by the National Indigenous Australians Agency, aims to support job seekers in remote Australia to build skills, address barriers to employment and contribute to their communities through activities and training.²⁵

- 6.18 The CDP is currently being reformed. In the 2024 Budget, the Australian Government committed \$777.4 million over five years from 2023–24 to establish the Remote Jobs and Economic Development (RJED) Program. The NIAA and The Treasury reported that the program 'will create 3,000 jobs in remote Australia and support income support recipients move into paid employment'.²⁶ As part of the reforms, a new remote employment service is also being established.²⁷

- 6.19 The Coalition of Peaks told the Committee that the current governance arrangements for the RJED program 'provide for Aboriginal and Torres Strait Islander representatives to provide guidance and advice to government, and for government

²¹ National Health Leadership Forum, *Submission 55*, p. 5.

²² National Indigenous Australians Agency (NIAA) and Treasury, *Submission 64*, p. [6].

²³ Department of Employment and Workplace Relations, *Submission 65*.

²⁴ Department of Social Services 2023, 'Disability Employment Services', <https://www.servicesaustralia.gov.au/disability-employment-services?context=22276>, accessed 16 October 2024.

²⁵ NIAA n.d., 'The Community Development Program (CDP)', <https://www.niaa.gov.au/our-work/employment-and-economic-development/community-development-program-cdp>, accessed 16 October 2024.

²⁶ National Indigenous Australians Agency and Treasury, *Submission 64*, p. [4].

²⁷ National Indigenous Australians Agency, 'The Community Development Program (CDP)', <https://www.niaa.gov.au/our-work/employment-and-economic-development/community-development-program-cdp>, accessed 16 October 2024.

to then make decisions'.²⁸ The Coalition of Peaks considered this a 'welcome step forward' compared to previous programs.²⁹ However, it submitted that changes were needed to align with the Australian Government's commitment in the National Agreement on Closing the Gap government to 'share decisions with Aboriginal and Torres Strait Islander representatives on policies and programs that have a significant impact on our people'.³⁰

- 6.20 The Jumbunna similarly submitted that 'self-determination and local community-led design and solutions are vital to any employment or economic development program for remote Indigenous communities'.³¹
- 6.21 The Indigenous Land and Sea Corporation told the Committee about its Real Jobs Program, an employment program which funds Indigenous owned and managed organisations in the Northern Territory. Further information is in Box 6.1.

Box 6.1 Real Jobs Program

Supporting 109 full time equivalent positions throughout the Northern Territory, the Real Jobs Program (RJP) provides authentic employment opportunities and targeted training. The goal of the RJP is to support previously unemployed Indigenous peoples in the NT to develop their confidence, skills, self-esteem, and overall wellbeing. Employment is seen as an enabler for broader cultural, social environmental, and socio-economic development for participants, their families, their communities, and their Country.

The RJP funds organisations that produce products or services on or with Country. The program is designed to enable businesses to explore diverse revenue streams towards a goal of self-sustainability. The RJP employs local Indigenous people to undertake on-Country management (and other activities) of Indigenous-held land. RJP participants, especially ranger groups, focus on the maintenance or revitalisation of culture, access to and/or protection of culturally significant sites, and protection or restoration of environmental heritage values. This creates pathways for future leadership roles and employment beyond contributing self-determination and has immediate on-Country benefits.³²

Beyond raw employment figures

- 6.22 Contributors to the inquiry suggested that it is important to consider more than just raw employment rates when thinking about the role of jobs in facilitating economic

²⁸ Coalition of Aboriginal and Torres Strait Islander Peak Organisations (Coalition of Peaks), *Submission 67*, p. 8.

²⁹ Coalition of Peaks, *Submission 67*, p. 7.

³⁰ Coalition of Peaks, *Submission 67*, p. 8.

³¹ Jumbunna, *Submission 25*, p. 24.

³² Indigenous Land and Sea Corporation, *Submission 53*, pages 2–3.

self-determination. The Northern Territory Indigenous Business Network argued that the type of employment is just as important:

For Indigenous people it is not enough that our people are employed but it is of more importance and value that our Mob are engaging in work that matters, work that is suitable for family and community structures, work that is enjoyable and work that is beneficial to the wider community. As we are a communal society that shares everything, consequently we value when one family member is employed as we all have something to gain.³³

- 6.23 The Northern Australia Indigenous Reference Group similarly noted the importance of job opportunities for Aboriginal and Torres Strait Islander peoples to advance in their careers, rather than just starting positions or short-term contracts:

Enabling advancement opportunities that align with an individual's skills, interests, and aspirations is key to achieving long-term employment success, including reaching senior positions. The development of a skilled Aboriginal and Torres Strait Islander workforce through investment and commitment is key to addressing Indigenous economic participation and address any skills shortage in regional, rural, and remote areas, particularly in the north where the impact is greatest.³⁴

- 6.24 The Dilin Duwa Centre for Indigenous Business Leadership (Dilin Duwa) submitted that the 'singular focus' of governments on employment omits other economic indicators, such as business ownership and success, home ownership, and savings through superannuation:

Whilst First Nations employment remains below the Australian average, there are an increasing number of First Nations people obtaining higher degrees, achieving professional employment, and establishing businesses. This growing socially mobile part of the First Nations population is important to note, especially when considering the rising levels of business ownership.³⁵

Culturally safe and supportive workplaces

- 6.25 Cultural safety emerged as a significant barrier to sustained employment for Aboriginal and Torres Strait Islander peoples.
- 6.26 The South Australian Aboriginal Community Controlled Organisation Network (SAACCON) told the Committee that racism, discrimination, prejudice, and bias remain present in many mainstream workplaces in Australia, making it difficult for Aboriginal and Torres Strait Islander peoples to find work, feel safe and develop their careers:

³³ Northern Territory Indigenous Business Network, *Submission 63*, p. 12.

³⁴ Northern Australia Indigenous Reference Group, *Submission 66*, p. [6].

³⁵ Dilin Duwa Centre for Indigenous Business Leadership, University of Melbourne, *Submission 8*, p. 3.

This acts as a barrier to economic participation and economic self-determination. A 2022 report found that one in two Aboriginal people had experiences of exclusion or discrimination at work in a 12-month period and that Aboriginal people who face multiple forms of disadvantage are particularly likely to be discriminated against. This includes Aboriginal people with a disability and Aboriginal LGBTQIA+.³⁶

- 6.27 In the absence of a standardised definition of culturally safe workplaces, several submissions discussed elements of a culturally safety in workplaces and examples of culturally safe workplace practices.
- 6.28 The South Australian Aboriginal Community Controlled Organisation Network (SAACCON) submitted that a 'culturally safe workplace recognises and respects the cultural identity of Aboriginal people and is centred around two-way communication, trust, and shared knowledge'.³⁷ SAACCON added that other important elements include the availability of Indigenous mentors and role models, and work arrangements that are flexible enough to accommodate the cultural responsibilities of Aboriginal and Torres Strait Islander peoples in relation to family, kinship, significant cultural events and Sorry Business.³⁸
- 6.29 The Lowitja Institute described cultural safety as a 'key enabler' of success for Aboriginal and Torres Strait Islander peoples.³⁹ It drew the Committee's attention to its Career Pathways Project Report, which details experiences of covert or unwitting discrimination and overt racism within the health workforce.⁴⁰ The project found that 'racism and opposition from colleagues were a barrier to career progression for at least one in five people' and were significantly more prevalent in government agencies than in ACCOs.⁴¹ The Lowitja Institute therefore called for 'urgent progress' to implement Priority Reform Three of the National Agreement on Closing the Gap.⁴² Priority Reform Three aims to 'transform government organisations' so that they are 'culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people, including through the services they fund'.⁴³
- 6.30 Screen Australia's First Nations Department (Box 6.2) is one example of a government agency that has made concerted efforts to provide a culturally safe and supportive environment for First Nations employees. However, in its submission Screen Australia noted that more support would be needed to enhance and expand

³⁶ South Australian Aboriginal Community Controlled Organisation Network (SAACCON), *Submission 93*, pages 8–9.

³⁷ SAACCON, *Submission 93*, p. 9.

³⁸ SAACCON, *Submission 93*, p. 9.

³⁹ Lowitja Institute, *Submission 36*, p. 8.

⁴⁰ Lowitja Institute, *We Are Working for Our People: Growing and strengthening the Aboriginal and Torres Strait Islander health workforce, Career Pathways Project Report*, August 2020.

⁴¹ Lowitja Institute, *Submission 36*, p. 9.

⁴² Lowitja Institute, *Submission 36*, pages 9 and 10.

⁴³ National Agreement on Closing the Gap, Priority Reform Three.

its current efforts to upskill, sustain and elevate First Nations screen practitioners and businesses.⁴⁴

Box 6.2 Screen Australia’s First Nations Department

Screen Australia is the Commonwealth Government agency responsible for the Australian screen industry.

The First Nations Department is an essential part of Screen Australia. Since its creation in 1993 by the Australian Film Commission, the First Nations Department has led the way in promoting First Nations screen stories and storytellers. Entirely staffed by First Nations peoples, the department drives change in the industry by providing significant development and production funding for imaginative, resonant and authentic First Nations screen stories.

In addition to funding screen content, the First Nations Department also identifies and champions emerging First Nations talent, advocates for representation, encourages cultural safety, and funds skills development and career escalation opportunities.

Screen Australia and its First Nations Department aims to promote cultural safety on set, including through the design and implementation of tools, resources and programs to promote safe working environments. The First Nations Department is also undertaking a review and refresh of its *Pathways & Protocols* guide, which is the Australian screen industry standard for working with First Nations peoples, culture and concepts, and aims to assist non-Indigenous filmmakers to ensure respectful and safe working arrangements and environments.⁴⁵

6.31 The Lowitja Institute and SAACCON both highlighted the important role of the ACCO sector in providing culturally safe employment for Aboriginal and Torres Strait Islander people.⁴⁶

6.32 A similar point was made by the Coalition of Peaks, which pointed out that the ACCO sector is ‘one of the largest employers of Aboriginal and Torres Strait Islander people and often operates in locations where it provides the main employment opportunities in a region’.⁴⁷ Noting that Priority Reform Two of the National Agreement on Closing the Gap involves building the community-controlled sector, the Coalition of Peaks suggested governments could realise this reform by:

- strengthening the Sector’s workforce training, education and upskilling opportunities, and delivering these through Aboriginal and Torres Strait Islander training organisations
- ensuring that the Aboriginal and Torres Strait Islander workforce has wage parity based on workforce modelling commensurate with need

⁴⁴ Screen Australia, *Submission 12*, p. 3.

⁴⁵ Screen Australia, *Submission 12*.

⁴⁶ Lowitja Institute, *Submission 36*, pages 5, 9–10; SAACCON, *Submission 93*, p. 9.

⁴⁷ Coalition of Peaks, *Submission 67*, p. 5.

- supporting common community-controlled services to have a dedicated, reliable and consistent funding model that suits and is responsive to community needs.⁴⁸

6.33 The Victorian Aboriginal Community Controlled Health Organisation noted that many Aboriginal community members gain their first job at an ACCO, providing ‘an essential stepping stone for many into a life with ongoing employment that creates a capacity to support family and move out of the intergenerational poverty that is an enduring impact of colonisation’.⁴⁹ It added that traineeships are ‘critical’ in providing entry level positions for Aboriginal people in ACCOs.

6.34 The Lowitja Institute drew attention to the Aboriginal-owned retailer, Clothing The Gaps (see Box 6.3), as a private business operating a culturally safe workplace. It noted the founders of Clothing The Gaps both had health promotion backgrounds from working in the ACCO sector, which had helped them to create a business that ‘supports Aboriginal and Torres Strait Islander employees to thrive’.⁵⁰

Box 6.3 Clothing The Gaps

When public health practitioners Laura Thompson, a Gunditjmara woman and Sarah Sheridan launched Clothing The Gaps in Naarm/Melbourne in 2019, their dream was for the ‘merch with a message’ business to be the vehicle to fund their health promotional work in Aboriginal communities in Victoria.

Today, Clothing The Gaps is a leading an award-winning ‘profit-for-purpose’ accredited social enterprise with Aboriginal and Torres Strait Islander self-determination at its core.

Clothing The Gaps designs both Mob-only and ally-friendly clothing such as merchandise with slogans like ‘Always was, always will be’ and ‘Not a Date to Celebrate’, to educate and start conversations about causes or issues affecting Aboriginal and Torres Strait Islander peoples.

Clothing The Gaps uses its brand and growing platform to campaign, educate and elevate Aboriginal and Torres Strait Islander voices and causes, and to promote reconciliation: creating ‘walking billboards’ for social change. Rather than formal business training, Clothing The Gaps’ founders have applied a health promotional lens to the business: strengths-based messaging, building a community of people, peer-to-peer support, agency, and action.

The business now employs 43 staff on contracts or as casuals, more than 90 per cent of whom are Aboriginal and Torres Strait Islander peoples. It generates about 25,000 hours of Aboriginal and Torres Strait Islander youth employment each year. This offers exposure young people to earning a living in the business world, providing experience in retail and wholesale distribution as well as marketing.⁵¹

⁴⁸ Coalition of Peaks, *Submission 67*, p. 5.

⁴⁹ Victorian Aboriginal Community Controlled Health Organisation, *Submission 57*, p. 9.

⁵⁰ Lowitja Institute, *Submission 36*, p. 9.

⁵¹ Clothing The Gaps, *Submission 52*.

At a public hearing, Ms Thompson told the Committee:

We hear from non-Indigenous companies with reconciliation action plans all the time, saying, 'We're just really struggling with our recruitment'. But, when you're a Blak business like we are, you're not trying to retrofit your space to be culturally safe. You are already culturally safe, because you are a Blak business. Employing staff has never been a problem for us, nor has retaining staff.⁵²

Financial literacy

6.35 Noting the long history of economic exclusion of Aboriginal and Torres Strait Islander peoples, the First Nations Foundation encouraged the Committee to think about the measures needed to support First Nations peoples who are gaining a job for the first time. It submitted that many First Nations peoples 'do not know the difference between a credit card and a debit card, what interest is and how to save to create prosperity'.

6.36 Mr Angus Crawford, representing the First Nations Foundation at a public hearing, told the Committee:

Traditionally, at a Commonwealth and subnational level, the policy conversation has revolved around how can we elevate the average First Nations person out of unemployment into employment, and the cycle kind of ends there. 'We've lifted this person out of their situation. They're no longer receiving welfare support. They're gainfully employed, so we'll sort of wash our hands of the situation and move forward'. But what we're keen to do is reframe that narrative to one where we're concentrating on wealth generation, prosperity, asset generation, long-term planning, all the sorts of things that a non-Indigenous person might otherwise take for granted or consider to be assumed knowledge.⁵³

6.37 The First Nations Foundation, through its financial literacy training, aims to 'fill the knowledge gaps about western capitalist practices, teach vital skills such as setting money goals and budgeting and teaches basic financial knowledge around banking, superannuation, loans, and investments'.⁵⁴ It also targets 'areas of vulnerability' such as payday loans, funeral insurance, and consumer leases.⁵⁵ It submitted that:

Improving the First Nations wealth profile and access to financial information and services generates positive impacts for individuals and communities in terms of

⁵² Ms Laura Thompson, *Committee Hansard*, Melbourne, 19 July 2024, p. 39.

⁵³ Mr Angus Crawford, General Manager, Economic Policy, Research and Government Relations, First Nations Foundation, *Committee Hansard*, Melbourne, 19 July 2024, p. 3.

⁵⁴ First Nations Foundation, *Submission 6*, p. 3.

⁵⁵ First Nations Foundation, *Submission 6*, p. 3.

economic freedom, security, and wellbeing, as well as quality of Life and opportunities.⁵⁶

- 6.38 The First Nations Foundation's Chief Executive Officer, Mr Phil Usher, also told the Committee about its work to drive 'systemic change' in the mainstream financial services industry to encourage financial service providers to change their practices to make their services more accessible to First Nations customers.⁵⁷
- 6.39 Many Indigenous Chambers of Commerce also commented on the lower financial and numerical literacy entry rate of Indigenous businesses compared to non-Indigenous businesses.

New and emerging industries

- 6.40 The Committee received evidence about specific industries in which there are new and growing opportunities for First Nations economic development, including the generation of a substantial number of jobs.

Clean energy

- 6.41 Many participants in the inquiry drew the Committee's attention to the economic opportunities presented by the renewable energy transition. Dr Kathryn Thorburn and Dr Lily O'Neill of the University of Melbourne described clean energy as providing 'potentially the greatest economic development opportunity on the Indigenous estate in Australia in the last 20 years'.⁵⁸
- 6.42 The Jobs and Skills Australia 2023 report found that Australia's clean energy workforce is underrepresented among First Nations people, who currently make up around 1.9 per cent of the clean energy workforce. The report suggests combining targeted employment strategies with on-site education and training targets for local, entry-level First Nations employees, who may not have had the opportunities and support to take up related education and training off country.
- 6.43 The First Nations Clean Energy Network cited modelling by Net Zero Australia had estimated that, in order for Australia to achieve its clean energy aspirations, almost 45 per cent of clean energy infrastructure will need to be placed on land where First Nations peoples have legally enforceable rights and interests.⁵⁹ The Network called for First Nations peoples to be positioned as 'co-designers and drivers' of the transition, with early engagement with First Nations communities to seek free, prior and informed consent (FPIC) in relation to large scale developments on their land.⁶⁰

⁵⁶ First Nations Foundation, *Submission 6*, p. 3.

⁵⁷ Mr Phil Usher, Chief Executive Officer, First Nations Foundation, *Committee Hansard*, Melbourne, 19 July 2024, pages 2 and 4.

⁵⁸ Indigenous Studies Unit and Melbourne Climate Futures, University of Melbourne, *Submission 46*, p. 3.

⁵⁹ First Nations Clean Energy Network, *Submission 82*, p. 7.

⁶⁰ First Nations Clean Energy Network, *Submission 82*, p. 3.

- 6.44 Citing feedback from Traditional Owners, Ms Karrina Nolan, Co-Chair of the First Nations Clean Energy Network, told the Committee that such engagement often was not occurring early enough in the project planning process to result in good outcomes.
- 6.45 Nevertheless, the First Nations Clean Energy Network considered that renewable energy projects have the power to deliver benefits for communities, with multiplier effects through regional economies.⁶¹ Through its recent *Powering First Nations Jobs in Clean Energy* report, the Network has made recommendations directed at increasing First Nations employment and training in clean energy, including:
- incorporating First Nations employment and training targets into the Capacity Investment Scheme
 - establishing a coordinated industry program for First Nations apprentices in wind farm maintenance
 - integrating First Nations employment and training targets and initiatives into housing retrofit, diesel replacement and microgrid programs
 - promoting clean energy careers for First Nations school students
 - strengthening school to VET transitions with traineeships and apprenticeships
 - outreach engagement with First Nations students via Regional University Study Hubs
 - funding group training, focussing on the renewable energy zones and First Nations housing retrofits
 - funding an industry support program to enable achievement of employment and training targets
 - building the capacity and coordination of First Nations organisations, networks and businesses
 - building cultural competence in the renewable energy sector.⁶²

Box 6.4 Gunaikurnai Land and Waters Aboriginal Corporation

Established in 2007, the Corporation is the Registered Aboriginal Party and Prescribed Body Corporate that represents the Gunaikurnai people in Victoria.⁶³

Historically, the energy sector in Gippsland has taken irreplaceable cultural heritage from Gunaikurnai Land and Waters Aboriginal Corporation and impacted its connection to Country—most notably through the gas pipeline project and the coal-fired power stations. They have received little in return to remedy the impact on Country and its people.

⁶¹ First Nations Clean Energy Network, *Submission 82*, p. 7.

⁶² First Nations Clean Energy Network, *Powering First Nations Jobs in Clean Energy*, June 2024, pages 9–19.

⁶³ Gunaikurnai Land and Waters Aboriginal Corporation 2024, 'GLaWAC – Who we are', <https://gunaikurnai.org/our-story/>, accessed 5 November 2024.

However the Corporation is now in the driver's seat and engaging heavily with major energy projects and the Federal and State Governments on renewable energy projects such as the Gippsland Offshore Wind Area.⁶⁴

Gunaikurnai Land and Waters Aboriginal Corporation has prepared a renewable energy strategy to ensure that its mob are well represented and that the rights and views of the Traditional Owners of Country are respected and understood through the transition.

The Australian Government is ensuring the energy transition provides an opportunity for First Nations people to share in ownership and dividends from renewable energy through its policy settings under Future Made in Australia, the First Nations Clean Energy Strategy and the rollout of onshore and offshore wind and solar.

Future Made in Australia and other investment vehicles

- 6.46 Several participants in the inquiry identified the Australian Government's Future Made in Australia package (see Box 6.5) as an opportunity for First Nations economic development. The Department of Industry, Science and Resources submitted that the Future Made in Australia agenda 'presents an opportunity for First Nations businesses to cement themselves in the Australian economy by boosting participation in the renewable energy space and strengthening their participation in competitive markets'.⁶⁵

Box 6.5 Future Made in Australia package

The Future Made in Australia initiative involves \$22.7 billion in funding over ten years to help 'maximise the economic and industrial benefits of the move to net zero and secure Australia's place in a changing global economic and strategic landscape'. The package includes five elements:

- 'Attracting and enabling investment'—including funding to 'better prioritise' approvals for renewable energy projects and support 'faster decisions', including with improved engagement with communities involved in the energy transition.
- 'Making Australia a renewable energy superpower'—including a tax incentive for renewable hydrogen and additional funding for the Australian Renewable Energy Agency, including a \$1.7 billion 'Future Made in Australia Innovation Fund'.
- 'Value-adding to our resources and strengthening economic security'—including a tax incentive for critical minerals production and funding to strengthen battery and solar panel supply chains.

⁶⁴ Gunaikurnai Land and Waters Aboriginal Corporation, *Submission 102*, p. 1.

⁶⁵ Department of Industry, Science and Resources (DISR), *Submission 69*, p. 12.

- ‘Backing Australian ideas—strengthening our innovation digital and science capabilities’—including funding for quantum computing and for ‘open science’ mapping activities by Geoscience Australia.
- ‘Investing in people and places’—including funding to ‘accelerate’ the development of the clean energy workforce and additional employment and skills supports for regions in transition.⁶⁶

6.47 Drawing on lessons learned from Canada (discussed further in Chapter 5), Ms Nolan of the First Nations Clean Energy Network considered that funding should be specifically earmarked for First Nations led projects to achieve positive results.⁶⁷ Ms Nolan made a similar point in relation to the Australian Government’s Capacity Investment Scheme.⁶⁸ Mr Jonathan Kneebone, the Network’s Director of Policy and Engagement, noted that Australia’s scheme did not meet the same level of aspiration as similar schemes in Canada, which had mandated minimum levels of First Nations ownership for projects:

In Australia, our Capacity Investment Scheme hints at First Nations ownership being a good outcome and something that will make you score more highly, but it doesn’t mandate a level; it just encourages people to consider that. It’s not an eligibility criterion; it’s just something that you might consider further on. So we’re heading there. I think there’s good noise about it, but we don’t have the same level of aspiration that other countries around the world have.⁶⁹

6.48 Australian Sustainable Finance Institute (ASFI) similarly recommended that First Nations impacts and opportunities should be embedded into the investment processes for Commonwealth Investment Vehicles, including the Clean Energy Finance Corporation and the National Reconstruction Fund, and grant programs supporting Future Made in Australia priorities, such as those delivered by the Australian Renewable Energy Agency.⁷⁰ It argued that investment processes and standards for these funding vehicles should respect the rights and contributions of First Nations communities and implement FPIC principles and First Nations data governance as ‘foundational criteria’.⁷¹ ASFI recommended that the criteria in the Clean Energy Finance Corporation’s investment mandate could be amended to include:

- the extent of ownership by First Nations [peoples/communities] of the project,
- whether Traditional Owners have been afforded a right of Free, Prior, and Informed Consent,

⁶⁶ DISR, *Submission 69*, p. 12; The Hon Anthony Albanese MP, Prime Minister and the Hon Dr Jim Chalmers MP, Treasurer 2024, ‘Investing in a future made in Australia’, *Media Release*, 14 May.

⁶⁷ Ms Karrina Nolan, Co-Chair, First Nations Clean Energy Network, *Committee Hansard*, Melbourne, 19 July 2024, p. 42.

⁶⁸ Ms Nolan, First Nations Clean Energy Network, *Committee Hansard*, Melbourne, 19 July 2024, p. 43.

⁶⁹ Ms Nolan, First Nations Clean Energy Network, *Committee Hansard*, Melbourne, 19 July 2024, p. 45.

⁷⁰ Australian Sustainable Finance Institute (ASFI), *Submission 15*, p. 7.

⁷¹ ASFI, *Submission 15*, p. 7.

- the degree of engagement with Traditional Owners,
- the extent to which the investment will deliver economic or social benefits/opportunities for First Nations [peoples/communities].⁷²

6.49 Professor Peter Yu, of the Australian National University’s First Nations Portfolio, similarly advocated for mechanisms for Traditional Owner groups to buy equity in the generation and transmission infrastructure needed for the transition to renewables, instead of relying solely on royalties paid under agreements with infrastructure owners.⁷³

6.50 The Future Made in Australia package does not include funding that is specifically allocated to First Nations outcomes. However, the Future Made in Australia Bill 2024, which was introduced into the House of Representatives on 3 July 2024 includes a community benefit principle:

(iia) supporting First Nations communities and traditional owners to participate in, and share in the benefits of, the transition to net zero.⁷⁴

6.51 At the time of writing, the Bill remains before the Senate.

6.52 The Australian Government is investing in clean energy skills development through the establishment of the Clean Energy TAFE Centres of Excellence in Western Australia and Queensland, which will specialise in the delivery of innovative training in clean energy technologies including solar, wind, hydrogen, and batteries, to feed into the grid to help create a Future Made in Australia.

Biodiversity conservation

6.53 Several participants in the inquiry highlighted the large and growing opportunities for Aboriginal and Torres Strait Islander peoples’ involvement in biodiversity conservation. Mr Andrew Peterson of the BCSD Australia told the Committee about work underway to examine the role of Indigenous peoples in realising the United Nations Convention of Biological Diversity’s Global Biodiversity Framework.⁷⁵ The Global Biodiversity Framework includes 22 targets for 2030, many of which include recognition of and respect for Indigenous rights, including representation and participation in decision-making.⁷⁶

⁷² ASFI, *Submission 15*, p. 7.

⁷³ Professor Peter Yu, Vice-President, Australian National University First Nations Portfolio, *Committee Hansard*, Canberra, 30 September 2024, p. 5.

⁷⁴ Future Made in Australia Bill 2024, cl 3(c)(iia).

⁷⁵ Mr Andrew Peterson, Chief Executive Officer and Board Director, Business Council for Sustainable Development Australia, *Committee Hansard*, Canberra, 23 July 2024, pages 26–27.

⁷⁶ Convention on Biological Diversity, ‘The Biodiversity Plan for Life on Earth: 2030 Targets (with Guidance Notes)’, <https://www.cbd.int/gbf/targets>, accessed 23 September 2024.

- 6.54 Partnership with First Nations peoples to improve environmental management and project cultural heritage forms a key component of the Australian Government's Nature Positive Plan.⁷⁷ In addition to strengthened cultural heritage laws, the plan proposes developing a new National Environmental Standard for First Nations Engagement and Participation in Decision-Making.⁷⁸ At the time of writing, however, a draft standard had not yet been released for consultation.⁷⁹
- 6.55 One way in which Aboriginal and Torres Strait Islander communities currently contribute to biodiversity conservation is through the network of Indigenous Protected Areas (IPAs). IPAs are areas that Traditional Owners have voluntarily agreed with the Australian Government to manage for biodiversity conservation. There are currently 85 dedicated IPAs across Australia, covering 87 million hectares of land and 5 million hectares of sea. Together, IPAs make up more than 50 per cent of Australia's National Reserve System.⁸⁰ A further 12 new IPAs were announced in July 2024, covering another 8 million hectares of land and sea.⁸¹
- 6.56 The Australian Government's Indigenous Ranger Program (see Box 6.6) is one of the key mechanisms used to create jobs for Aboriginal and Torres Strait Islander peoples in biodiversity conservation and to fund the management of IPAs (and other areas) toward environmental, cultural, social and economic development outcomes. The program is currently being expanded through a grants process, which aims to double the number of Indigenous rangers from 1,900 in 2021 to 3,800 in 2030.⁸²

Box 6.6 Indigenous Rangers Program

The Australian Government's Indigenous Rangers Program is designed to assist Aboriginal and Torres Strait Islander peoples in managing Country according to Traditional Owners' objectives. Indigenous rangers use traditional knowledge and cultural practices, combined with Western science, to manage land, river and sea Country and deliver environmental, cultural, social and economic development outcomes.⁸³ Community-based ranger groups are formed to deliver on Country activities including:

- engaging with community and Traditional Owners to plan land and water management activities

⁷⁷ Department of Climate Change, Energy 2022, the Environment and Water (DCCEEW), *Nature Positive Plan: better for the environment, better for business*, pages 13–14.

⁷⁸ DCCEEW 2022, *Nature Positive Plan: better for the environment, better for business*, pages 13–14.

⁷⁹ DCCEEW 2024, 'National Environmental Standards', <https://www.dcceew.gov.au/environment/epbc/epbc-act-reform/standards>, accessed 23 September 2024.

⁸⁰ DCCEEW 2024, 'Indigenous Protected Areas', <https://www.dcceew.gov.au/environment/land/indigenous-protected-areas>, accessed 23 September 2024.

⁸¹ The Hon Linda Burney MP, Minister for Indigenous Australians and the Hon Tanya Plibersek MP, Minister for the Environment and Water 2024, 'New Indigenous-managed land and sea areas across Australia', *Media release*, 10 July.

⁸² The Hon Linda Burney MP, Minister for Indigenous Australians 2023, 'Doubling Indigenous Rangers to Help Close Gap on Jobs', *Media release*, 24 November.

⁸³ NIAA n.d., 'Indigenous Rangers', <https://www.niaa.gov.au/our-work/environment-and-land/indigenous-rangers>, accessed 19 September 2024.

- fire management—cultural burning and bushfire mitigation
- biodiversity conservation—habitat and threatened species management, invasive species management, freshwater and sea Country management
- strengthening language and culture
- cultural heritage protection and maintenance
- intergenerational knowledge transfer, education, training and capability development
- biosecurity monitoring
- partnerships with research, education, philanthropic and commercial organisations
- building and retaining employment in the sector.⁸⁴

Indigenous ranger groups operate throughout Australia on a variety of land, water, coastal and marine areas. Indigenous rangers are often the main or only land and water managers in vast remote and regional areas, including in IPAs.⁸⁵

Indigenous ranger organisations offer meaningful jobs for Indigenous peoples, especially in remote and regional areas where there are limited employment opportunities. The work and associated skills development offers opportunities to build career and leadership pathways within ranger organisations, the wider land and water management sector, other industries and in commercial enterprises. Ranger employment also builds the human capital and financial resources within communities which supports community-led development.⁸⁶

On 31 October 2024 the Australian Government announced \$355 million for the creation of more than 1,000 new Indigenous ranger jobs. First Nations women will make up most of the new full-time, part-time and casual roles, with up to 770 Indigenous ranger positions.⁸⁷

6.57 The Department of Agriculture, Fisheries and Forestry told the Committee about the important role that Indigenous Rangers play in detecting biosecurity threats in Northern Australia. The Indigenous Ranger Biosecurity Program (IRBP) funds rangers to ‘detect changes on country and conduct activities across vast amounts of sparsely populated, hard-to-access land’.⁸⁸ The Department said that the IRBP fulfils an ‘indispensable’ role in Australia’s national biosecurity system:

Indigenous Rangers bring unique traditional knowledge and skills to the biosecurity program in Northern Australia, helping to bolster our early detection

⁸⁴ NIAA n.d., ‘Indigenous Rangers’, <https://www.niaa.gov.au/our-work/environment-and-land/indigenous-rangers>, accessed 19 September 2024.

⁸⁵ NIAA 2022, *Indigenous Ranger Sector Strategy 2022–2028: Consultation Draft*, p. 6.

⁸⁶ NIAA 2022, *Indigenous Ranger Sector Strategy 2022–2028: Consultation Draft*, p. 7.

⁸⁷ Department of Prime Minister and Cabinet (PM&C), ‘1,000 new jobs for expanded Indigenous Rangers program’, *Media release*, 31 October 2024.

⁸⁸ Department of Agriculture, Fisheries and Forestry (DAFF), *Submission 9*, p. 4.

capability for exotic weeds and pests. ...In addition to supporting effective biosecurity in northern Australia, the IRBP contributes to broader social outcomes in remote communities including increased education, employment and economic opportunities.⁸⁹

- 6.58 The Department noted that, in May 2023, the Australian Government announced the continuation of the IRBP with funding of \$40.6 million over the next four years and \$12 million per year ongoing from 2027–28.⁹⁰
- 6.59 In addition to IPAs, many National Parks and other reserves around Australia have joint management arrangements in place with Traditional Owners. Kakadu National Park and Uluru-Kata Tjuta National Park both consist of Aboriginal land that has been leased to the Commonwealth and managed by Aboriginal member majority boards.⁹¹
- 6.60 The Committee received a submission from a group calling for Casuarina Coastal Reserve, Lee Point and the surrounding areas of Crown-owned land around Darwin, including land that has been designated for a new national park, to be returned to the ownership and management of the Larrakia People. The submission identified more than 230 examples of national parks around Australia that are under Indigenous care and protection through co-management or joint management arrangements.⁹²
- 6.61 Victoria, for example, currently has agreements with seven Traditional Owner groups to jointly manage ten national parks and reserves including the Gunaikurnai Land and Waters Aboriginal Corporation, Dja Dja Wurrung Clans Aboriginal Corporation, Gunditj Mirring Traditional Owners Aboriginal Corporation, Eastern Maar Aboriginal Corporation, Taungurung Land and Waters Council, Barengi Gadgin Land Council, and Yorta Yorta Nation Aboriginal Corporation.⁹³
- 6.62 At a public hearing, Mr Rewi Lyall of the Jamukurnu-Yapalikurnu Aboriginal Corporation (Western Desert Lands) RNTBC (JYAC) told the Committee about opportunities that could arise if joint management of Karlamilyi National Park was agreed with the Western Australian Government, particularly if the Martu people's existing native title determination was updated to include the national park pursuant to section 47C of the *Native Title Act 1993*. Mr Lyall identified management of

⁸⁹ DAFF, *Submission 9*, p. 4.

⁹⁰ DAFF, *Submission 9*, p. 4.

⁹¹ DCCEEW 2021, 'Park Management' (Kakadu National Park), <https://www.dcceew.gov.au/parks-heritage/national-parks/kakadu-national-park/management-and-conservation/park-management#boards-of-management>, accessed 23 September 2024; DCCEEW 2024, 'Welcome to Uluru-Kata Tjuta National Park', <https://www.dcceew.gov.au/parks-heritage/national-parks/uluru-kata-tjuta-national-park>, accessed 23 September 2024.

⁹² Return Lee Point to Larrakia People, *Submission 79*.

⁹³ Victorian Government n.d., 'Agreements with Traditional Owners', <https://www.forestsandreserves.vic.gov.au/joint-management/agreements-with-traditional-owners>, accessed 6 November 2024.

potential tourism sites as one such opportunity.⁹⁴ Mr Lyall also identified the generation of carbon credits on Martu lands as a potential economic opportunity.⁹⁵

6.63 An example of Aboriginal-controlled land in the Kimberley being used to earn carbon credits, using fire management, is discussed in Chapter 4 (see Box 4.1). The Kimberley Land Council told the Committee that Indigenous fire management is a 'valuable commodity, saleable in today's carbon market, that generates significant income for communities in the Kimberley'.⁹⁶

6.64 In its submission, software company ServiceNow said that improving the ability of First Nations communities to participate in the emerging 'nature-positive' market will provide a 'unique opportunity' to those communities:

The nature-positive market will provide a new source of funds to restore and conserve Australia's biodiversity. Evidence from the establishment of a biodiversity market in NSW suggests that there is potentially more demand than supply of biodiversity certificates, suggesting an opportunity for more projects to be proposed and supported by this market.⁹⁷

6.65 ServiceNow argued that Aboriginal and Torres Strait Islander peoples are the 'most qualified group of people to meet the requirements for an increase in supply', and that Indigenous Ranger groups have the skills and resources needed to engage in the nature repair market and create employment opportunities in their communities.⁹⁸ It suggested that technology could be provided to ease the administrative burden on Indigenous Ranger groups by making data collection and reporting easier.

6.66 The Federation of Victorian Traditional Owner Corporations advocated to incentivise landowners who 'delivered the desired biodiversity outcomes in a way consistent with First Nations' understanding of Country',⁹⁹ adding that it would create:

'First Nations industry' involved in the assessment, planning, carrying-out and evaluation of landowner proposals. An industry based on collectively held cultural 'rights' underpinned by rights vesting in, predominantly though not exclusively, non-Indigenous landowners. Where subject land is owned by First Nations, the value to the First Nations economy would be even greater.¹⁰⁰

⁹⁴ Mr Rewi Lyall, Interim Chief Executive Officer, Jamukurnu-Yapalikurnu Aboriginal Corporation (Western Desert Lands) RNTBC (JYAC), *Committee Hansard*, Perth, 2 September 2024, p. 18.

⁹⁵ Mr Lyall, JYAC, *Committee Hansard*, Perth, 2 September 2024, pages 18–19.

⁹⁶ Kimberley Land Council, *Submission 83*, p. 9.

⁹⁷ ServiceNow, *Submission 20*, pages [1–2].

⁹⁸ ServiceNow, *Submission 20*, pages [2–3].

⁹⁹ Federation of Victorian Traditional Owner Corporations (FVTOC), *Submission 40*, p. 4.

¹⁰⁰ FVTOC, *Submission 40*, p. 4.

Tourism

- 6.67 For First Nations communities, tourism can be a powerful driver to improve social and economic outcomes, and the sustainability of cultures. Cultural tourism is increasingly important for Australia's regions and First Nations communities, presenting opportunities for value-added tourism, skills and job creation.
- 6.68 Latest data from Tourism Research Australia shows that in 2023-24, there were a total of 3 million trips that incorporated First Nations activities. This consisted of 663,600 domestic daytrips, 1,223,300 domestic overnight trips and 1,099,500 international trips.¹⁰¹
- 6.69 This represented the highest number of trips incorporating First Nations activities on record, surpassing the previous record of 2.5 million trips involving a First Nations experience in 2019, with one in seven Australian businesses directly connected to tourism.¹⁰²

Box 6.7 Kalbarri Skywalk Café

Kalbarri is a popular tourist destination at the mouth of the Murchison River, around 600 kilometres north of Perth, Western Australia.

Recognising the potential for Indigenous entrepreneurship in the tourism sector, the owners of the Kalbarri Skywalk Café, a local Nhanda family, embarked on a journey to establish a business that would not only cater to visitors but also showcase the rich cultural heritage of the area. The café is located on the cliffs of Murchison River Gorge in Kalbarri National Park, adjacent to the Kalbarri skywalk.

Western Australian Indigenous Tourism Operators Council (WAITOC) provided financial assistance, mentorship, and access to training programs for the cafe owners.

Kalbarri Skywalk Café is a thriving business that attracts both local and international visitors. The café also serves as a cultural hub, featuring Indigenous art, storytelling, and traditional cuisine.¹⁰³

- 6.70 The Government's strategy for the visitor economy, THRIVE 2030, focuses on developing new and expanding support for existing First Nations owned and operated tourism enterprises.¹⁰⁴

¹⁰¹ Austrade 2024, Tourism Research Australia, *First Nations tourism*.

¹⁰² Austrade 2022, 'Training gives Indigenous people a pathway into tourism', <https://www.austrade.gov.au/en/news-and-analysis/news/training-gives-indigenous-people-a-pathway-into-tourism>, accessed 5 November 2024.

¹⁰³ Western Australian Indigenous Tourism Operators Council (WAITOC), *Submission 100*, p. [11].

¹⁰⁴ Austrade 2022, 'THRIVE 2030 strategy', <https://www.austrade.gov.au/en/how-we-can-help-you/programs-and-services/thrive-2030-strategy>, accessed 5 November 2024.

- 6.71 Some inquiry participants drew the Committee’s attention to opportunities for Aboriginal and Torres Strait Islander peoples in the tourism sector. For instance, Terri Janke and Company (TJC) submitted that First Nations tourism has ‘immense potential to preserve and disseminate First Nations Knowledge through immersive cultural experiences and educational initiatives directly on Country’.¹⁰⁵ TJC argued that robust governance and branding, safeguarded by protection of intellectual property and Indigenous cultural and intellectual property (ICIP), is essential to the success of tourism ventures.¹⁰⁶ Intellectual property and ICIP matters are discussed in more detail in Chapter 5.
- 6.72 WAITOC told the Committee about the ‘unique cultural values and significant economic contribution’ that Aboriginal cultural tourism brings to the sector, with high and growing demand from both international and domestic tourists.¹⁰⁷ WAITOC works with Aboriginal tourism enterprises to develop markets, build business capacity, and to help businesses vary their income streams to limit the effect of seasonality.¹⁰⁸
- 6.73 Gunaikurnai Land and Waters Aboriginal Corporation also submitted to the Committee about the opportunities to ‘enable strong and sustainable economic futures through cultural tourism’ including through:
- purchasing a property with plans being developed for this to be a cultural tourism site of national significance
 - developing a network of keeping places to celebrate Gunaikurnai Culture and include numerous experiences
 - creating sustainable pathways for Gunaikurnai people to actively get involved in Cultural tourism, such as enabling Gunaikurnai women to practice and share cultural experience in a way that provides economic benefits that are appropriate to the cultural experience
 - creating learning pathways so that this has generational outcomes, where senior Community members are passing on Culture to community.¹⁰⁹
- 6.74 The Commonwealth Government recently announced a historic new partnership which will support greater participation and economic opportunities for First Nations people and businesses in Australia’s tourism industry. The First Nations Visitor Economy Partnership, comprising First Nations tourism industry representatives from every state and territory, will provide leadership and guidance on respectfully embedding Australia’s rich cultural heritage in our tourism offerings. The partnership will be funded for an initial two years through the NIAA.¹¹⁰

¹⁰⁵ Terri Janke and Company (TJC), *Submission 60*, p. 7.

¹⁰⁶ TJC, *Submission 60*, p. 7.

¹⁰⁷ Mr Walter McGuire, Chair, WAITOC, *Committee Hansard*, Perth, 2 September 2024, p. 10.

¹⁰⁸ Mr McGuire, WAITOC, *Committee Hansard*, Perth, 2 September 2024, p. 10.

¹⁰⁹ Gunaikurnai Land and Waters Aboriginal Corporation, *Submission 102*, pages 1-2.

¹¹⁰ PM&C 2024, ‘New partnership a boost for First Nations tourism’, *Media release*, 30 October.

STEM industries

- 6.75 Several submitters told the Committee about the growing opportunities for First Nations peoples in STEM industries, including digital technologies.
- 6.76 Science and Technology Australia told the Committee that drawing on the expertise of Aboriginal and Torres Strait Islander peoples and supporting First Nations researchers is ‘critical’ to deepening Australia’s research capabilities.¹¹¹ It noted that Australia had not yet ‘widely understood, valued and accepted’ the deep STEM expertise that Indigenous peoples have developed over thousands of years in fields such as fire, land and water management; novel native plant properties; ecology; and other areas.¹¹² Science and Technology Australia recommended ongoing and increased support for First Nations peoples in STEM-based careers, including investments in Indigenous-led STEM organisations to improve STEM education and experiences for First Nations peoples.¹¹³
- 6.77 The Northern Australia Indigenous Reference Group reported that jobs in STEM will continue to increase at a much faster rate than non-STEM jobs, and expressed concern that Aboriginal and Torres Strait Islander young people are ‘much less likely to be involved in STEM topics’.¹¹⁴ It recommended that government and industry ‘come together to invest in STEM programs including secondary and tertiary scholarships with specific positions for Northern Australian Aboriginal and Torres Strait Islander students’.¹¹⁵
- 6.78 The Department of Industry, Science and Resources informed the Committee about the report of the Pathway to Diversity in STEM Review, released in February 2024. The report ‘emphasised the importance of actively engaging Indigenous peoples in STEM’,¹¹⁶ and recommended that the Government, through its research funding bodies:
- preference First Nations scientists and researchers applying for government funding for projects that affect or draw from First Nations Knowledges and knowledge systems, or that focus on First Nations engagement in STEM
 - work with First Nations communities to develop further ways to elevate First Nations Knowledges.¹¹⁷

¹¹¹ Science & Technology Australia, *Submission 77*, p. 7.

¹¹² Science & Technology Australia, *Submission 77*, p. 7.

¹¹³ Science & Technology Australia, *Submission 77*, pages 10–11.

¹¹⁴ Northern Australia Indigenous Reference Group, *Submission 66*, p. [4].

¹¹⁵ Northern Australia Indigenous Reference Group, *Submission 66*, p. [5].

¹¹⁶ DISR, *Submission 69*, p. 14.

¹¹⁷ Australian Government 2024, *Pathway to Diversity in STEM Review: Final Recommendations*, p. 113.

- 6.79 In its 2024–25 Budget, the Australian Government committed \$38.2 million over eight years to ‘support a skilled and sustainable STEM work force’, part of which includes funding to support underrepresented cohorts, including First Nations people.¹¹⁸ The Australian Government also funds the Young Indigenous Women’s STEM Academy to support First Nations women to study and work in STEM (see Box 6.8).

Box 6.8 Young Indigenous Women’s STEM Academy

The Indigenous Girls’ STEM Academy supports 600 young women to study and work in STEM. CSIRO delivers the Academy in partnership with CareerTrackers, and with funding by the NIAA.

The Academy supports young women from Year 8 onwards. It implements culturally safe, inclusive practices to provide targeted long-term support to participants. It aims to build a generation of Indigenous female leaders, role models and game-changers in STEM fields. The Academy collaborates with organisations and STEM professionals to support these young women to participate in robotics-related initiatives, including the RoboRAVE Australia competition in 2022.

RoboRAVE is a unique format in that participants can enter using any robotics platform, at any age, with any level of experience and from anywhere in the world. Competitors needed to design, build and program a fully autonomous robot to complete a given task, such as climbing a vertical surface, negotiating a maze or using vision technology to follow lines and track objects. By supporting a team of young women to compete, the Academy gives students valuable skills in programming, designing and problem-solving. These are all qualities of successful entrepreneurship in STEM fields.¹¹⁹

Other industries

- 6.80 Opportunities for First Nations people in the visual arts, fashion, bush foods and botanicals industries are discussed in Chapter 5, in context of discussion about intellectual property and Indigenous Cultural and Intellectual Property.

Committee comment

- 6.81 Education and training are key enablers of economic participation. Although some improvements have been seen in recent years, there continues to be large gaps in the levels of educational completion between Aboriginal and Torres Strait Islander and non-Indigenous students. Addressing these gaps, as well as the correlated gaps in employment rates for Indigenous and non-Indigenous Australians—particularly in remote areas—requires ongoing sustained effort.

¹¹⁸ DISR, *Submission 69*, p. 14.

¹¹⁹ DISR, *Submission 69*, p. 14.

- 6.82 The Committee thanks contributors to the inquiry for drawing attention to a range of existing initiatives and possible new approaches for addressing the barriers to stronger First Nations participation in education, training and employment. The Committee recognises that issues concerning education, training, employment and related matters—housing, health and wellbeing—must be considered holistically, and implemented through place-based and Indigenous-led initiatives. Nuanced approaches will be needed to address the differing issues facing, for example, remote and urban areas of Australia. It will also be important to avoid focusing on jobs alone, but rather provide opportunities for the careers that are best suited to individuals and their personal aspirations, as well as the skills needed to manage finances and deal with financial service providers.
- 6.83 The Committee also notes the importance of culturally safe and supportive workplaces for improving employment outcomes for First Nations peoples and acknowledges the critical role of First Nations businesses and Aboriginal and Torres Strait Islander community-controlled organisations in providing such workplaces. The Committee supports initiatives to strengthen these sectors, as well as to improve cultural safety and address issues of racial discrimination in mainstream services, including government agencies.

Recommendation 17

6.84 The Committee recommends that the Australian Government explore and consider best practice mechanisms to improve First Nations workplace cultural safety.

- 6.85 The Committee was encouraged to hear about the growing economic opportunities for First Nations peoples across a broad range of industries. One significant source of opportunity is the clean energy sector, where thousands of new jobs are being created. The renewable energy transition is driving generational shifts in energy systems, including the creation of new supply chains and demand for new resources such as critical minerals. With around 45 per cent of renewable energy infrastructure needing to be placed on land where First Nations peoples have legally enforceable rights and interests, First Nations peoples should be supported to benefit from this revolution.
- 6.86 However, Aboriginal and Torres Strait Islander peoples are currently underrepresented in the clean energy workforce, at around 1.9 per cent.¹²⁰ In addition to efforts to grow the supply of First Nations peoples with appropriate skills and qualifications, targeted employment strategies and on-site education and training will be needed to assist entry-level employees into the workforce.
- 6.87 The Future Made in Australia package, and other existing investment vehicles, provide significant opportunities to invest in clean energy projects that benefit First Nations communities. The Committee is pleased that a community benefit principle

¹²⁰ Jobs and Skills Australia 2023, *The Clean Energy Generation: Workforce needs for a net zero economy*, p. 16.

has been incorporated into the Future Made in Australia package, expressly requiring decision-makers to consider the extent to which communities and Traditional Owners will 'participate in, and share in the benefits of, the transition to net zero' in funding decisions.

- 6.88 The Committee notes the Australian Government is currently developing a First Nations Clean Energy Strategy, in collaboration with the First Nations Clean Energy Network and other Indigenous stakeholders. The Committee encourages the Australian Government to continue to prioritise the involvement of First Nations peoples in the transition to net zero and to implement the strategy as soon as practicable.
- 6.89 The Committee welcomes the Australian Government's inclusion of First Nations engagement as a merit criteria under the Capacity Investment Scheme seeking competitive tender bids for renewable capability and battery storage.
- 6.90 The Committee suggests the Australian Government consider further mechanisms to ensure that developers engage with First Nations communities from the outset and comprehensively, but also foster agreements between Traditional Owners and clean energy project proponents that deliver social and economic benefits such as ownership, revenue sharing, partnering, employment, and funding for sub-contracting of First Nations businesses.
- 6.91 Drawing on Canada's experience, the Committee also urges the Australian Government to consider minimum levels of First Nations ownership for projects supported through its investment vehicles, including the Clean Energy Finance Corporation, the National Reconstruction Fund and the Future Made in Australia package. Ownership and equity in clean energy projects will directly promote economic self-determination, as well as contribute to employment, skills development and wealth generation in communities, particularly in remote areas.

Recommendation 18

- 6.92 The Committee recommends that the Australian Government implement the First Nations Clean Energy Strategy and consider a target for First Nations project ownership and equity in clean energy.**



7. Employing the lessons from international jurisdictions

- 7.1 Many Indigenous peoples around the world, like First Nations Australians, face challenges in relation to their economic participation and self-determination. Throughout the inquiry, the Committee heard about the different approaches taken in other countries to support the economic self-determination of First Nations peoples. Learning from international experiences offers important insights into how economic challenges and opportunities experienced by First Nations peoples in Australia could be addressed.
- 7.2 This chapter considers the international experiences of fostering economic independence for First Nations communities in:
- Canada
 - Finland, Sweden, Norway
 - Aotearoa-New Zealand (Aotearoa-NZ), and the
 - United States (US).
- 7.3 These countries were regularly suggested by submitters as offering relevant insights because they share similar histories to Australia of ‘colonisation, dispossession, and discrimination against First Nations peoples...’¹ and ‘highlight the importance of access to money (capital, financial knowledge and networks to fostering First Nations economic independence’.²

Learning from international experiences

- 7.4 Australia’s experience of fostering economic independence for First Nations communities has also offered important lessons for other countries. Screen Australia, a Commonwealth agency supporting Australia’s screen content sector, demonstrated the importance of international collaboration and noted that its own First Nations Department recently served as a model for the development of Canada’s Indigenous Screen Office.³

¹ Indigenous Business Australia (IBA), *Submission 34*, p. 14. See also: Charles Darwin University, *Submission 58*, p. 10.

² IBA, *Submission 34*, p. 14.

³ Screen Australia, *Submission 12*, p. 6.

- 7.5 The Australian Sustainable Finance Institute discussed another positive example of international collaboration in the First Nations economic sphere—the Indigenous Peoples Economic and Trade Cooperation Arrangement (IPETCA).⁴ The IPETCA was formed in early 2023 and comprises Aotearoa-NZ, Canada, Chinese Taipei and Australia and seeks to build knowledge-sharing pathways amongst participating First Nations economies.⁵
- 7.6 Some submitters observed differences between Australia’s approach to fostering economic self-determination for First Nations peoples, and international experiences. The Jumbunna Institute for Indigenous Education and Research (Jumbunna) suggested that Australia was 40 years behind the US, Canada and Aotearoa-NZ in terms of First Nations economic development.⁶ Moreover, the Northern Territory Government suggested that free trade agreements represent a ‘significant opportunity to work with Aboriginal industries to progress national interests and Aboriginal economic development and cultural preservation’ and noted that Canada, Aotearoa-New Zealand and the US have adopted this approach with their agreements.⁷
- 7.7 Notwithstanding the vast historical and cultural contexts of each country seeking to foster economic independence for its First Nations communities, Charles Darwin University recommended that the ‘Australian Government fund research into successful international models of fostering economic independence, and analyse, adapt, and trial application of identified successful international and intergenerational initiatives’.⁸ Business Council for Sustainable Development (BCSD) Australia made a similar recommendation and called for comparative studies with successful Indigenous economic development programs in Canada, Aotearoa-New Zealand and the US to be conducted in Australia, with the aim to use findings to inform policy and practice.⁹
- 7.8 First Nations submitters welcomed the opportunity to participate in knowledge exchanges with international First Nations communities and the significant and meaningful mutual benefits these opportunities could deliver for their economic empowerment.

⁴ Australian Sustainable Finance Institute (ASFI), *Submission 15*, p. 9.

⁵ ASFI, *Submission 15*, p. 9.

⁶ Jumbunna Institute for Indigenous Education and Research (Jumbunna), *Submission 25*, p. 15.

⁷ Northern Territory Government, *Submission 41*, p. 9.

⁸ Charles Darwin University, *Submission 58*, p. 10.

⁹ Business Council for Sustainable Development Australia (BCSD) Australia, *Submission 71*, p. [7].

Canada

7.9 Many submitters drew the Committee's attention to Canada's experience of fostering economic empowerment and reconciliation for its Indigenous communities. This section considers evidence received regarding the Department of Indigenous Services Canada (ISC), Canada's *First Nations Fiscal Management Act 2005* (FMA), renewable energy opportunities, and other programs and initiatives to improve economic self-determination and opportunities for Canada's First Nations peoples.

7.10 Her Excellency Dr Julie Sunday, High Commissioner for Canada in Australia, noted the many similarities between two Commonwealth countries as large as Canada and Australia, with their geographically dispersed and diverse populations and comparable economies and systems of government. Her Excellency also noted that both countries need to find innovative ways to collaborate on improving the economic self-determination outcomes for their First Nations peoples:¹⁰

I recognise that Canada and Australia also have a similar dark colonial history with Indigenous peoples, marked by dispossession of lands, denial of rights, forced assimilation and systemic racism. Canada and Australia share, however, a commitment to advance reconciliation and build a renewed relationship with indigenous peoples. Importantly, this includes overcoming barriers to economic development that will help achieve economic reconciliation and better socioeconomic outcomes for indigenous peoples and their communities.¹¹

7.11 Mr Keith Conn, Assistant Deputy Minister, Lands and Economic Development Sector, ISC, and a member of the Moose Cree First Nation from James Bay in northern Ontario, explained the change to the Canadian Government's approach to its First Nations peoples was driven by it accepting its own responsibility for playing a 'critical role in creating the conditions of the socioeconomic disparities that exist today by undermining Indigenous economies, constraining economic activity and asserting control':¹²

First Nations continue to face barriers that obstruct Indigenous peoples from pursuing their visions for their economic futures. Economic reconciliation, as I see it, demands change, specifically a change in who sets and drives the economic agenda.¹³

7.12 Mr Harold Calla, Executive Chair of the First Nations Financial Management Board and a member of the Squamish Nation in North Vancouver, British Columbia, emphasised why it was important for any country dealing with issues of economic self-determination for its Indigenous peoples to admit the impact of its colonial

¹⁰ HE Dr Julie Sunday, High Commissioner for Canada in Australia, *Committee Hansard*, Canberra, 4 October 2024, p. 1.

¹¹ HE Dr Sunday, High Commissioner for Canada in Australia, *Committee Hansard*, Canberra, 4 October 2024, p. 1.

¹² Mr Keith Conn, Department of Indigenous Services Canada (ISC), *Committee Hansard*, Canberra, 4 October 2024, p. 2.

¹³ Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 2.

history.¹⁴ 'If you're not prepared to do that,' according to Mr Calla, 'then the public is unaware of the challenges of poverty that need to be overcome and the realities of the past'.¹⁵

- 7.13 When asked what do his First Nations people 'want now', Mr Calla explained why he wants the legislative framework that took his people 'out of the mainstream economy repealed':¹⁶

We want to have access to the ability to participate in the mainstream economy. We want our jurisdictions recognised. We want to be self-governing and we want to use those tools to promote economic development.¹⁷

In Canada, as in your community, the Indigenous population is very fast growing. At the moment, the cost of the poverty that both of our countries bear is only going to grow with it. If we don't foster the concept of re-engaging in economic development, re-creating our entrepreneurial class and getting access to the tools that others have to be able to participate in the economy, it's only going to exacerbate the differences of opinion between our populations.¹⁸

- 7.14 While Mr Calla noted the common colonial history of Australia and Canada, he also observed there were some differences:

...both countries have a choice. Do you want to continue to bear in your gross domestic expenditures the cost of the poverty in Indigenous communities or do you want to enable Indigenous communities to participate in the growth of your GDP? That's really the question you have to ask yourself. You have to start looking at these programs not as providing services but as investments. You need to develop key performance indicators that measure the success of these initiatives in a way that can demonstrate improved wellbeing within the Indigenous community, and improved contributions to the gross domestic product...Our non-Indigenous populations need to really understand our history and they need to understand how they are going to benefit from Indigenous economic participation and growth.¹⁹

¹⁴ Mr Harold Calla, Executive Chair, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 2.

¹⁵ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 2.

¹⁶ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 2.

¹⁷ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 2.

¹⁸ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 3.

¹⁹ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 4.

- 7.15 Mr Calla cautioned parliamentarians and government about setting realistic expectations of First Nations people overcoming these economic challenges:

...don't expect us to do what you yourselves can't do. The rest of the country doesn't move in lockstep, so we can't either. Like it or not, you have to find what we refer to as a 'coalition of the willing' who are prepared to move beyond the status quo, not abandon any of their aboriginal title rights but to advance those things that improve the lives in their communities...

The suicide rates, the abuse rates, the drugs and alcohol are very challenging in our Indigenous communities. I'm hearing this morning from Chief Commissioner Manny Jules that now organised crime is moving into some of the northern communities. If they don't have a hope, if they can't feed their families, if they're living in abject poverty, they're going to reach out for anything that will help improve their lives. Our challenge today is that we have to respond to that, but we have to do so in an accelerated way. Not everything we do is going to be successful. There's something that I learned a long time ago that was described to me as a noble failure. You can learn from it when it's not catastrophic; if we wait for perfection, we'll wait a long time.²⁰

The role of Indigenous Services Canada

- 7.16 The ISC is the primary federal government agency responsible for Indigenous economic development in Canada.²¹ The ISC 'supports and empowers Indigenous peoples to deliver services and address socio-economic conditions in their communities'.²² In doing so, the ISC works collaboratively with a range of partners such as communities, Indigenous organisations and environmental organisations.²³
- 7.17 A submission from the ISC's Lands and Economic Development Sector explained that it 'supports the economic participation of Indigenous communities and entrepreneurs in the Canadian economy according to community vision and needs, while supporting the sustainable management of land, environment and natural resources'.²⁴ Its work aims to support 'Indigenous Peoples to pursue opportunities for employment, income generation, and wealth creation'.²⁵ The sector achieves this through a broad range of programs and initiatives. A selection of these programs is summarised in Table 7.1.

²⁰ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, pages 6–7.

²¹ ISC Lands and Economic Development Sector, *Submission 27*, p. 1.

²² Government of Canada 2024, 'Indigenous Services Canada', <https://www.canada.ca/en/indigenous-services-canada.html>, accessed 6 June 2024,

²³ Government of Canada 2024, 'Indigenous Services Canada', <https://www.canada.ca/en/indigenous-services-canada.html>, accessed 6 June 2024; ISC, Lands and Economic Development Sector, *Submission 27*, p. 1.

²⁴ ISC Lands and Economic Development Sector, *Submission 27*, p. 1.

²⁵ ISC Lands and Economic Development Sector, *Submission 27*, p. 2.

Table 7.1 Programs administered by the Indigenous Services Canada, Lands and Economic Development Sector

Program	Summary
Strategic Partnerships Initiative	The Strategic Partnerships Initiative is a program works with 22 federal departments and partners to identify complex Indigenous economic development opportunities across a range of sectors. ²⁶ The program receives approximately CAD\$14.45 million in funding from the Canadian Government each year. ²⁷
Transformative Indigenous Strategy	The Transformative Indigenous Strategy aims to award at least five per cent of the value of federal procurement contracts to Indigenous-owned and led businesses. This is a mandatory minimum target and is being implemented over three financial years from 2021. The Government of Canada is continuing to co-develop a longer-term Indigenous procurement strategy. ²⁸
Procurement Strategy for Indigenous Business	The Procurement Strategy for Indigenous Business aims to increase federal contracting opportunities and improve access to the federal procurement process for Indigenous businesses, including through enrolment in the Indigenous Business Directory. ²⁹
Indigenous Women Entrepreneurship Initiative	The Indigenous Women Entrepreneurship Initiative provides support to Indigenous women entrepreneurs to address a range of barriers, such as through financial literacy/capability workshops, training materials, resources and mentorship programs. ³⁰
Indigenous Growth Fund	The Indigenous Growth fund, Canada’s largest Indigenous social impact fund, provides lending capital for Indigenous Financial Institutions (IFIs) across Canada to improve access to capital for Indigenous small and medium-sized businesses. The Fund seeks to support these businesses to overcome barriers and provide a sustainable, Indigenous-led source of capital for IFIs. ³¹

Source: Indigenous Services Canada, Lands and Economic Development Sector, *Submission 27*, pages 2–6.

7.18 The ISC’s Lands and Economic Development Sector also discussed Canada’s Economic Reconciliation Framework, which was announced in 2023 in response to Indigenous peoples’ calls to advance economic reconciliation.³² Economic reconciliation refers to a return to Indigenous prosperity through ‘renewed, nation-to-nation, government-to-government, and Inuit-Crown relationships based on the recognition of rights, respect, cooperation and partnership’.³³

²⁶ ISC Lands and Economic Development Sector, *Submission 27*, pages 2–3.

²⁷ Government of Canada 2023, *Strategic Partnerships Initiative*, www.sac-isc.gc.ca/eng/1330016561558/1594122175203, accessed 19 August 2024.

²⁸ ISC Lands and Economic Development Sector, *Submission 27*, p. 3.

²⁹ ISC Lands and Economic Development Sector, *Submission 27*, p. 3.

³⁰ ISC Lands and Economic Development Sector, *Submission 27*, p. 4.

³¹ ISC Lands and Economic Development Sector, *Submission 27*, p. 4.

³² ISC Lands and Economic Development Sector, *Submission 27*, p. 6.

³³ ISC Lands and Economic Development Sector, *Submission 27*, p. 6.

7.19 Mr Conn shared his Department of Indigenous Services' vision to 'support and empower Indigenous peoples to independently deliver services and address the socioeconomic conditions in their communities'.³⁴

7.20 The Lands and Economic Development Sector, Mr Conn oversees, provide 'direct and indirect services to First Nations, Inuit and Metis communities, partnerships and entrepreneurs through core and targeted funding partnerships'.³⁵

The goal of these programs and services is to support First Nations as they develop capacity and reclaim jurisdiction in the management of reserve lands, resources and the environment and, if they choose to do so, pursue sectoral self-governance, laying the foundation for sustainable economic development and to support the full economic participation of Indigenous communities and entrepreneurs to close the socioeconomic gaps between Indigenous and non-Indigenous Canadians.³⁶

7.21 Mr Conn believed all governments wanting to lift up Indigenous peoples should pay attention to some key economic priorities:

These include ensuring First Nations are adequately resourced with capacity at both the community and institutional levels to make strategic economic decisions and pursue their economic priorities; secondly, increasing access to financial services and affordable capital, which are critical to unlocking economic potential; thirdly, supporting Indigenous businesses as they grow and scale, creating opportunities for Indigenous entrepreneurs to thrive in both domestic and international markets and addressing barriers for economic self-determination that limit governments from being able to generate revenue or make decisions at the pace of business; and, lastly, increasing Indigenous control and jurisdiction over lands and resources ensuring that Indigenous peoples can steward their lands and assets in a way that reflects their values and aspirations.³⁷

7.22 It requires taking bold actions, according to Mr Conn, including removing the longstanding structural and systemic barriers.³⁸

7.23 As part of its work on the Economic Reconciliation Framework, the ISC explained it is working with Indigenous Policy Leads to create a co-development process that is inclusive of First Nations, Inuit and Metis peoples.³⁹ The ISC is also coordinating with other government departments and agencies 'to ensure alignment across federal

³⁴ Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 2.

³⁵ Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 2.

³⁶ Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 2.

³⁷ Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 2.

³⁸ Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 2.

³⁹ ISC Lands and Economic Development Sector, *Submission 27*, p. 6.

initiatives that advance economic reconciliation'.⁴⁰ The framework was expected to be completed by 2025.⁴¹

Access to capital, business supports for communities, capacity building—those are a couple of examples [of the 26 proposals for inclusion in the framework]. There's work from the Inuit from the north looking at economic opportunities to support traditional country food gathering exercises to support communities for food security.⁴²

First Nations Fiscal Management Act

7.24 Mr Harold Calla, Executive Chair of the First Nations Financial Management Board, described the FMA as being the 'most successful piece of Indian legislation in the history of Canada'.⁴³

To be blunt, we've had a great partnership with the government of Canada around it. Indigenous Services Canada and Crown-Indigenous Relations have really supported the development of the institutions and expanded our mandate to support their interests in working cooperatively with First Nations to move towards a fiscal financing relationship that's more representative of a self-governing First Nation and use the tools of the FMA, Fiscal Management Act, and the Tax Commission to support the sharing of fiscal powers around property transfer taxes...In the absence of these institutions, that wouldn't have happened.⁴⁴

Our data that we collect has shown clearly the wellbeing indexes of First Nations that become more accountable and transparent and engage in economic development improve significantly and their own sources of revenue and employment increase significantly... We developed some international standards on accountability and transparency...⁴⁵

7.25 Canada's First Nations Tax Commission, First Nations Financial Management Board, First Nations Infrastructure Institute and the First Nations Finance work together under a framework established by Canada's FMA 'to improve First Nations' access to lower-cost capital market finance and create a favourable investment environment for

⁴⁰ ISC Lands and Economic Development Sector, *Submission 27*, p. 6.

⁴¹ ISC Lands and Economic Development Sector, *Submission 27*, p. 7.

⁴² Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 13.

⁴³ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 5.

⁴⁴ Mr Calla, Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 5.

⁴⁵ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 5.

community-driven projects'.⁴⁶ A submission from Canada's First Nations Financial Management Board explained that with the support of these institutions:

Indigenous communities in Canada are increasing their own-source revenue, building badly needed infrastructure, reducing the costs of poverty, and creating wealth for future generations that is spilling over into the Canadian economy as a whole.⁴⁷

- 7.26 Mr Calla described FMA institutions such as the Tax Commission and the Financial Management Board, as shared governance model institutions funded by the Canadian Government.⁴⁸
- 7.27 The FMA commenced in 2006 as 'optional legislation'⁴⁹ that is intended to support First Nations to strengthen their communities and build their economies.⁵⁰ A submission from the ASFI explained that the FMA framework was 'designed to boost the revenue-generating abilities of [First Nations] communities, and facilitate access to capital markets for long-term financing of essential infrastructure and other community projects.'⁵¹
- 7.28 Canada's First Nations Financial Management Board told the Committee that more than 60 per cent of First Nations in Canada have opted in to the FMA.⁵² Moreover, through the FMA, First Nations peoples and businesses have borrowed CAD\$2 billion from the First Nations Finance Authority with no defaults. The FMA has also created more than 18 000 jobs and collected CAD\$100 million each year in property taxes through the First Nations Tax Commission to pay for community services. Many businesses have increased their revenues and become less reliant on federal transfers, and now practise strong financial management.⁵³

⁴⁶ ASFI, *Submission 15*, p. 8. See also: Australian National University (ANU) First Nations Portfolio, *Submission 48*, p. 2.

⁴⁷ First Nations Financial Management Board, *Submission 73*, p. 1.

⁴⁸ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 7.

⁴⁹ Participation in the FMA is initiated only if a First Nation submits a resolution to the Minister of Crown-Indigenous Relations requesting that they be added to the schedule of the FMA.

⁵⁰ Government of Canada 2023, *First Nations fiscal management*, www.rcaanc-cirnac.gc.ca/eng/1393512745390/1673637750506, accessed 19 August 2024.

⁵¹ ASFI, *Submission 15*, p. 8.

⁵² First Nations Financial Management Board, *Submission 73*, p. 2.

⁵³ First Nations Financial Management Board, *Submission 73*, p. 3.

Box 7.1 Mi'kmaq Coalition's acquisition of Clearwater

Clearwater is one of the largest vertically-integrated seafood companies in North America. In 2021, Clearwater announced that it had been 50 per cent acquired by the Mi'kmaq Coalition, a coalition of Membertou, Miawpukek, Paqtnkek, Pictou Landing, Potlotek, Sipekne'katik, and We'koqma'q—seven Mi'kmaq communities in Nova Scotia and Newfoundland and Labrador. This acquisition was the largest investment in by an Indigenous group in Canada.⁵⁴

A submission from the ASFI described Mi'kmaq Coalition's acquisition of Clearwater as a 'prime example' of the success of Canada's FMA, with the acquisition being partially financed by a CAD\$250 million debenture from Canada's First Nations Finance Authority.⁵⁵

- 7.29 With these achievements considered, the ASFI suggested that Australia should implement legislation similar to Canada's FMA.⁵⁶
- 7.30 Australia is already engaging with aspects of Canada's FMA. Canada's First Nations Financial Management Board submitted that the FMA institutions signed a memorandum of understanding with the National Native Title Council, First Australians Capital, the Indigenous Land and Sea Corporation, and the ANU's First Nations Portfolio.⁵⁷
- 7.31 Mr Calla explained how Canada has in many cases led the way, with the recognition of a need to develop tools to be able to support the economies of First Nations communities.

This is now no longer just an issue of providing economic development opportunities to Indigenous people within Canada. The Canadian economy needs Indigenous people to participate in the decisions that Canada is about to make around its natural resources and other activities that it's pursuing right now. So there's an imperative now. It's not seen as a special consideration being given to a group of people, although we think we have them.⁵⁸

⁵⁴ Clearwater n.d., *About us*, www.clearwater.ca/en/our-story/history/, accessed 19 August 2024; Clearwater n.d., *Indigenous ownership*, www.clearwater.ca/en/our-story/indigenous-ownership/, accessed 19 August 2024. See also: ASFI, *Submission 15*, p. 8.

⁵⁵ ASFI, *Submission 15*, p. 8.

⁵⁶ ASFI, *Submission 15*, p. 8.

⁵⁷ First Nations Financial Management Board, *Submission 73*, p. 4. See also: ANU First Nations Portfolio, *Submission 48*, p. 2.

⁵⁸ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 3.

- 7.32 In Canada the First Nations Tax Commission is now supporting First Nations in the administration of fiscal powers. According to Mr Calla, every First Nations government needs a similar ability to raise its revenue within their geographic boundary.⁵⁹

Canada is recognising the need to share some of that authority and revenue strength with First Nations to be able to support self-government. But I think, more importantly, what's happening in Canada is that the non-Indigenous communities are seeing the benefits arise from our participation in the mainstream economy, by seeing resource developments occur, by seeing, in the case of my own community in downtown Vancouver, a [CAD]\$4 billion housing project that's going to provide rental housing into the Vancouver market. There is no limitation to the type of activity that First Nations are capable of engaging in.⁶⁰

- 7.33 Mr Conn from the ISC believed the economic success for First Nations peoples in Canada can also be place-based with location a driver of opportunities and economic success available:⁶¹

Squamish is one classic example of location. West Bank is another neighbouring community with economic opportunities, a beautiful backdrop of mountains, and a beautiful place to retire—a great place to set up a Home Depot, and all this stuff. Down east, it's access to transportation corridors, bringing great economic success in some of the Atlantic provinces. So it's dispersed. But yet we do have successes. We do have what I call pockets of heaven in remote fly-in communities where companies have actively and respectfully pursued strong partnership agreements with the Indigenous communities and having the First Nations being equity partners.⁶²

- 7.34 Mr Conn saw the looming opportunity for critical minerals belonging to the federal and provincial governments but located on Indigenous lands.

Now we've got another opportunity on our doorstep on critical minerals across this country. Where are the critical minerals? All on traditional territories. So it will be imperative to develop those meaningful partnership arrangements, equity agreements that could really bring a lot of benefits to the community, but also the regional economy, the non-Indigenous neighbours, depending on where that is.⁶³

⁵⁹ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 3.

⁶⁰ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 3.

⁶¹ Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 9.

⁶² Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 9.

⁶³ Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 9.

Box 7.2 Trans Mountain pipeline expansion

Highlighted during discussions with Canadian representatives at the Committee's public hearing on 4 October 2024, was the Trans Mountain pipeline expansion project.

Federal Crown corporation Trans Mountain operates Canada's only pipeline system transporting oil products to the West Coast of Canada—running from Edmonton, Alberta to Burnaby, British Columbia and to Washington state in the US. It currently delivers approximately 300,000 barrels of crude oil and refined products every day, and its assets include four terminals and a marine terminal.⁶⁴

The project required shared decision-making with First Nations communities over environmental decisions and permitting. Mutual Benefit Agreements (MBAs) were made to develop long-term relationships built on shared interests and a commitment to shared prosperity; as well as to build capacity and opportunities with Indigenous communities.⁶⁵

The benefit from the [CAD]\$30 billion project was approximately [CAD]\$6 billion in Indigenous procurement; benefit agreements worth approximately [CAD]\$1,800 million; up to a 20 per cent equity participation in the ownership of the pipeline; and 11 per cent of the workforce was Indigenous personnel.⁶⁶

Education and business skills development

- 7.35 Mr Calla described how First Nations in Canada are being able to generate exponential growth in their wealth by reinvesting it, and Canada's regional economies are also receiving a significant benefit from this investment.⁶⁷

This is being developed by people who are Indigenous, who have had the opportunity to work in both worlds and are coming home and providing support into their communities to be able to begin to engage with the private sector in a way that we couldn't before. But we're doing so in ways in which there's a cultural fit, where we are mindful of mother earth and the things we have to do to protect it. But we have a saying '*nothing about us without us*'. I think that applies to a lot of the economic activity that occurs in this country.⁶⁸

⁶⁴ Trans Mountain Expansion Project's *2023 Environmental, Social & Governance Report*, p. 8.

⁶⁵ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 3; Trans Mountain Expansion Project's *2023 Environmental, Social & Governance Report*, p. 43.

⁶⁶ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 10; Trans Mountain Expansion Project's *2023 Environmental, Social & Governance Report*, p. 43.

⁶⁷ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 4.

⁶⁸ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 4.

- 7.36 According to Mr Calla, to gain parity with non-Indigenous communities, First Nations communities also need to invest in education of their youth:⁶⁹

The fastest way for the Indigenous community to gain momentum and to approach being comparable to the non-Indigenous community is through inclusion, in particular the private sector including us in their work, in their boards, in their senior management teams, providing initiatives that allow First Nations not to lose their culture and identity, but to participate.⁷⁰

- 7.37 Mr Conn, ISC, noted that these projects include requirements to have some funds set aside for Indigenous employment and training:⁷¹

That's a negotiation between the nation and the project proponent. We see many examples of that in mining and renewable energy. There are also impact benefit agreements which secure some capacity dollars in some instances for training and capacity development in trades, for example, or middle management. It varies from project to project. There are some really promising practices out there.⁷²

- 7.38 Mr Calla also highlighted the importance of supporting the culturally appropriate development of all levels of business skills for First Nations peoples across Canada wherever they may seek employment or business opportunities:⁷³

...it starts with some of our universities. Simon Fraser University in British Columbia and the University of British Columbia offer Indigenous MBA programs, as an example; they give support and preference to those kinds of individuals.⁷⁴

- 7.39 Additionally, Canada has had to support the reality of the migration of its Indigenous population to urban centres where there were more opportunities than in the remote regions:⁷⁵

I think that's a reality we all have to face. This notion that our rights and title are centred in a geographic location within a federation in Canada is just not valid any longer. The reality is we need portability of rights. We need to be in a position where we are supported to move to where the opportunities exist initially, and perhaps go back [to our nations], as I did, in 1987.⁷⁶

⁶⁹ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 4.

⁷⁰ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 4.

⁷¹ Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 10.

⁷² Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 10.

⁷³ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 4. p. 8.

⁷⁴ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 4. p. 8.

⁷⁵ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 4. p. 8.

⁷⁶ Mr Calla, First Nations Financial Management Board Canada, *Committee Hansard*, Canberra, 4 October 2024, p. 4. p. 8.

Renewable energy opportunities

- 7.40 Substantial evidence to the inquiry discussed how Canada is improving First Nations economic participation in the renewable energy sector and the lessons for Australia. The First Nations Clean Energy Network, which works to ensure that Australia's First Nations communities share in the benefits of the transition to clean energy, submitted that lessons from Canada in this sphere 'highlight some of the wins from an approach based on principles of inclusion and partnership.' Its submission elaborated:

In the last decade alone, First Nations-led initiatives have fostered 200 medium to large renewable energy projects, which have helped to generate [CAD]\$1.5 billion in Indigenous and employment contracts. These outcomes were achieved through actions by Governments acting with foresight, including mandating project ownership targets for the First Nations on whose lands the projects were proposed.⁷⁷

- 7.41 A submission from the Indigenous Studies Unit and Melbourne Climate Futures at the University of Melbourne suggested that, in Canada, 'renewable energy is viewed as a potential way to achieve the goals of reconciliation'.⁷⁸ In this context, Canada offers various sources of low interest finance and government loan guarantees and capability support to improve First Nations participation in the renewable energy sector, while improving protections against financial risk.⁷⁹

- 7.42 Dr Kathryn Thorburn, Senior Research Fellow at the Indigenous Studies Unit further highlighted the role of Indigenous communities in Canada's energy economy at a public hearing, and stated:

I think we firstly need to acknowledge that Canada is about 20 years ahead of Australia in terms of building First Nations benefit into the clean energy transition. There are a lot of lessons to learn from how the Canadian government...has gone about it. There's a lot of variability across Canada but...a number of provinces now have loan guarantee programs so that First Nation groups are able to access finance to gain an equity stake in large-scale renewable energy developments. And because some of these are already 15 years down the track, we can see what the benefits are from those kinds of investments. We can see First Nations groups building significant capital investment funds, with which they're then able to go on and make further investments in other industries. [Approximately] one in four large-scale renewable energy projects in Canada have a degree of First Nations equity.⁸⁰

⁷⁷ First Nations Clean Energy Network, *Submission 82*, p. 4.

⁷⁸ Indigenous Studies Unit & Melbourne Climate Futures, University of Melbourne, *Submission 46*, p. 3.

⁷⁹ Indigenous Studies Unit & Melbourne Climate Futures, University of Melbourne, *Submission 46*, p. 3.

⁸⁰ Dr Kathryn Thorburn, Senior Research Fellow, Indigenous Studies Unit, University of Melbourne, *Committee Hansard*, Melbourne, 19 July 2024, p. 19.

7.43 Mr Keith Conn, ISC, explained how Canada's Department of Indigenous Services was broadly supportive of First Nations involvement with renewable energy projects:⁸¹

...in terms of economic participation through our strategic partners initiative, which provides capacity dollars, planning dollars and project dollars for Indigenous communities who partner with private sector, and including provincial governments at times on, for example, clean energy projects. We have clean energy projects across the nation, which has been well received, contributing to our net zero targets.⁸²

7.44 The Department is also working indirectly with the First Nations Major Projects Coalition of about 130 members:

They're self-sustaining, but we often look at their tools and toolbox to support communities in terms of planning, organising, executing some major projects in the country that are complicated, complex negotiations. But it's been well received as an organisation.⁸³

Representation on financial institutions

7.45 Ms Jocelyn King, Executive Director at First Australians Capital, discussed the value of having First Nations peoples on established financial institutions boards in Canada. Ms King stated:

Having a seat at the board table helps those boards make good strategy and risk discussions based on reality. You're speaking to people with that lived experience and connection to that community...It's the dialogue [and] the relationship building that occurs.⁸⁴

7.46 Ms King noted that today 'First Nations people [are] on the boards of Canada's major banks, and First Nations communities are equity holders in projects on their own land'.⁸⁵ She explained that improving First Nations representation on boards has been supported by a range of government initiatives in Canada, such as legislating the United Nations Declaration on the Rights of Indigenous Peoples and the FMA.⁸⁶

⁸¹ Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, pages 4–5.

⁸² Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, pages 4–5.

⁸³ Mr Conn, ISC, *Committee Hansard*, Canberra, 4 October 2024, p. 5.

⁸⁴ Ms Jocelyn King, Executive Director, First Australians Capital, *Committee Hansard*, Canberra, 23 July 2024, p. 14.

⁸⁵ Ms King, First Australians Capital, *Committee Hansard*, Canberra, 23 July 2024, p. 14.

⁸⁶ See, for example: Ms King, First Australians Capital, *Committee Hansard*, Canberra, 23 July 2024, p. 14.

7.47 ASFI noted another success in Canada involving IFIs. IFIs have ‘used blended finance to support First Nations small-to-medium enterprises’ and helped to build business capability while maintaining cultural coherence.⁸⁷ IFIs offer various financial products and services, such as developmental lending, which are tailored to the needs of First Nations businesses.⁸⁸

7.48 BCSD Australia highlighted Canada’s Indigenous Skills and Employment Training Program, which aims to improve employment outcomes for First Nations Canadians through funding to Indigenous service delivery organisations. BCSD Australia submitted:

This program highlights the importance of tailored, community-driven training and employment services.⁸⁹

Aotearoa-New Zealand

7.49 Aotearoa-New Zealand experiences a range of ongoing challenges affecting the economic independence of Māori communities. The Aotearoa-NZ Government is working to address these challenges through various government policies, programs, bilateral agreements, and private sector partnerships that foster economic independence through targeted support of Māori training and education, businesses, entrepreneurs and partnerships.⁹⁰

7.50 The 1840 Treaty of Waitangi-Te Titiri o Waitangi is Aotearoa-NZ’s founding document.⁹¹ This agreement, signed by Māori and the British, guaranteed Māori land rights and control over their taonga (everything valuable to them) under British governance.⁹² Since the signing of the Treaty, Māori have challenged whether its terms have been honoured by the Crown.⁹³

7.51 Māori people can, individually or as a group, make a claim to the Waitangi Tribunal that the Crown has breached the Treaty ‘by particular actions, inactions, laws or policies’, and that Māori have suffered harm as a result.⁹⁴

⁸⁷ ASFI, *Submission 15*, p. 9.

⁸⁸ ASFI, *Submission 15*, p. 9.

⁸⁹ BCSD Australia, *Submission 71*, p. [4].

⁹⁰ See, for example: Hon Tama Potaka, Minister for Māori Development and Minister for Māori Crown Relations 2024, ‘Government actions strengthening Māori success’, *Speech*, www.beehive.govt.nz/speech/government-actions-strengthening-m%C4%81ori-success, accessed 20 August 2024.

⁹¹ New Zealand History (Nga korero a ipurangi o Aotearoa), ‘Read the Treaty’, *New Zealand Government*, <https://nzhistory.govt.nz/politics/treaty/read-the-treaty/english-text>, last updated 12 June 2023.

⁹² Waitangi Tribunal, ‘Section 3: The signing of the Treaty of Waitangi’, <https://waitangitribunal.govt.nz/publications-and-resources/school-resources/treaty-past-and-present/section-3/>, last updated 19 September 2016.

⁹³ Waitangi Tribunal, ‘Section 5: What the Treaty means today’, <https://waitangitribunal.govt.nz/publications-and-resources/school-resources/treaty-past-and-present/section-5/>, last updated 19 September 2016.

⁹⁴ Waitangi Tribunal, ‘What is a claim?’, <https://waitangitribunal.govt.nz/claims-process/>, last updated 17 February 2020.

- 7.52 The Aotearoa-NZ Government has also undertaken to protect Māori IP and cultural knowledge through legislation and has developed an overarching strategy to coordinate related policies.⁹⁵
- 7.53 The Ministry of Māori Development—Te Puni Kōkiri, is Aotearoa-NZ’s primary government agency responsible for Māori cultural, social and economic development.⁹⁶ Te Puni Kōkiri, established in 1992, aims to support the Aotearoa-NZ Government to meet its Treaty obligations.⁹⁷ The agency funds various programs to improve economic self-sufficiency, business skills development, and capacity building.⁹⁸
- 7.54 Te Puni Kōkiri’s work focuses on three main areas—policy and partnerships, regional partnerships, and service delivery.⁹⁹ In doing so, Te Puni Kōkiri monitors the progress of Māori development to assess the effectiveness of government policies in addressing community needs.¹⁰⁰ It also works with Māori communities and local groups to identify and address specific development needs, and offers grants and assistance to Māori individuals and organisations that support their economic development and wellbeing.¹⁰¹
- 7.55 Some submitters drew the Committee’s attention to other aspects of Aotearoa-NZ’s approach to fostering economic independence. BCSD Australia discussed Aotearoa-NZ’s Māori Economic Development Plan, which aims to improve the economic performance of Māori businesses and individuals through education, employment, and business support.¹⁰² BCSD Australia said that the Plan ‘showcases the potential of leveraging indigenous knowledge and resources for economic development’.¹⁰³
- 7.56 Additionally, the Australian College of Midwives noted the Aotearoa-NZ Government’s *te ara o Hine program*, which supports Indigenous midwifery students at all universities offering a midwifery degree.¹⁰⁴

Ngāi Tahu’s economic success

- 7.57 Te Rūnanga o Ngāi Tahu, the governing body overseeing one of the largest iwi, or Māori tribes on the South Island of Aotearoa New Zealand with more than 84,000 members, was established by the *Te Rūnanga o Ngāi Tahu Act 1996* and to ensure the benefits of Crown Settlement in 1998 were ‘enjoyed by Ngāi Tahu Whānui (tribal members) now and in the future’.¹⁰⁵

⁹⁵ See, for example: New Zealand Intellectual Property Office 2024, *Māori IP*, www.iponz.govt.nz/get-ip/maori-ip/, accessed 20 August 2024.

⁹⁶ The Federation of Victorian Traditional Owner Corporations (FVTOC), *Submission 40*, Attachment 3, p. [15].

⁹⁷ FVTOC, *Submission 40*, Attachment 3, p. [15].

⁹⁸ FVTOC, *Submission 40*, Attachment 3, p. [15].

⁹⁹ FVTOC, *Submission 40*, Attachment 3, p. [15].

¹⁰⁰ FVTOC, *Submission 40*, Attachment 3, p. [16].

¹⁰¹ FVTOC, *Submission 40*, Attachment 3, p. [16].

¹⁰² BCSD Australia, *Submission 71*, p. [6].

¹⁰³ BCSD Australia, *Submission 71*, p. [6].

¹⁰⁴ Australian College of Midwives, *Submission 42*, p. 8.

¹⁰⁵ Ngāi Tahu Seafood n.d., ‘Origins’, <https://www.ngaitahuseafood.com/origins/>, accessed 31 October 2024.

- 7.58 Mr Ben Bateman, Chief Executive Officer of the Te Rūnanga o Ngāi Tahu, outlined the history of how his people the Ngāi Tahu began gaining their economic self-determination in 1998 through a [NZD]\$170 million settlement and reconciliation process with the Government of New Zealand.¹⁰⁶

We have a long history, obviously, of relationships with the Crown, the government of New Zealand, stretching back to seven generations before we settled with the government in 1998.¹⁰⁷

It's been a real journey. We're 25 years post our settlement with the Crown, but seven generations before that, immediately after the Crown signed the Treaty of Waitangi, breaches were starting to occur and we started to record our dissatisfaction with that. So there have always been these stereotypes. Where we are today as a collective of iwi or Māori in New Zealand—the Māori economy is widely talked about as being worth about \$70 billion to the New Zealand economy every year. Where we are economically, we manage an asset base of around \$2 billion but also have a significant diversified economic portfolio that we built up over an extended period of time. Having a degree of economic independence has been very important for Ngāi Tahu. We obviously went through a treaty settlement process—we settled with the Crown for a figure of \$170 million back in 1998. We have then just worked on developing our economic independence in a range of different industries over the last 25 years.¹⁰⁸

- 7.59 Mr Bateman highlighted how important it was for the Ngāi Tahu to gain recognition as the South Island's First Nations people and also the efforts of many earlier generations of Ngāi Tahu to keep negotiating with the government:

But the generations that fought the claim before us got us to this position that we are in now. The challenge is, with different shifts in different government policies, maintaining a degree of understanding that we're all in this together. Our interests are obviously looking after our whānui, our iwi. We're 84,000 members in our tribe. That's our main obligation. But also we're part of that broader New Zealand community discourse and we're actually as invested in seeing solutions and seeing good outcomes for the country as anyone else...When you get to the stage that we are, we're a critical part of the future economics of the South Island. And so it's in the Crown's interest to work closely with us to achieve mutually beneficial outcomes around taking the country forward.¹⁰⁹

¹⁰⁶ Mr Benjamin Bateman, Te Rūnanga o Ngāi Tahu, *Committee Hansard*, Canberra, 17 October 2024, p. 1.

¹⁰⁷ Mr Bateman, Te Rūnanga o Ngāi Tahu, *Committee Hansard*, Canberra, 17 October 2024, p. 1.

¹⁰⁸ Mr Bateman, Te Rūnanga o Ngāi Tahu, *Committee Hansard*, Canberra, 17 October 2024, p. 1.

¹⁰⁹ Mr Bateman, Te Rūnanga o Ngāi Tahu, *Committee Hansard*, Canberra, 17 October 2024, p. 2.

7.60 The past Ngāi Tahu leaders were always very clear on the ‘breaches and on the wrongs that needed to be righted from a very early stage’, according to Mr Bateman.¹¹⁰

...really strong leaders within our tribe who were able to bring people with them on that settlement journey. But then also we have to acknowledge the efforts that the Crown went to at that time to acknowledge the wrongs and make apologies for those wrongs and undertake a settlement. We took a settlement at that time that was worth approximately one per cent of the value of the losses that we had suffered. But we obviously had to get that.¹¹¹

But there was a degree of not pragmatism but realism about ‘Let’s just get on and start setting our own economic agenda, and it’s better to take this now and then be able to make some decisions of your own’. I think that’s been the critical thing. We’re able to act independently. We’ve got a degree of control over our own destiny.¹¹²

Box 7.3 Ngāi Tahu Holdings as the commercial engine for the Ngāi Tahu people

Ngāi Tahu Seafood is a key profitable wholly owned subsidiary of Ngāi Tahu Holdings Corporation, the commercial arm of Te Rūnanga o Ngāi Tahu, charged with overseeing and financially supporting the activities of Ngāi Tahu. It forms one of the ‘three pillars’ of Ngāi Tahu commercial development, with sister companies Ngāi Tahu Property and Ngāi Tahu Tourism also contributors to tribal finances.¹¹³ Ngāi Tahu Holdings has its own independent board with the right commercial expertise, along with executives and leaders who have the capability and skill sets to keep the business profitable. Capability and management skills development programs, and a cadets program, are also run to ensure future business continuity.¹¹⁴

Since the 1998 settlement Ngāi Tahu Group asset base has significantly grown. Net assets are currently at [NZD]\$1.79 billion, and the Group has made distributions and investments of more than [NZD]\$254 million in iwi developments.

¹¹⁰ Mr Bateman, Te Rūnanga o Ngāi Tahu, *Committee Hansard*, Canberra, 17 October 2024, p. 2.

¹¹¹ Mr Bateman, Te Rūnanga o Ngāi Tahu, *Committee Hansard*, Canberra, 17 October 2024, p. 2.

¹¹² Mr Bateman, Te Rūnanga o Ngāi Tahu, *committee Hansard*, Canberra, 17 October 2024, p. 3.

¹¹³ Ngāi Tahu Seafood n.d., ‘Origins’, <https://www.ngaitahuseafood.com/origins/>, accessed 31 October 2024.

¹¹⁴ Mr Bateman, Te Rūnanga o Ngāi Tahu, *Committee Hansard*, Canberra, 17 October 2024, pages 2–4 and 6–7; Ngāi Tahu Seafood n.d., ‘Origins’, <https://www.ngaitahuseafood.com/origins/>, accessed 31 October 2024.

Ngāi Tahu business is focused on intergenerational investment to support iwi focused goals, including social and cultural programs, and economic empowerment. Ngāi Tahu offers wide range of opportunities and programs for the economic benefit of Ngāi Tahu, including grants, scholarships, internships, baby support, entry level careers. There is also a strong focus on supporting its younger members, particularly by establishing a Whai Rawa, a world leading savings scheme to make higher levels of contributions in terms of matching the savings of its under 18s to support the cost of tertiary education or buying a first home.¹¹⁵

The Sámi in Finland, Sweden and Norway

- 7.61 The Indigenous people of Finland, Sweden, Norway and the Russian Kola Peninsula are the Sámi. Although divided by the four countries' boundaries, the Sámi are one people united by a common identity, and cultural and language bonds.¹¹⁶ Sámi Parliaments, known as a Sámediggi or Sämítigge, were established in Finland in 1973, in Norway in 1989, and in Sweden in 1993.¹¹⁷ Sámi Parliaments are democratically elected by the Sámi and deal with all matters concerning the Sámi people.¹¹⁸
- 7.62 A submission to the inquiry from the Sámi Parliament of Finland (Sámediggi) highlighted the advantages of supporting Sámi business opportunities to foster 'the development of the entire Sámi homeland area, and fostering regional economic growth and sustainability'.¹¹⁹ It advised that leveraging the Sámi people's traditional knowledge creates 'unique business opportunities and niche markets'.¹²⁰ However, many barriers to business development persist, such as climate change, poor understanding of Sámi culture, and poor knowledge within 'mainstream society regarding the importance and relevance of Sámi traditional practices and knowledge in modern economic contexts'.¹²¹

¹¹⁵ Mr Bateman, Te Rūnanga o Ngāi Tahu, *Committee Hansard*, Canberra, 17 October 2024, pages 5 and 8; Ngāi Tahu Seafood n.d., 'Origins', <https://www.ngaitahuseafood.com/origins/>, accessed 31 October 2024.

¹¹⁶ United Nations Human Rights Council (UNHRC) 2011, *Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya: The situation of the Sami people in the Sápmi region of Norway, Sweden and Finland (Report of the Special Rapporteur: The Situation of the Sámi people)*, UN Doc A/HRC/18/35/Add.2, https://un.arizona.edu/sites/default/files/2021-11/UNSR_JA_Country_Visit_Norway_Sweden_Finland_2011_English.pdf, p. 4.

¹¹⁷ Sámediggi (Sweden) n.d., *Background: The State and the Sami Parliament*, <https://www.samediggi.se/>, accessed 29 May 2024.

¹¹⁸ See, for example: Sámediggi (Norway) n.d., *About the Sami Parliament*, <https://sametinget.no/about-the-sami-parliament/>, accessed 16 August 2024.

¹¹⁹ Sámi Parliament of Finland, *Submission 39*, p. 1.

¹²⁰ Sámi Parliament of Finland, *Submission 39*, p. 1.

¹²¹ Sámi Parliament of Finland, *Submission 39*, p. 1.

7.63 The Sámi Parliament of Finland suggested ways to unlock capital and leverage intellectual property (IP) to elevate the Sámi as economic partners, including:

- Recognizing and protecting Sámi cultural expressions, traditional knowledge, and art as intellectual property, which can be leveraged for economic gain.
- Developing partnerships with industries that can benefit from the unique cultural insights and practices of the Sámi, ensuring that the Sámi are treated as equal economic partners.
- Encouraging investment in sustainable practices that align with Sámi traditional livelihoods, thereby unlocking capital that supports both economic development and cultural preservation.
- Supporting Sámi entrepreneurship can help unlock capital and foster economic development in the Sámi homeland, benefiting the entire region.¹²²

7.64 The Sámi Parliament of Finland said that the Sámi can serve as a model for other First Nations communities who are ‘seeking similar protections and opportunities for intergenerational economic sustainability’.¹²³ Its submission also emphasised the need to address the challenges posed by climate change through international cooperation to improve the resilience and independence of First Nations communities around the world.¹²⁴

7.65 Evidence from BCSD Australia discussed the Sámi Parliament in Norway, which advocates for the rights and economic interests of the Sámi people.¹²⁵ BCSD Australia’s submission highlighted that ‘Norway’s approach emphasises political representation and the importance of Indigenous governance structures in supporting economic self-determination’.¹²⁶ Additionally, in response to a question from the Committee regarding the concept of Indigenous sovereign wealth funds, Mr Andrew Peterson, BCSD Australia’s Chief Executive Officer and Board Director explained:

We have looked at...those [Indigenous sovereign wealth funds] in Finland, Norway and Sweden in particular, who are looking for a very similar model. Norway’s own sovereign wealth fund is an exemplar of that, which is an interesting way to go—not necessarily the right way to go but certainly a framework to look at.¹²⁷

¹²² Sámi Parliament of Finland, *Submission 39*, p. 2.

¹²³ Sámi Parliament of Finland, *Submission 39*, p. 2.

¹²⁴ Sámi Parliament of Finland, *Submission 39*, p. 2.

¹²⁵ BCSD Australia, *Submission 71*, p. [6].

¹²⁶ BCSD Australia, *Submission 71*, p. [6].

¹²⁷ Mr Andrew Peterson, Chief Executive Officer and Board Director, BCSD Australia, *Committee Hansard*, Canberra, 23 July 2024, p. 25.

United States

- 7.66 The US Federal Government provides funding and support for Indigenous economic development through a various programs and services administered by agencies such as the Department of the Interior’s Office of Indian Energy and Economic Development, the Small Business Administration’s Office of Native American Affairs, and the Department of Agriculture’s Office of Tribal Relations.¹²⁸ The Office of Native American Affairs offers free technical assistance to help Indigenous businesses with ‘marketing, strategic and operational planning, financial analysis, opportunity development and capture, contract management, and compliance’.¹²⁹
- 7.67 Evidence to the inquiry from BCSD Australia and First Australians Capital highlighted the US’ Native Community Development Financial Institution (CDFI) Network, which supports economic growth and opportunities within Indigenous communities by providing access to capital for business development.¹³⁰ Ms King, First Australians Capital, told the Committee that the CDFI program recognises:
- ...that mainstream banks don’t and [are] not expected...to have the expertise to lend in this way. Instead, those community-led initiatives are supported to provide this finance and facilitate it through a network of CDFIs, who bank minority and other local community bank initiatives across the US. It includes women’s, Hispanic and First Nations businesses, and they specialise in working with that local community.¹³¹
- 7.68 A submission from Mr Eric Henson of the Harvard’s John F. Kennedy School Project on Indigenous Governance and Development (Harvard Project) drew the Committee’s attention to the project.¹³² The Harvard Project commenced in 1987 working with First Nations ‘to understand how and why Indigenous economies, social institutions, and political systems either succeed or fail’.¹³³ The Harvard Project identified four critical preconditions to effective Indigenous governance:
- 1 power—‘de facto sovereignty’
 - 2 ownership and access to resources

¹²⁸ FVTOC, *Submission 40*, Attachment 3, p. [15].

¹²⁹ U.S. Small Business Administration 2024, ‘Office of Native American Affairs’, www.sba.gov/about-sba/sba-locations/headquarters-offices/office-native-american-affairs, accessed 14 August 2024.

¹³⁰ BCSD Australia, *Submission 71*, p. [6]; Ms King, First Australians Capital, *Committee Hansard*, Canberra, 23 July 2024, p. 14. See also: US Department of the Treasury, *What does the CDFI fund do?*, accessed 15 August 2024, www.cdfifund.gov/

¹³¹ Ms King, First Australians Capital, *Committee Hansard*, Canberra, 23 July 2024, p. 14.

¹³² Mr Eric Henson, Harvard Kennedy School Project on Indigenous Governance and Development, *Submission 43*, p. [3].

¹³³ Mr Henson, Harvard Kennedy School Project on Indigenous Governance and Development, *Submission 43*, p. [3].

3 effective government institutions

4 legitimacy and 'cultural match'.¹³⁴

7.69 Other submissions to the inquiry also highlighted the lessons learned from the Harvard Project for Australia. Jumbunna explained that the research undertaken by the Harvard Project demonstrated the linkages 'between effective and culturally legitimate self-governance and communities' ability to achieve their goals'.¹³⁵

7.70 The ANU's Indigenous Community Governance Project (ICGP) was 'greatly influenced' by the Harvard Project and endeavoured to explore its findings in the Australian context.¹³⁶ Over five years, the ICGP considered what makes for effective and legitimate Australian Indigenous community governance arrangements, and how policy makers could learn from those governance experiences.¹³⁷ The ICGP, which completed its research in 2008,¹³⁸ put forward a number of policy considerations:

- community service delivery needs to be fully costed in order to highlight where the gaps are that are causing the strain on community organisations
- Indigenous governing members and other leaders in organisations require ongoing development in order to better understand their different roles and responsibilities in relation to management and governance
- governments urgently need to provide more enabling policy frameworks and program guidelines that actively promote Indigenous capacity and authority
- government policy frameworks will better support the growth of 'two-way' effectiveness and accountability in Indigenous organisations by adopting a community development approach to governance, which strengthens legitimacy through capacity and institution building rather than focusing primarily on financial and technical compliance
- the adoption and funding of a more sustained community-development approach to building governance capacity should be regarded as a priority by governments and their departments at all levels
- reform of financial arrangements in Indigenous affairs is required to ease the administrative burden on organisations dealing with multiple funding streams.¹³⁹

¹³⁴ Hunt, J., Smith, D., Garling, S. & Sanders, W. 2008, 'Contested Governance: Culture, power and institutions in Indigenous Australia', *ANU Centre for Aboriginal Economic Policy Research*, p. 181. See also: Jumbunna, *Submission 25*, p. xviii; First Nations Financial Management Board, *Submission 73*, p. 2.

¹³⁵ Jumbunna, *Submission 25*, p. 19.

¹³⁶ Hunt, J., Smith, D., Garling, S. & Sanders, W. 2008, 'Contested Governance: Culture, power and institutions in Indigenous Australia', *ANU Centre for Aboriginal Economic Policy Research*, p. 181. See also: Jumbunna, *Submission 25*, p. 19.

¹³⁷ Smith, D. 2025, *Researching Australian Indigenous Governance: A Methodological and Conceptual Framework*, *ANU Centre for Aboriginal Economic Policy Research*, pages 1–4; Jumbunna, *Submission 25*, p. 19.

¹³⁸ Hunt, J., Smith, D., Garling, S. & Sanders, W. 2008, 'Contested Governance: Culture, power and institutions in Indigenous Australia', *ANU Centre for Aboriginal Economic Policy Research*, p. 181. See also: Jumbunna, *Submission 25*, p. xxii.

¹³⁹ Reconciliation Australia 2007, *Summary of Year Two Research Findings: Indigenous Community Governance Project*.

United Nations Declaration on the Rights of Indigenous Peoples

- 7.71 As noted in Chapter 2, several submitters highlighted the importance of Australia implementing United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
- 7.72 Australians for Native Title and Reconciliation (ANTAR) were supportive of the *Murru waaruu* outcomes report which recommended legislative endorsement of UNDRIP:
- ...that UNDRIP should guide policy development and be strategically implemented into Australian law. The report highlights that legislative endorsement of UNDRIP could provide a statutory environment more conducive to promoting First Nations economic self-determination. It further argues that ensuring key Australian legislation is aligned with the principles and articles of UNDRIP, in collaboration with First Nations Peoples and in accordance with the principle of FPIC, is an important step toward supporting economic self-determination for First Nations Peoples.¹⁴⁰
- 7.73 The Kimberley Land Council (KLC) agreed that UNDRIP should be ratified as it would 'provide a statutory environment that better supports Aboriginal economic (and overall) self-determination'¹⁴¹ and that it should 'guide the design of policies affecting Aboriginal rights and interests'.¹⁴²
- 7.74 Jumbunna believed that the UNDRIP articles 'provide a sound basis for consideration of legislative and regulatory protections for cultural rights, knowledges and ICIP'.¹⁴³
- 7.75 The National Health Leadership Forum put forward the view that there was 'clear lack of alignment to the articles of UNDRIP within Australia's economic structures including policy making'.¹⁴⁴
- 7.76 Charles Darwin University were also of the view that there was a gap which inhibits 'translation of the UNDRIP definition into Australian policy and legislation'.¹⁴⁵ They added:
- Feeding this is the fact that there are no formal structures, treaties, agreements, or instruments by which First Nations Australians negotiate with Australian governments. This is critical to our submission, because the lack of reciprocal recognition of each other as 'nation states' has the potential to, and in many

¹⁴⁰ Australians for Native Title and Reconciliation, *Submission 92*, p. 13.

¹⁴¹ Kimberley Land Council (KLC), *Submission 83*, p. 4.

¹⁴² KLC, *Submission 83*, p. 4.

¹⁴³ Jumbunna, *Submission 25*, p. 18.

¹⁴⁴ National Health Leadership Forum, *Submission 55*, p. 7.

¹⁴⁵ Charles Darwin University, *Submission 58*, p. 5.

cases already does, undermine any attempt to genuinely recognise Indigenous self-determination.¹⁴⁶

- 7.77 First Australians Capital and Indigenous Business Australia noted that they were aligned with the global principles and rights under UNDRIP to ‘guide its own policies and programs to support Aboriginal and Torres Strait Islander people to establish their own economic and financial security by providing access to capital, networks and skills that may not otherwise be available’.¹⁴⁷ The Australian Sustainable Finance Institute also advocated for embedding the principles on UNDRIP to ensure ‘that First Nations people have a decisive voice in actions affecting their lands and lives, strengthening the commitment to recognising and protecting their autonomy, culture, and traditions’.¹⁴⁸
- 7.78 Furthermore, the Indigenous Land and Sea Corporation called for a ‘coordinated and collaborative national response for First Nations Australians to achieve economic self-determination’.¹⁴⁹
- 7.79 In 2023, this Committee’s *Inquiry into the application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia* made several recommendations to guide the Australian Governments implementation of UNDRIP into Australian law, including by
- ensuring its approach to developing legislation and policy on matters relating to Aboriginal and Torres Strait Islander people is consistent with UNDRIP
 - developing a National Action Plan, in consultation with Aboriginal and Torres Strait Islander peoples, that outlines its approach to implementing UNDRIP in Australia
 - establishing an independent process of truth-telling and agreement making as a mechanism to support healing and assist implementation of UNDRIP
 - amending the *Human Rights (Parliamentary Scrutiny) Act 2011* to include UNDRIP in the definition of ‘human rights’, so that it be formally considered by the Parliamentary Joint Committee on Human Rights when scrutinising legislation.¹⁵⁰
- 7.80 The Law Council of Australia recommended that the Australian Government implement the recommendations made by JSCATSIA in its inquiry into the application of UNDRIP in Australia, and take action on recommendations 1, 2 and 4 as a matter of priority.¹⁵¹ They added that UNDRIP provided an opportunity for the government to do more:

The United Nations Declaration provides a comprehensive and principled framework for respecting, protecting and fulfilling the individual and collective

¹⁴⁶ Charles Darwin University, *Submission 58*, p. 5.

¹⁴⁷ First Australians Capital, *Submission 56*, p. 2; IBA, *Submission 34*, p. 5.

¹⁴⁸ Australian Sustainable Finance Institute, *Submission 15*, p. [5].

¹⁴⁹ ILSC, *Submission 53*, p. 6.

¹⁵⁰ Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs 2023, *Inquiry into the application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia*, pages xix–xx.

¹⁵¹ Law Council of Australia, *Submission 96*, p. 7.

rights of Aboriginal and Torres Strait Islander peoples. It's an instrument that this parliamentary committee has endorsed and made recommendations on for implementation in Australia. We have yet to see the government act on these recommendations and strongly encourage the government to seize this opportunity.¹⁵²

Committee comment

- 7.81 The Committee greatly appreciates the work already underway across Australia to identify and apply the lessons learned from international experiences of improving the economic participation and self-determination of First Nations peoples around the world to the Australian context.
- 7.82 The Committee acknowledges the importance of fiscal management powers and innovative financial instruments in fostering economic empowerment in international First Nations communities.
- 7.83 The Committee acknowledges the important work of First Nations Economic Partnerships and strongly recommends it consider the experiences and fiscal management powers of international jurisdictions.
- 7.84 Canada's experience in improving First Nations economic participation in the renewable energy sector provides important lessons for Australia. Several Canadian provinces provide loan-guarantee programs to First Nations groups to gain equity stakes in large-scale projects. These policies have been successful in generating [CAD] \$1.5 billion in Indigenous and employment contracts and could be drawn upon to explore capability and capacity support and investment opportunities for Traditional Owner groups and First Nations businesses as Australia transitions to renewable energy.

Recommendation 19

- 7.85 The Committee recommends that the Australian Government facilitate knowledge exchanges between First Nations Australians and international First Nations communities to share experiences and lessons on economic empowerment and trade.**

Recommendation 20

- 7.86 The Committee recommends that the Australian Government accelerate its work with the First Nations Economic Partnership and consider the experiences of international jurisdictions and their fiscal management powers and frameworks (for example, Canada).**

¹⁵² Mr Greg McIntyre, President, Law Council of Australia, *Committee Hansard*, Canberra, 23 July 2024, p. 28.

Recommendation 21

- 7.87** The Committee recommends that the Australian Government ratify the United Nations Declaration on Rights of Indigenous Peoples (UNDRIP), and explore opportunities for UNDRIP to guide commonwealth, state, and territory policy development and its relevance to good government in Australia.

Recommendation 22

- 7.88** The Committee recommends that the Australian Government consider capacity and capability support for First Nations and Traditional Owner groups to strengthen their engagement in the energy transition and other Australian Government initiatives.

Senator Jana Stewart
Mutthi Mutthi and Wamba Wamba
Chair



Additional comments—Coalition Members and Senators

Inquiry into economic self-determination and opportunities for First Nations Australians

Comments

The Coalition members of this Committee welcomed this inquiry as it provided an opportunity to look at practical solutions to contribute to closing the economic gap that exists between Indigenous and non-Indigenous Australians.

Australians do not want symbolic actions, they want outcomes. It is regrettable the Committee did not follow this, and too often recommended considering action rather than recommending the action directly.

The Coalition believes that the goal must be minimising over time the reliance on Commonwealth support and does not support those recommendations that seek to expand it.

The Coalition supports Recommendation 3 which encourages the Government to review the Indigenous Procurement Policy, introduced by the Coalition Government in 2015. The Coalition also supports refining the definition of an Indigenous business.

The Coalition laments the current lack of data on Indigenous businesses. The IPP allows for the collection of some data, but Supply Nation, a witness at this inquiry and certification body, only represents around one third of Indigenous businesses. The Coalition encourages the Government to pursue better data collection methods.

To expand the Indigenous business sector, specialists in business should be tasked with evaluating business startups. The National Indigenous Australians Agency (NIAA) should not be making decisions about any commercial business opportunities because its commercial assessments are not sufficiently robust. Indigenous Business Australia (IBA) would be better suited to this task.

Business owners should always have skin in the game. Loans rather than grants should always be preferred when government funding is provided to Indigenous businesses.

Superannuation is Australian's money. It is not the Government's to play with. The purpose of super funds is to maximise returns for their members to enjoy in retirement. Mandating super funds to invest in certain sectors of the economy clearly conflicts with this duty. The Coalition does not support this.

According to evidence submitted to the inquiry, in 2021, 42 per cent of Indigenous people owned a home compared to 68 per cent of the total population. The housing market has become increasingly tight and more unaffordable.

Targeted solutions for Indigenous Australians should include the Indigenous Home Ownership Program alongside associated action to unlock land that currently cannot be funded under community title. The Coalition's \$5 billion plan to boost home building across Australia will do this.

The Coalition will always support initiative that promote the ability of individuals to engage in private enterprise. The expansion of Prescribed Body Corporates (PBCs) goes against this principle and cannot be supported. This issue would be further explored by a full review of the *Native Title Act 1993* (Cth) as proposed by the Shadow Minister for Indigenous Australians. It is disappointing the Report only asked the Government to consider a review and did not actually call for one.

In September 2024, Senators Liddle, Thorpe and Lambie moved a motion in the Senate providing for the establishment of the Select Committee on First Nations Representative Bodies. The Committee would inquire into and report on the role, governance and accountability of native title representative bodies and prescribed body corporates with reference to the effectiveness of the *Native Title Act 1993*. It is regrettable the motion was blocked by the Albanese Labor Government, the Australian Greens and Independent Senators Payman and Tyrrell.

Too many Indigenous children are developmentally behind when commencing school. It is one of the four Closing the Gap targets that is currently going backwards. Equally, school attendance rates in Indigenous majority remote areas, are concerningly low. Education and training are central to Indigenous advancement and are key enablers of Indigenous economic participation. The Report should have placed greater emphasis on this.

The Albanese Government has not been honest with the Australian people with respect to their renewables only strategy. This includes issues around cost, reliability, land use and longevity of the renewable energy infrastructure. The Coalition endorses an 'all of the above' strategy. This includes embracing zero-emissions nuclear power like our close allies the United Kingdom and the United States. Consideration should be given to Indigenous involvement in these projects, not just green energy.

UNDRIP has been considered in a previous inquiry undertaken by this Committee. A dissenting report was submitted by Coalition members. The Coalition does not support its ratification and implementation in Australia.

Recommendations

In light of these comments, the Coalition endorses the following recommendations:

Recommendation 1 (see Recommendation 2)

The Committee recommends that the Australian Government fund a national longitudinal Indigenous economic and business dataset to understand the composition and economic contribution of First Nations business to the Australian economy.

Recommendation 2 (see Recommendation 3)

The Committee recommends that the Australian Government review the Coalition's Indigenous Procurement Policy and consider:

- an increase to the procurement target; and
- the definition of an Indigenous business, and mechanisms to identify and recognise businesses who exceed the targets (e.g. through tiered criteria).

Recommendation 3 (see Recommendation 4)

The Committee recommends that the Australian Government investigate the practice of black-cladding and policies to combat it.

Recommendation 4 (see Recommendation 5)

The Committee recommends that the Australian Government engages with state and territory governments on support for Indigenous Chambers of Commerce and similar business networks.

Recommendation 5 (see Recommendation 6)

The Committee recommends that the Australian Government establish a central resource with information on federal, state, and territory government business advisory services for First Nations businesses.

Recommendation 6 (see Recommendation 7)

The Committee recommends that the Australian Government pilot an entrepreneurial and business mentorship program with a particular focus on women, and explore how it can improve support for Aboriginal and Torres Strait Islander peoples in business.

Recommendation 7 (see Recommendations 8 and 9)

The Committee recommends that the Australian Government strengthen existing, and develop new, instruments to enhance and fast track Aboriginal and Torres Strait Islander peoples' access to finance and capital and consider impediments.

Recommendation 8 (see Recommendation 10)

The Committee recommends that, on completion of the Australian Law Reform Commission Future Acts Regime Review, the Australian Government should review in full the *Native Title Act 1993* (Cth).

Recommendation 9 (see Recommendations 13 and 14)

The Committee recommends the Australian Government task IP Australia as part of its current works to protect Indigenous Cultural and Intellectual Property, to investigate legislative and regulatory options to strengthen legal protections for intellectual and cultural property.

Recommendation 10 (see Recommendation 15)

The Committee recommends establishing and funding a centralised database or national registration system to substantiate Indigenous data and knowledge associated with genetic resources found in Australia.

Recommendation 11 (see Recommendation 16)

The Committee recommends the Australian Government work with the bush foods and fibre industry to establish a sustainable peak industry body.

Recommendation 12 (see Recommendation 20)

The Committee recommends that the Australian Government accelerate its work with the First Nations Economic Partnership and consider the experiences of international jurisdictions and their fiscal management powers and frameworks (for example, Canada).

The Hon. Melissa Price MP
Deputy Chair
Federal Member for Durack

Senator Kerrynne Liddle
Member
Senator for South Australia

Mr Llew O'Brien MP
Member Liberal National
Member for Wide Bay



A. Submissions

- 1 *Name Withheld*
- 2 Desert Gem
- 3 *Name Withheld*
- 4 Victorian Aboriginal Legal Service
- 5 Minerals Council of Australia
- 6 First Nations Foundation
- 7 Enterprise and Training Company Limited
- 8 Dilin Duwa - Centre for Indigenous Business Leadership
- 9 Department of Agriculture, Fisheries and Forestry
- 10 Supply Nation
- 11 Land Back Foundation
- 12 Screen Australia
- 13 Dr Luke Williams and Dr Alana Gall
- 14 Universities Australia
- 15 Australian Sustainable Finance Institute
 - 15.1 Supplementary to submission 15
- 16 Global Indigenous Management
- 17 Dr Zannie Langford and Dr Richard Martin
- 18 Good Return Limited
- 19 Australian Indigenous Governance Institute (AIGI)
- 20 ServiceNow
- 21 Creating Communities Australia

- 22** Aarnja Limited
- 23** Waminda South Coast Women's Health & Wellbeing Aboriginal Corporation
- 24** The Salvation Army Employment Plus
- 25** Jumbunna Institute for Indigenous Education and Research
- 26** First Nations Digital Inclusion Advisory Group
- 27** Indigenous Services Canada, Lands and Economic Development Sector
- 27.1 Supplementary to submission 27
- 28** Mr Mick Beltran
- 29** Arts Law Centre of Australia
- 30** Rural Workforce Agency Victoria (RWAV)
- 31** The University of Melbourne
- 31.1 Supplementary to submission 31
- 32** Australian Banking Association
- 33** Queensland Nurses and Midwives' Union
- 34** Indigenous Business Australia
- 34.1 Supplementary to submission 34
- 35** University of Adelaide and the University of South Australia
- 36** Lowitja Institute
- 37** Assoc. Prof. Kerry Bodle, Mr Christian Eva, Prof. Dennis Foley, Dr Jessica Harris, Em. Prof. Boyd Hunter
- 38** Australian National Audit Office
- 39** Sámi Parliament of Finland
- 40** The Federation of Victorian Traditional Owner Corporations (FVTOC)
- 41** Northern Territory Government
- 42** Australian College of Midwives
- 43** Mr Eric Henson Harvard Kennedy School Project on Indigenous Governance and Development

- 44** Charles Sturt University
- 45** Chartered Accountants Australia & New Zealand
- 46** Indigenous Studies Unit & Melbourne Climate Futures, University of Melbourne
- 47** IP Australia
 - 47.1 Supplementary to submission 47
 - 47.2 Supplementary to submission 47
- 48** First Nations Portfolio at The Australian National University
 - 48.1 Supplementary to submission 48
- 49** Upskill Global
- 50** Australian Securities and Investments Commission
- 51** Mr Tyson McEwan
- 52** Clothing The Gaps
 - 52.1 Supplementary to submission 52
- 53** Indigenous Land and Sea Corporation
- 54** NAATSIHWP
- 55** National Health Leadership Forum
- 56** First Australians Capital
- 57** Victorian Aboriginal Community Controlled Health Organisation
- 58** Charles Darwin University
- 59** Dr Matthew Storey
- 60** Terri Janke and Company Pty Ltd
- 61** Aboriginal Art Association of Australia Ltd
- 62** National Native Title Council (NNTC)
- 63** Northern Territory Indigenous Business Network
- 64** Treasury and National Indigenous Australians Agency

- 65** Department of Employment and Workplace Relations (DEWR)
- 65.1 Supplementary to submission 65
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 - 65.3 Supplementary to submission 65
 - 65.4 Supplementary to submission 65
 - 65.5 Supplementary to submission 65
 - 65.6 Supplementary to submission 65
 - 65.7 Supplementary to submission 65
- 66** Northern Australia Indigenous Reference Group
- 67** Coalition of Peaks
- 67.1 Supplementary to submission 67
- 68** Independent Tertiary Education Council Australia
- 69** Department of Industry, Science and Resources
- 69.1 Supplementary to submission 69
- 70** First Nations Affairs
- 71** Business Council for Sustainable Development Australia (BCSD Australia)
- 72** Mr James Morgan
- 73** First Nations Financial Management Board
- 74** Industry Capability Network
- 75** First Peoples' Assembly of Victoria
- 76** Aboriginal Housing Victoria
- 77** Science & Technology Australia
- 78** Australian Taxation Office
- 78.1 Supplementary to submission 78
- 79** Return Lee Point to Larrakia People
- 80** Dja Dja Wurrung Clans Aboriginal Corporation
- 81** Austrade

- 82** First Nations Clean Energy Network
- 83** Kimberley Land Council
- 84** NSW Indigenous Chamber of Commerce
- 85** Indigenous Art Code Ltd
- 86** First Languages Australia
- 87** Master Electricians Australia
- 88** Community First Development
- 89** Tagai Kemer Kemer Zugubal (TKKZ)
- 90** Jamukurnu-Yapalikurnu Aboriginal Corporation (Western Desert Lands)
- 90.1 Supplementary to submission 90
- 91** Alliance of First Nations' Independent Education and Training Providers
- 92** Australians for Native Title and Reconciliation (ANTaR)
- 93** South Australian Aboriginal Community Controlled Organisation Network (SAACCON)
- 94** Kinya Lerrk
- 95** NSW Government
- 95.1 Supplementary to submission 95
- 96** Law Council of Australia
- 97** Queensland Government
- 98** Cooperative Research Centre for Northern Australia (CRCNA)
- 99** Wiyi Yani U Thangani Institute
- 100** Western Australian Indigenous Tourism Operators Council (WAITOC)
- 101** Office of Township Leasing
- 102** Gunaikurnai Land and Waters Aboriginal Corporation (GLaWAC)
- 103** Waalitj Foundation

- 104** Australian Bureau of Statistics
- 104.1 Supplementary to submission 104
- 105** Kaiela Institute
- 106** Department of Climate Change, Energy, the Environment and Water (DCCEEW)
- 107** Department of Foreign Affairs and Trade
- 108** The Treasury
- 109** National Indigenous Australians Agency



B. Public hearings

Friday 28 June 2024

Canberra

Australian Taxation Office

- Mr Will Day, Deputy Commissioner, Small Business
- Ms Sylvia Gallagher, Assistant Commissioner, Assist, Lodge and Pay
- Ms Jane Mitchell, Assistant Commissioner, Business Registry Service, Director ID Delivery
- Ms Julia Webb, Acting Assistant Commissioner, Experience, Government and Case Leadership, Individuals and Intermediaries

IP Australia

- Mr Matthew Forno, Acting General Manager, Policy and Stakeholders Group
- Ms Edwina Lewis, Director, Policy and International Affairs

National Indigenous Australians Agency

- Mr Ben Burdon, Group Manager, Economic Empowerment Group
- Mr Shane Dexter, Branch Manager, Business and Economic
- Ms Julie-Ann Guivarra, Deputy Chief Executive Officer, Policy and Programs
- Ms Rachel Kerrigan, Branch Manager, Land Branch

Department of the Treasury

- Ms Heather Cochrane, Assistant Secretary
- Ms Anthea Long, First Assistant Secretary

Department of Employment and Workplace Relations

- Mr Leo Bator, Acting Assistant Secretary, First Nations Branch
- Mr Cris Castro, Assistant Secretary, Closing the Gap

- Ms Lisa Conway, Assistant Secretary, First Nations Employment Policy and Programs
- Ms Tania Rishniw, Deputy Secretary, Employment and Workforce Group

Jobs and Skills Australia

- Mr David Turvey, First Assistant Secretary

Department of Agriculture, Fisheries and Forestry

- Ms Sarah Burr, Assistant Secretary, First Nations Branch
- Mr Matt Lowe, Deputy Secretary, Agriculture, Fisheries and Forestry Policy Group
- Ms Joanna Stanion, First Assistant Secretary, Agricultural Policy Division

Northern Australia's Indigenous Reference Group

- Mr Troy Fraser, Member [video]
- Ms Gill Mailman, Member [video]

Indigenous Business Australia

- Ms Stella De Cos, Director, Community and Customer Experience [video]
- Ms Kia Dowell, Executive Director, Strategy and Impact [video]

Friday 19 July 2024

Melbourne

First Nations Foundation

- Mr Phil Usher, Wiradjuri —Chief Executive Officer
- Mr Angus Crawford, General Manager, Economic Policy, Research and Government Relations

The Federation of Victorian Traditional Owner Corporations

- Mr Ben Gordon, Operations Manager
- Mr Reece O'Brien, Principal Adviser, Economic Development
- Mr Paul Paton, Chief Executive Officer

Dja Dja Wurrung Clans Aboriginal Corporation

- Mr Rodney Carter, Group Chief Executive Officer

First Peoples' Assembly of Victoria

- Mr Rueben Berg, Co-chair
- Mr Troy McDonald, Reserved Seat Member, Gunaikurnai Land and Waters Aboriginal Corporation; and Council Member

Clothing The Gaps

- Ms Laura Thompson, Gunditjmara —Chief Executive Officer and Co-Founder [video]

First Nations Clean Energy Network

- Mr Jonathan Kneebone, Director, Policy and Engagement
- Ms Karrina Nolan, Co-Chair
- Mr Joel Webber, Member

National Native Title Council

- Mr Jamie Lowe, Gunditjmara Djab Wurrung —Chief Executive Officer [video]
- Dr Matthew Storey, Legal Representative

University of Melbourne

- Associate Professor Michelle Evans, Kurri —Director, Dilin Duwa Centre for Indigenous Business Leadership
- Dr Lily O'Neill, Senior Research Fellow, Melbourne Climate Futures and Indigenous Studies Unit
- Associate Professor Cain Polidano, Dilin Duwa Centre for Indigenous Business Leadership
- Dr Cate Roy
- Dr Kathryn Thorburn, Senior Research Fellow, Indigenous Studies Unit
- Dr Joseph West, Murrawari —Associate Dean (Indigenous), Faculty of Engineering and Information Technology

Tuesday 23 July 2024

Canberra

Terri Janke and Company

- Dr Terri Janke, Wuthathi, Yadhagana and Meriam —Solicitor Director [video]

Yarpa Hub

- Ms Shannon Mallison, Acting Director [video]

First Australians Capital

- Ms Jocelyn King, Bundjalung —Executive Director [video]

Business Council for Sustainable Development Australia

- Ms Susan Moylan-Coombs, Board Director [video]
- Mr Andrew Petersen, Chief Executive Officer and Board Director [video]

Law Council of Australia

- Mr Anthony McAvoy, Chair, Indigenous Legal Issues Committee [video]
- Mr Greg McIntyre, President [video]
- Ms Ashna Taneja, Principal Policy Lawyer [video]

Jumbunna Institute for Indigenous Education and Research

- Ms Cecilia Anthony, Industry Professor, Indigenous Policy [video]
- Mr Lachlan McDaniel, Associate Dean (Research) [video]
- Dr Alison Vivian, Associate Professor, Indigenous Nation Building and Governance Hub [video]

NSW Indigenous Chamber of Commerce

- Ms Deb Barwick, Chief Executive Officer [video]

Monday 2 September 2024

West Perth

Noongar Chamber of Commerce and Industry

- Mr Gordon Cole, Chair
- Mrs Jasmine Kadic, Director
- Mr Tim Milsom, Chief Executive Officer

Western Australian Indigenous Tourism Operators Council

- Mr Walter McGuire, Noongar Bibulman —Chair
- Mr Robert Taylor, Nhanda —Chief Executive Officer

Jamukurnu-Yapalikurnu Aboriginal Corporation (Western Desert Lands) RNTBC

- Mr Rewi Lyall, Interim Chief Executive Officer

Nirrumbuk Aboriginal Corporation

- Mr Joseph Grande, Chief Executive Officer [phone]
- Mr Martin Sibosado, Board Member [phone]

Creating Communities Australia Pty Ltd

- Ms Jessica Barker, Director
- Ms Donna Shepherd, Chief Executive Officer

METRONET Morley-Ellenbrook line project team & Laing O'Rourke

- Mr Glen Colling, Program Director, METRONET, Department of Transport, Western Australia
- Mr Greg Cook, General Manager, Operations, Western Australia, Laing O'Rourke
- Mr Philip D'Souza, Executive Director, Finance and Commercial Services, Transport Portfolio, Main Roads Western Australia
- Ms Terika Horwood, Senior Aboriginal Participation Adviser, Morley-Ellenbrook Line and Byford Rail Extension, Laing O'Rourke
- Mr Dennis Kickett, Director, Aboriginal Engagement, Transport Portfolio, Main Roads Western Australia

Indigenous Emerging Business Forum

- Mr John O'Driscoll, Chief Executive Officer

The Waalitj Hub

- Mr Gohar Rind, General Manager, Waalitj Foundation

University of Western Australia

- Professor Jill Milroy, Palyku —Pro Vice Chancellor Indigenous Education [phone]

Tuesday 24 September 2024

Canberra

Supply Nation

- Ms Kate Russell, Chief Executive Officer [video]

Australian Sustainable Finance Institute

- Ms Kristy Graham, Chief Executive Officer [video]
- Ms Tiarne Shutt, Program Lead, First Nations and Finance [video]

Coalition of Peaks

- Ms Lisa Charles, Executive Director [video]
- Ms Patricia Turner, Lead Convener [video]

Australian Bureau of Statistics

- Mrs Sybille McKeown, Program Manager, Community, Wellbeing and Aboriginal and Torres Strait Islander Statistics Branch
- Mr Luke Verghese, Director, Centre of Aboriginal and Torres Strait Islander Statistics

Australian Trade and Investment Commission

- Mr Grant Ferres, Assistant Secretary, Visitor Economy Sustainability, International Markets and Tourism Research Australia
- Mrs Carla Giuca, Acting General Manager, Visitor Economy and Client Programs
- Ms Elodie Journet, Assistant General Manager, Education and Skills [video]
- Mr Anthony Weymouth, Assistant General Manager, Technology and Defence [video]

Department of Foreign Affairs and Trade

- Ms Alison Airey, Assistant Secretary, Free Trade Agreement Services, Mobility and Coordination Branch
- Mr Ashley Brosnan, Acting Assistant Secretary, Trade and Investment Economics Branch [video]
- Ms Jenny Dee, Assistant Secretary, Stakeholder Engagement and Advocacy Branch, Trade and Investment Group
- Ms Skye Reeve, Acting Assistant Secretary, Services, Competition and Intellectual Property Branch, Office of Global Trade Negotiations [video]
- Ms Keara Shaw, Director, Economic Implementation Section, Southeast Asia Economic, Communications and Analytics Branch, Office of Southeast Asia
- Ms Sally-Anne Vincent, Assistant Secretary, Office of First Nations International Engagement

Department of Climate Change, Energy, the Environment and Water

- Ms Luana Cormac, Branch Head, First Nations and Clean Energy Facilitation Branch [video]
- Mr Bruce Edwards, Division Head, Nature Positive Regulation Division
- Ms Kirsty Gowans, Division Head, Electricity Division
- Ms Catherine Zerger, Branch Head, Hydrogen Strategy

New South Wales Government

- Mr Shaun Cumming, Director, First Nations Economic Wellbeing, Treasury
- Mr Shane Hamilton, Deputy Secretary, Aboriginal Affairs, Premier's Department

Monday 30 September 2024

Canberra

Australian National University

- Professor Peter Yu, Vice-President, First Nations Portfolio

Indigenous Land and Sea Corporation

- Mr Joseph Morrison, Group Chief Executive Officer [video]

Northern Territory Indigenous Business Network

- Ms Naomi Anstess, Chief Executive Officer [video]
- Ms Deb Anstess-Vallejo, General Manager [video]

Friday 4 October 2024

Canberra

High Commission of Canada

- Her Excellency Dr Julie Sunday, High Commissioner for Canada in Australia [video]

Department of Indigenous Services, Canada

- Mr Keith Conn, Moose Cree Nation —Assistant Deputy Minister, Lands and Economic Development Sector [video]

First Nations Financial Management Board

- Mr Harold Calla, Squamish Nation —Executive Chair [video]

Thursday 17 October 2024

Canberra

Te Rūnanga o Ngāi Tahu

- Mr Benjamin Bateman, Ngāi Tahu and Cook Island Māori —Chief Executive Officer [video]