KIMBERLEY LAND COUNCIL

ABN 96 724 252 047 **ICN** 21

24 June 2024

Committee Secretary
Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs
Via email: JSCATSIA@aph.gov.au

Dear Secretary,

The Kimberley Land Council (**KLC**) welcomes the opportunity to provide a submission to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs (**Committee**) regarding its inquiry into economic self-determination and opportunities for First Nations Australians (**inquiry**).

The KLC makes the following submission with particular regard to its role as the native title representative body for the Kimberley region and as a representative community organisation with a mandate to achieve recognition and protection of rights in country for Kimberley Aboriginal people. The submission sets out: the importance of implementing the United Nations Declaration on the Rights of Indigenous Peoples; key enablers of Aboriginal economic self-determination; and responses to the inquiry's terms of reference, focusing particularly on Aboriginal rangers, carbon projects and renewable energy as key areas of success and opportunity.

The KLC notes that the current inquiry follows other related inquiries in recent years, such as:

a. the Joint Select Committee on Northern Australia's inquiry into Northern Australia's workforce development (ongoing)
b. the Joint Standing Committee on Northern Australia's inquiry into the opportunities and challenges of the engagement of Traditional Owners in the economic development of northern Australia (report published January 2022)
c. the House of Representatives Standing Committee on Indigenous Affairs' inquiry into opportunities for employment and economic development for Indigenous Australians (report published August 2021)
d. the Select Committee on the effectiveness of the Australian Government's Northern Australia agenda (report published April 2021).

The KLC trusts that the Committee will consider the reports generated from these inquiries, which contain important perspectives and findings on the issues at hand.

Yours sincerely

[redacted]

Tyronne Garstone
Chief Executive Officer

P.O. BOX 2145
BROOME WA 6725
Ph: (08) 9194 0100
www.klc.org.au

KIMBERLEY LAND COUNCIL

Submission on economic self-determination and opportunities for First Nations Australians

Contents

Introduction

1. The Kimberley Land Council (**KLC**) welcomes the opportunity to provide a submission to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs (**Committee**) regarding its inquiry into economic self-determination and opportunities for First Nations Australians (**inquiry**).

2. The KLC is an Aboriginal organisation established in 1978 for the purpose of working for and with Kimberley Traditional Owners to get back country, care for country and get control of the future. As the native title representative body (**NTRB**) for the region, the KLC has achieved native title determinations across 97 per cent of the Kimberley, and there are currently 31 prescribed bodies corporate (**PBCs**) in the Kimberley holding and managing native title rights and interests.

3. The KLC works with PBCs to expand capacity and capability and build economic development opportunities and activities. The KLC also supports 18 Aboriginal ranger groups through the Kimberley Ranger Network, and conducts a range of land and sea management activities. In its representative capacity, the KLC plays a leading role amplifying the views and voices of Kimberley Aboriginal people locally, nationally and internationally.

4. Kimberley Aboriginal people have long-held aspirations for economic development that produces intergenerational wealth and is consistent with development that sustains and conserves lands, seas and waterways for future generations.

5. These aspirations were the focus of seminal meetings of Kimberley people convened by the KLC in the 1990s to discuss economic development. As a result of these meetings, the KLC and Waringarri Resource Centre published the *Crocodile Hole Report* in 1991 and the KLC published *The Kimberley: Our Place, Our Future* in 1998. A clear theme through both of these reports – a theme that remains unchanged – is that Aboriginal people in the Kimberley want economic development, and they want it on their terms. In the introduction to the *Our Place, Our Future* report, Kurijinpi McPhee, then-chair of the KLC, states:

   > "[T]he meeting recognised that we *all* want economic development in the Kimberley region. But we want development that does not damage the unique society, environment and cultures of the Kimberley. And we want development that provides substantial local economic benefit to *all* the peoples of the region."[1]

6. Aboriginal organisations no longer want to be mere stakeholders in projects occurring on theirlands. They can and should be equity partners or outright owners of projects. As recognised in the *Our Place, Our Future* report: "Inherent in the principle of equity in development is that Aboriginal people are equal partners, whose informed consent is necessary for development to proceed."[2] This approach is being actioned in the Kimberley through initiatives such as the innovative Aboriginal Clean Energy Partnership, which is discussed on page 12.

7. What Aboriginal-led economic development looks like may differ from other 'western' forms of economic development. Aboriginal assets and economic development opportunities need to be appraised in line with Aboriginal values, thus enabling industry development support in appropriate areas. There is a need for open-mindedness and trust from governments and investors, and appreciation that good financial outcomes can coexist with good cultural, environmental and social outcomes benefitting Aboriginal communities.

[1] Kimberley Land Council, *The Kimberley: Our Place, Our Future*, Kimberley Land Council, Broome, 1998, p 3.
[2] Kimberley Land Council, *The Kimberley: Our Place, Our Future*, Kimberley Land Council, Broome, 1998, p 18.

United Nations Declaration on the Rights of Indigenous Peoples

8. The United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**) brings together fundamental human rights recognised in instruments including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, and describes these rights as they apply to the circumstances of Indigenous peoples. Central to these basic human rights is the right of all peoples to self-determination.

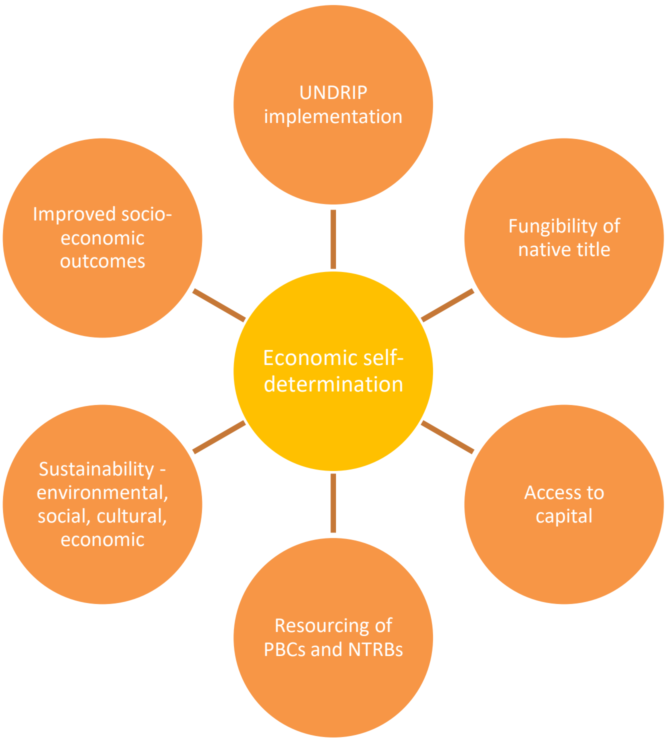
9. UNDRIP includes free, prior and informed consent as a key principle underpinning the fundamental human rights of Indigenous people. UNDRIP requires free, prior and informed consent to be realised in a number of circumstances, including prior to the approval of any project affecting Indigenous peoples' lands or territories and other resources, "particularly in connection with the development, utilization or exploitation of mineral, water or other resources".[3]

10. In line with UNDRIP, Traditional Owners have the right to determine and implement strategies for the development of their own resources and lands, and activities done by governments or lawfully by third parties should be done with the free, prior and informed consent of Traditional Owners.

11. The KLC submits that UNDRIP should be implemented into Australian laws. This would provide a statutory environment that better supports Aboriginal economic (and overall) self-determination. At the very least, UNDRIP – particularly free, prior and informed consent – should guide the design of policies affecting Aboriginal rights and interests.

Enablers of economic self-determination

12. The KLC has identified a number of 'enablers' of economic self-determination – foundational conditions that support Aboriginal people to pursue economic development in line with their values and priorities. These enablers are highlighted below and discussed throughout the submission.



[3] United Nations Declaration on the Rights of Indigenous Peoples, Article 32(2).

Opportunities for, and barriers to, training, employment and business development

Fungibility of native title and the Indigenous estate

13. Land is a key asset for Kimberley Aboriginal people and has enormous potential to be leveraged for economic development.

14. Over 97 per cent of the Kimberley region is subject to native title rights and interests. Kimberley Aboriginal people also hold other legal rights and interests in their land, including Indigenous Protected Areas (which cover more than 90,000 square kilometres and are expanding), Aboriginal Lands Trust estate (which comprises around 17 per cent of the Kimberley region) and other forms of private interests, such as pastoral leases.

15. While this vast estate has presented sections of the Kimberley Aboriginal community with economic development opportunities (see, for example, the case study on carbon projects on page 9), significant barriers remain, preventing the broad participation of native title holders in economic development opportunities and the creation of sustainable wealth.

16. Under the *Native Title Act 1993* (Cth) (**Native Title Act**), native title holders are prohibited from using their native title rights and interests in land as collateral for finance. This lack of fungibility is a significant barrier to economic development on native title lands. As the KLC noted in its 2019 submission to the Joint Standing Committee on Northern Australia's inquiry into the engagement of Traditional Owners in the economic development of northern Australia:

    > "Due to the commercial perception of native title as being less certain or more risky than non-native title tenure, it is difficult for Traditional Owners to finance development of their assets, as land subject to native title is, currently, not readily collateralisable in traditional loan agreements."[4]

17. As highlighted in the *Murru waaruu (On Track) Economic Development Seminar Series: Outcomes Report*, the Native Title Act is one of only four statutory land title regimes that expressly prohibits rights and interests in land being sold, leased or mortgaged.[5] 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.

18. Reform should also be considered more broadly, beyond the Native Title Act. Current policy and statutory frameworks elevate rights and interests derived from colonisation over those derived from the traditional Aboriginal ownership of land, to the detriment of Aboriginal people.[6] Land-use planner and academic Ed Wensing makes a compelling argument that governments need to share their power over land matters on more equal terms "by seeing the two systems of land ownership, use and tenure as having equal status, rather than as one always having to prevail over the other".[7] If this proposition is

---

[4] Kimberley Land Council, *Submission to the Joint Standing Committee on Northern Australia's inquiry into the engagement of Traditional Owners in the economic development of northern Australia*, Kimberley Land Council, Broome, 2019, p 7.

[5] Australian National University – First Nations Portfolio, *Murru waaruu (On Track) Economic Development Seminar Series: Outcomes Report*, Australian National University, Canberra, 2024, p 21.

[6] E Wensing, *Comparing native title and Anglo-Australian land law: Two different timelines, two different cultures and two different laws*, The Australia Institute, 1999.

[7] E Wensing, *Land Justice for Indigenous Australians: How can two systems of land ownership, use and tenure coexist with mutual respect based on parity and justice?*, 2019, doi:10.25911/5c9208e0d898a, p 331.

accepted, there are a number of fundamental principles that need to be considered further, including:

a. Tenure reform should provide Aboriginal people with stronger forms of land ownership.

b. Tenure changes must be voluntary and only issued with the free, prior and informed consent of Aboriginal landowners.

c. Tenure must be able to be used as collateral for finance for home ownership or economic development.

d. Lands and property transferred to Aboriginal ownership should be remediated, made safe and transferred free from liabilities and encumbrances wherever possible.

19. Despite the clear case for reform, it is important to note that some native title holders in the Kimberley have managed to develop successful businesses and enterprises on their native title lands and/or traditional country (sometimes involving freehold tenure), despite the significant fungibility constraint. Carbon projects undertaken by native title holders in the north Kimberley are a prime example of this (see case study on page 9).

Access to capital

20. Access to competitively priced capital is essential to facilitate economic self-determination for Aboriginal people. This links to the fungibility of native title, as discussed above. However, even beyond the complexities presented by the tenure of the Indigenous estate, there is a general lack of funding and up-front finance to support Aboriginal projects.

21. Investing in and facilitating greater local economic participation through Aboriginal ownership and co-ownership of businesses and projects provides a competitive and commercial advantage to industry and the economy. This advantage can be seen through increased certainty, faster project approvals, better local content and employment outcomes, improved social licence, and decreased risk of delay and host community opposition.

22. Changes to grant and funding criteria for government funding could unlock significant opportunities for Aboriginal people, including through the removal of restrictions such as grant matching requirements. Australia needs dedicated Aboriginal and Torres Strait Islander capital flows underwritten by government to lock in equity.

Resourcing and capacity-building of native title organisations

PBCs

23. PBCs are an essential component of the native title system – once a determination is made that native title exists, a PBC is established to hold and manage native title on behalf of the native title holders. PBCs, then, are key, permanent bodies for managing Aboriginal land interests. Investing in PBCs to build their capacity makes sense – there is significant opportunity for Aboriginal people to utilise PBCs as vehicles for economic development. Currently, however, the lack of secure and adequate funding for PBCs is severely hampering their ability to build capacity and participate in economic development.

24. In the Kimberley, there are currently 31 PBCs. A handful of these operate independently of the KLC, with significant capital and/or income streams derived through native title settlements, Indigenous Land Use Agreements and/or economic development activities. However, more than half of the Kimberley PBCs are completely unstaffed and rely on volunteer work from members and directors and support from the KLC to function.

25. To date, PBCs have not been set up to prosper. The majority of Kimberley PBCs receive only PBC basic support funding from the Commonwealth Government, which averages at around $70,000 per year per PBC. This funding is barely sufficient for a PBC to fulfil its basic functions and compliance, particularly in the Kimberley, where meetings are expensive due to the remote locations and associated logistics and travel requirements. Further, the Commonwealth Government stipulates that PBCs must not use their basic support funding for economic development or employing part- or full-time staff. The KLC supplements this basic support funding, not charging PBCs for the full extent of the support it provides them on basic compliance.

26. There is little or no residual funding to invest in building director capacity, employing staff or pursuing business development. One-off grants are available from the state and federal governments for PBC capacity-building and other initiatives, such as healthy country planning and cultural heritage protection, but a lack of foundational capacity thwarts PBCs' ability to apply for and engage productively with these funding opportunities.

27. This chronic underfunding of PBCs has been highlighted by Aboriginal stakeholders and parliamentary committees through numerous previous inquiries and government consultation processes. The Joint Standing Committee on Northern Australia stated in its 2022 report *The engagement of traditional owners in the economic development of northern Australia*:

    > "The Committee considers that the financial and institutional strengthening support provided by governments to Aboriginal and Torres Strait Islanders bodies at all levels is insufficient. This especially applies to PBCs and NTRB/SPs, many of which struggle to fulfill their functions with minimal or no income."[8]

28. It is clear that current PBC funding arrangements are severely inadequate and a barrier to PBC capacity-building and participation in economic development. Increased and secure funding is urgently required to unlock the potential of PBCs to play a leading role in economic development across the Kimberley and all of Australia.

29. The Joint Standing Committee on Northern Australia has, through two recent inquiries, made strong recommendations for increased funding for PBCs, administered through an independent fund.[9] The KLC strongly supports these recommendations.

NTRBs

30. Alongside increased funding for PBCs, sustained and increased funding for NTRBs (such as the KLC) and native title service providers is essential to support the capacity-building of PBCs and drive regional initiatives, including economic development.

31. As the NTRB for the Kimberley, the KLC is uniquely placed to guide and support Aboriginal-led economic development across the region – a role it is already fulfilling, despite the lack of dedicated ongoing funding for this purpose. The KLC is driven by a strong membership and has established relationships and trust with Kimberley Aboriginal people, a prominent regional footprint and role, policy and market expertise, a reputation for high integrity carbon projects, and technical expertise in developing and

[8] Joint Standing Committee on Northern Australia (2022) *The engagement of traditional owners in the economic development of northern Australia*, Parliament of the Commonwealth of Australia, p 40.

[9] Joint Standing Committee on Northern Australia (2021) *A Way Forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge*, Parliament of the Commonwealth of Australia, p 209 (recommendation 7); Joint Standing Committee on Northern Australia (2022) *The engagement of traditional owners in the economic development of northern Australia*, Parliament of the Commonwealth of Australia, p 42 (recommendation 1).

managing negotiations and projects in the Kimberley.

32. Academic Ciaran O'Faircheallaigh's research into negotiated agreements between Aboriginal groups and mining companies has shown that strong agreements typically occur in geographical areas where Aboriginal regional political organisation is strong. He recognises the important role played by the KLC in supporting the negotiation of the Browse LNG agreements in the Kimberley, and states:

> "Where Indigenous landowner groups are linked to strong regional political organisations they are able to gain access to financial and technical resources to support negotiations, including negotiating with developers and the State; they can make credible threats of direct political action where company or state negotiators prove recalcitrant; and can develop a strategic approach to using environmental impact legislation, administrative law, and mining law. They can also develop regional strategies to build positive precedents from one agreement to another."[10]

33. Dedicated funding is required to enable the KLC to focus more intensively on building Aboriginal economic development across the Kimberley, particularly on native title lands, and to support PBCs to pursue economic development opportunities, including joint ventures and co-ownership models.

34. As stated earlier, more than half of Kimberley PBCs are currently unstaffed and receive only PBC basic support funding, and need dedicated support to build their capacity over time. As the NTRB for the region, the KLC is best placed to provide this support and should be resourced appropriately to do so.

Values-aligned industry development

35. A lack of industry development support in regions across Australia has acted as a barrier to economic self-determination for Aboriginal and Torres Strait Islander people. In the Kimberley, there has to date been a lack of technical and scientific research around product and industry development that aligns with Traditional Owner values, skillsets and assets. Bush foods and medicines are just one example of this – to date, there has been little research and/or commercialisation support to enable this to develop into a viable Aboriginal-led industry.

36. Each area of country in the Kimberley is unique. There needs to be a mapping of assets and opportunities across all of the Indigenous estate in the Kimberley, and indeed across Australia, through an economic development lens that aligns with Traditional Owner values. This concept is highlighted in the *Murru waaruu (On Track) Economic Development Seminar Series: Outcomes Report*, which proposes a program be established "to support First Nations to undertake a MOLA [Multi-Objective Land Allocation] analysis of their traditional lands to identify and plan for culturally aligned development opportunities or opportunities that can co-exist with cultural values".[11]

37. This understanding of Traditional Owner assets and values should then inform research and industry development across the region. With 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.

---

[10] C O'Faircheallaigh, 'Explaining outcomes from negotiated agreements in Australia and Canada', *Resources Policy*, 2021, 70:101922, doi:10.1016/j.resourpol.2020.101922, p 5 (pdf).

[11] Australian National University – First Nations Portfolio, *Murru waaruu (On Track) Economic Development Seminar Series: Outcomes Report*, Australian National University, Canberra, 2024, p 22.

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 Commonwealth Government's ACCU Scheme. These projects have been transformative for PBCs and communities in the north Kimberley, generating tens of millions of dollars in income over the past decade.

Aboriginal-led savanna fire management carbon projects improve biodiversity and landscape outcomes, educate community, build mitigation and adaptation strategies for climate change, and create culturally aligned jobs and revenue streams for Aboriginal people, communities and organisations in the Kimberley. The 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. As a result of these fire management techniques, there is a reduction in greenhouse gas emissions released into the atmosphere. This abatement is measured and carbon credits generated, which can 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 Australian Carbon Credit Units have been generated for KLC-supported carbon projects.

Indigenous management of fire is therefore a valuable commodity, saleable in today's carbon market, that generates significant income for Aboriginal groups in the Kimberley.

Socio-economic outcomes

38. Reduced socio-economic outcomes resulting from historical and structural discrimination affect Aboriginal people's ability to enter and remain in the workforce. Reduced transfer of wealth, lower formal (western) education outcomes, poorer health outcomes, inadequate housing conditions and complex intergenerational trauma all play a role in preventing significant numbers of Kimberley Aboriginal people from seeking, securing and/or maintaining meaningful employment.

39. The loss over the past two centuries of Aboriginal people's recognised property rights and income (e.g. through stolen wages) has significantly contributed to the intergenerational wealth gap experienced by Aboriginal people compared to non-Aboriginal people and has negatively affected socio-economic outcomes for Aboriginal people.

40. Housing remains a key social issue affecting people's wellbeing in the Kimberley. In general, a lack of housing availability and affordability across the Kimberley affects liveability, worker retention and economic activity.[12] The rate of home ownership amongst Kimberley Aboriginal households remains low. As at 2021, only 14.4 per cent of dwellings with at least one Aboriginal and/or Torres Strait Islander resident were owned (with a mortgage or outright), whereas 78 per cent were rented.[13] Remote communities and the social housing system in the Kimberley experience shortages of suitable housing stock,[14] and overcrowding and long wait times for housing maintenance are common issues which cause

[12] Kimberley Development Commission, *Strategic Plan 2024-26*, Kimberley Development Commission, 2024, p 19.
[13] Australian Bureau of Statistics, *Kimberley: 2021 Census Aboriginal and/or Torres Strait Islander people QuickStats*, Australian Bureau of Statistics website, accessed 18 June 2024.
[14] Kimberley Development Commission, *Strategic Plan 2024-26*, Kimberley Development Commission, 2024, p 19.

a range of flow-on effects detracting from people's wellbeing.

41. The KLC notes that the National Agreement on Closing the Gap is intended to improve life outcomes for Aboriginal and Torres Strait Islander people across a range of socio-economic indicators. Unfortunately, the most recent Productivity Commission data show that only five out of the 19 Closing the Gap targets are on track to be met, and outcomes for some targets are actually worsening, such as rates of adult imprisonment, suicide, and children in out-of-home care.[15]

42. A detailed discussion of solutions to improve socio-economic outcomes for Aboriginal people goes beyond the scope of this submission, but it is important to note that the socio-economic challenges experienced by Aboriginal people in the Kimberley and indeed across Australia act as complex barriers to economic self-determination and participation.

Training and workforce participation

43. The 2021 Census showed that only 35.4 per cent of Aboriginal and/or Torres Strait Islander people in the Kimberley aged 15 years and over were in the labour force.[16] This represents a significant untapped potential workforce. As noted by the Kimberley Development Commission in its 2024-26 strategic plan:

> "Strategies to unlock the enormous productive potential of the Aboriginal resident workforce are perhaps the Kimberley's biggest and most important challenge."[17]

44. Bringing more Aboriginal people into the labour force will depend on numerous factors, including:

    a. addressing the complex issues contributing to lower socio-economic outcomes statistically experienced by Aboriginal and Torres Strait Islander people
    b. designing culturally safe training and employment programs tailored to the local population and area
    c. providing relevant training in regional and remote areas (for example, key training for renewable energy workers is currently only available in major cities)
    d. developing clear pathways from training to employment.

45. Providing appropriate training and workplace support in regional and remote areas can be challenging, as the KLC has experienced in coordinating training for Kimberley rangers. Participant numbers often have to be high enough for the delivery of programs to be viable for training providers (e.g. TAFEs), meaning that training is not always available when required. Coordinating training in remote areas is also a significant logistical operation and requires extensive planning and coordination. Further, sourcing training providers who are able to deliver culturally appropriate training can be challenging.

[15] Australian Government, *Commonwealth Closing the Gap 2023 Annual Report and Commonwealth Closing the Gap 2024 Implementation Plan*, Australian Government, 2024.
[16] Australian Bureau of Statistics, *Kimberley: 2021 Census Aboriginal and/or Torres Strait Islander people QuickStats*, Australian Bureau of Statistics website, accessed 14 June 2024.
[17] Kimberley Development Commission, *Strategic Plan 2024-26*, Kimberley Development Commission, 2024, p 19.

Case study: Rangers – a training and employment success story

A clear success story regarding Aboriginal employment and training in the Kimberley can be seen in Aboriginal ranger programs. The KLC directly employs more than 40 rangers across the Kimberley who undertake biodiversity monitoring and research, carry out savanna fire carbon projects, facilitate traditional knowledge transfer between generations, look after important cultural sites, undertake feral animal and weed management, and deliver education and monitoring. Several PBCs have divested their ranger programs from the KLC and now operate them independently, while remaining part of the KLC-convened Kimberley Ranger Network.

KLC-supported rangers receive funding from both the Commonwealth and WA Government ranger programs. The obvious value and success of the ranger programs has been confirmed in recent years through the significant increase in Commonwealth funding provided to the Indigenous Ranger Program through to June 2028. State governments have also recognised this value in recent years with the implementation of their own state-based funding programs.

Despite the challenges of working in remote areas, the KLC has successfully delivered and/or coordinated training for ranger groups in diverse areas. In the 2022-23 financial year, the KLC arranged 70 training events, and two Kimberley rangers became the first to complete the TAFE Certificate IV in Conservation and Ecosystem Management. A further 39 rangers completed units towards the Certificate IV qualification.

By emphasising local capacity building and fostering a clear pathway from training to employment, ranger programs play an important role in promoting economic empowerment and sustainability within Kimberley Aboriginal communities.

Clean energy future

46. Renewable energy is a rapidly growing sector in Australia and globally, being essential to the transition to a 'net zero' economy, which "will be among the largest and fastest economic transformations in history".[18]

47. The Kimberley, with its large land mass and abundant sunlight and other natural resources, has the potential to be a key location for this transformation. Future clean energy projects in the region represent a huge economic development opportunity for Kimberley Aboriginal people.

[18] Net Zero Australia, *Mobilisation report: How to make net zero happen*, Net Zero Australia, 2023, p 12.

Case study: Aboriginal Clean Energy Partnership – East Kimberley Clean Energy Project

The East Kimberley Clean Energy Project will create Australia's first 100 per cent renewable energy hydrogen and ammonia production hub.

The KLC holds a 25 per cent share of the Aboriginal Clean Energy Partnership Pty Ltd (**ACE Partnership**), which is the company created to oversee the feasibility, design and capital raising phases of the East Kimberley Clean Energy Project. The project will be the first 100 per cent green energy, hydrogen and ammonia export project in Australia to date. It has been designed to utilise the existing infrastructure in the region, including electricity transmission lines, roads, airport and the Port of Wyndham.

The ACE Partnership is a unique partnership comprising three Kimberley Aboriginal organisations – MG Corporation, Balanggarra Ventures Limited and the KLC – and climate change investment and advisory firm Pollination. Each of the four partner organisations owns an equal share in the partnership company.

The ACE Partnership involves a new model of project development, with Aboriginal organisations as majority shareholders of the project, making decisions about how the project will be developed on Country and ensuring Aboriginal people and communities receive appropriate opportunities and benefits. This significantly de-risks and accelerates project delivery, as heritage, native title, environmental and engineering approvals are integrated in project development activities. It is a partnership model that, until now, has not existed in Australia, but will be beneficial in helping to meet the clean energy transition targets in the timeframe Australia has committed to.

The ACE Partnership is not only about deploying clean energy technologies but also about building capacity, creating jobs and fostering both economic and energy independence within Kimberley communities.

48. To ensure the economic benefits of clean energy projects flow to Aboriginal communities, local workforce capacity building and support for new local enterprises needs to be a key priority that is funded accordingly. Jobs and Skills Australia's 2023 report *The Clean Energy Generation*, which assesses Australia's workforce needs for the transition to a clean energy economy, states:

> "Ensuring that First Nations communities are well positioned to have a controlling stake in clean energy on their land provides a genuine opportunity to address the high levels of unemployment and related poverty and welfare dependence that is a structural reality in remote Australia."[19]

49. The report further finds 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. In relation to the limited number of First Nations employees with tertiary qualifications in engineering and related technologies, 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.[20]

50. Investing in appropriate training programs, apprenticeships and educational opportunities for Aboriginal

---

[19] Jobs and Skills Australia, *The Clean Energy Generation: workforce needs for a net zero economy*, Jobs and Skills Australia, Australian Government, 2023, p 231.

[20] Jobs and Skills Australia, *The Clean Energy Generation: workforce needs for a net zero economy*, Jobs and Skills Australia, Australian Government, 2023, p 230.

people is critical to build a skilled workforce that is ready to participate in the clean energy sector.

51. The ACE Partnership is planning for long-term local employment with a high number of Aboriginal workers. From project development through to operations, the Partnership's East Kimberley Clean Energy Project will require workers such as community liaison officers, environmental and heritage monitors, land conservation advisors, field service technicians and administrative officers. Local, long-term employment opportunities will be available from 2024.

52. The ACE Partnership will also engage with federal and state government bodies, as well as philanthropic groups, to articulate the advantages of a wrap-around workforce and capacity-building program in the Kimberley, and identify funding to support such a program.

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

53. With land as a key asset held by Aboriginal people, the severe underfunding of PBCs remains a key impediment to building economic prosperity amongst Kimberley Aboriginal communities.

54. As recognised by the Kimberley Development Commission, the remoteness of the Kimberley presents significant challenges for service delivery and infrastructure.[21] There are more than 200 remote Aboriginal communities in WA, the majority of which are located in the Kimberley. Housing shortages and infrastructure maintenance are common issues in the region, particularly in remote communities.

55. A lack of business and other technical knowledge is commonly an impediment to building the economic infrastructure required for Aboriginal businesses in the Kimberley to prosper. Targeted business training and support – including through the increased funding for PBCs discussed earlier – is required for Aboriginal organisations to ensure they develop business capacity and authority. Further, for some Kimberley Aboriginal people, English is not a first language, which compounds the challenges of navigating business and corporate frameworks and requirements.

56. As discussed earlier in the submission, access to appropriate training that links to local employment pathways is another challenge in remote regions such as the Kimberley, where training options, locations and delivery types tend to be more limited.

Options to unlock capital and leverage intellectual property, the Indigenous Estate and First Nations skills to elevate First Nations people as economic partners

Equity and ownership

57. 'Doing business together' or equity in development, where Aboriginal people are equal partners, was a key principle emerging from the Our Place, Our Future conference convened by the KLC in 1998. [22] Having an equity stake in projects means that Aboriginal organisations share equitably in the benefits flowing from projects, financial and otherwise. Co-ownership means Aboriginal organisations are integrated as partners, shareholders and landholders.

---

[21] Kimberley Development Commission, *Strategic Plan 2024-26*, Kimberley Development Commission, 2024, p 19.
[22] Kimberley Land Council, *The Kimberley: Our Place, Our Future*, Kimberley Land Council, Broome, 1998, p 18.

58. In this submission, land has been identified as a key asset held by Aboriginal people in the Kimberley (and elsewhere) – and while as project partners Aboriginal organisations may 'bring' land or land access to projects, it is clear that they also bring their own critical expertise drawn from connection to Country, Indigenous science, cultural heritage knowledge, community connections and nuanced social and cultural understandings, alongside technical knowledge developed through education, knowledge transfer and business experience.

59. Joint ventures and co-ownership models where Aboriginal partners have an equity stake must undoubtedly play a key role in economic development for Kimberley Aboriginal people. Given the persistent barriers to economic self-determination outlined throughout this submission, the capital and particular technical expertise provided by non-Aboriginal partners through joint ventures and co-ownership models is a practical way forward.

60. At the same time, we can strive for a future where Aboriginal organisations are outright owners of projects in key industries in the Kimberley. Indeed, there are already examples of this, such as carbon projects and the Kimberley Agriculture and Pastoral Company, which is comprised of four Aboriginal-owned pastoral stations.

61. Having Aboriginal people driving economic development as project owners and partners supports better social, environmental, cultural heritage, employment and financial outcomes. Aboriginal co-ownership of projects can significantly reduce project risk for industry proponents by facilitating early community support for projects and ensuring native title, cultural heritage and environmental considerations are well understood at project inception. The East Kimberley Clean Energy Project is a prime example of how such projects can be structured into the future.

62. Aboriginal-owned projects such as the East Kimberley Clean Energy Project can also better ensure that training and employment pathways for Aboriginal people are appropriately embedded in project design.

Government support for capital

63. As discussed earlier in this submission, access to capital remains a challenge for Aboriginal organisations, particularly for developments on native title lands, where the lack of fungibility of native title presents significant barriers to investment. Beyond this, too, there exists a general lack of capital and funding available to Aboriginal organisations to enable them to engage in business and industry development.

64. Aboriginal and Torres Strait Islander people have been sidelined from the economic development of Australia over the past two centuries through discriminatory laws and policies imposed by colonial governments. This structural disadvantage remains today in Aboriginal people's common lack of foundational wealth and fungible assets from which to leverage economic opportunities and benefits. Given this historical and structural inequity, there remains a crucial role for Australian federal and state governments over at least the next decade to provide up-front capital to Aboriginal businesses and enterprises.

65. A reliable fund to ensure investment in Aboriginal economic development is essential to provide the springboard to broader economic participation by Aboriginal people in the Kimberley and elsewhere – a shift that can deliver enormous benefits for Aboriginal communities and regional and national economies.

66. The KLC has experienced first-hand the challenges of insufficient up-front capital for Aboriginal-led projects. To date, development of the East Kimberley Clean Energy Project has been reliant on philanthropic and Commonwealth Government funding. Without philanthropic support, the project may not have been initiated. While this support has been welcomed, it highlights the investment 'gap' facing Aboriginal projects, and the need for reliable access to capital through a long-term fund.