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Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs
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Dear Senator Jana Stewart,

RE: INQUIRY INTO ECONOMIC SELF-DETERMINATION AND OPPORTUNITIES FOR FIRST NATIONS AUSTRALIANS

The Australian Indigenous Governance Institute Limited ('AIGI') welcomes the opportunity to submit to the inquiry into economic self-determination and opportunities for First Nations Australians for the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs ('the Inquiry').

AIGI is a not-for-profit First Nations-led centre that has been dedicated to enhancing Indigenous governance and self-determination for over a decade. Our grassroots work with communities and organisations demonstrates that:

- effective Indigenous governance is linked to improved wellbeing and economic and social outcomes for First Nations Peoples; and
- genuine self-determination begins with First Nations Peoples taking control, asserting their agenda, and employing their assets and capabilities.

AIGI envisions a future where First Nations communities experience self-determination and enjoy political, social, cultural, and economic development through strong self-governance.

AIGI leverages research and on-the-ground practice to develop a knowledge base, resources, and tailored professional development that encourages and highlights effective Indigenous governance.

In this submission, AIGI addresses three of the five terms of reference for the Inquiry, each of which is addressed separately below, namely:

1. Opportunities for and barriers to training, employment, and business development.
2. Options to unlock capital and leverage intellectual property, the Indigenous Estate and First Nations skills to elevate First Nations people as economic partners.
3. The international and intergenerational experiences of fostering economic independence for First Nations communities.



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

Increased participation by First Nations Peoples in the Australian economy positively impacts all sectors. The First Nations business sector already contributes \$16 billion in revenue to the economy.¹ Equitable opportunities for First Nations Peoples are crucial for self-determination and an inclusive, sustainable economy.

For First Nations organisations to work effectively, they must adhere to two forms of accountability or 'two-way governance': the culture, laws, rules, and forms of accountability of their peoples and those of the wider environment. It involves balancing their cultural integrity while ensuring their governance meets the wider environment's requirements.²

AI GI has seen that First Nations organisations excel when there is strong two-way governance.³

A barrier to this success is organisations spending too much time and energy on dealing with the burden of administrative tasks, placed on them by government, and funders.⁴ These administrative tasks are often more time consuming than non-Indigenous organisations due to difficulties in sourcing reliable long-term funds for First Nations organisations. It can be extremely difficult for organisations to focus on their core functions and invest time and effort into developing stronger governance when they face significant daily demands from their members and government(s).

Further, of the 3,401 organisations registered with ORIC, 72% have a consolidated gross operating income of less than \$100,000. With such low operating income, small organisations are less likely to have the funds to invest in governance development.

AI GI has observed that compliance requirements can place undue stress on organisations. The Commonwealth Government should adopt a strengths-based approach rather than a deficit model for its funding metrics. Indigenous-led training initiatives can create safe spaces for organisations to discuss their issues and conduct self-assessments outside the scope of funding requirements. This approach has fostered a strong governance culture within the Indigenous organisations with which AI GI has worked.

¹ University of Melbourne, 'Indigenous Business Snapshot Reveals Significant Value to Australian Economy', 2024, <https://www.unimelb.edu.au/newsroom/news/2024/april/indigenous-business-snapshot-reveals-significant-value-to-australian-economy>.

² AI GI, 'About Us - AI GI', 2022, <https://aigi.org.au/toolkit/culture-smart-governance>.

³ AI GI, 'About Us - AI GI', 2022, <https://aigi.org.au/news/exceptional-governance-stories-of-success-from-the-2018-indigenous-governance-awards>

⁴ Wighton, A and D Smith, 'Common Roots, Common Futures: Indigenous Pathways to Self Determination. Preliminary Report into Indigenous Governance Education and Training in Australia' (Canberra: Australian Indigenous Governance Institute, 2018), pp. 20-21.

AIGI sees practical, effective, and culturally legitimate governance as a fundamental building block for delivering real change.⁵ AIGI is well placed to address organisational governance challenges by providing a tangible method for change. The Commonwealth Government can co-deliver this vision by:

- Investing in and respecting the potential of young First Nations leaders;
- Ensuring that the role of Nation-Building⁶ is foundational to economic self-determination;
- Enabling strong, strategic partnerships between First Nations, government, and non-Indigenous institutions, with the purpose of increasing understanding and respect for Indigenous governance;
- Ensuring that Indigenous governance practices are more widely understood, recognised, and celebrated.

AIGI delivers a number of key programs to support Indigenous governance development. These programs are created, run and controlled by First Nations People with cultural knowledge and first-hand experience of what works best. A small snapshot of our work includes:

- **Emerging Directors Program**: This program is for talented and proud First Nations emerging company directors. It focuses on two-way governance, provides tailored education combined with observational experiences, and promotes culturally empowering mentoring.
- **Governance professional development**: Tailored sessions on a variety of governance topics, including (but not limited to) two-way governance, roles and responsibilities, succession planning and conflicts of interests.
- **The Indigenous Governance Awards**: These awards recognise and celebrate governance success and excellence, through which First Nations People create positive change for their futures.

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

Respecting and listening to First Nations Peoples as economic partners is crucial in achieving economic self-determination and inclusion. First Nations voices should drive governmental initiatives on unlocking economic capital and leveraging intellectual property (IP). Importantly, this generation of economic development should be controlled and applied by First Nations Peoples themselves, in order to elevate them as economic partners.

Indigenous Estate

⁵ AIGI, 'About Us - AIGI', 2022, <https://aigi.org.au/about-us>.

⁶ AIGI, 'About Us - AIGI', 2022, <https://aigi.org.au/toolkit/governance-lingo>

*“Supply and demand exist in Indigenous communities, as in all other communities. But the natural supply and demand cycle has been stifled by structures imposed on remote and regional Indigenous communities (by legislation, the legal framework for Indigenous lands, and government programs) and the mindsets that have developed as a consequence.”*⁷

Through AIGI’s work on the ground with First Nations, and through initiatives such as the Indigenous Governance Awards, the extraordinary innovation of First Nations Peoples is manifest. In spite of barriers imposed by governments, geographical isolation, and other factors, there are numerous examples of thriving economic development in First Nations communities.

AIGI’s *Indigenous Governance Toolkit* shares practical tools and real-life domestic and international examples of ‘Nation-building’. Nation-building can be described as the process by which a First Nation enhances its own foundational capacity for effective self-governance, self-determined communities and economic development.⁸

The Yawuru Corporate Group (YCG) is one of the *Stories of Success* documented through the Indigenous Governance Awards. The YCG is an extraordinary example of Nation-building in practice. Their journey has culminated in both economic development and social and cultural wellbeing for their People.

Yawuru Corporate Group

(Joint Winner, Category A, 2018 Indigenous Governance Awards)

Yawuru native title was recognised by the Federal Court in 2006. The Yawuru Corporate Group (YCG) develops economic, cultural and social sustainability so that the Yawuru people can enjoy their land, values and culture in perpetuity, while enhancing their families and the community in which they live.⁹

In Peter Yu’s paper *‘Rebuilding the Yawuru Nation: Activating Cultural Assets for Economic Growth and Stability’*¹⁰ he writes:

Since our 2010 native title agreement with the Western Australian State Government, Yawuru have developed a range of programmes. These are aimed at achieving mabu liyan¹¹ including language revitalisation and strengthening cultural practices and participation, best practice land and sea management, celebrating Yawuru cultural heritage, growing individual and family capacity, innovative home ownership approaches and

⁷ Nyunggai Warren Mundine Ao and Elizabeth Henderson, ‘Back to Basics : A New Model for Business Creation in Remote Indigenous Communities’ (The Centre for Independent Studies, 2021), p. 1

⁸ AIGI, ‘About Us - AIGI’, 2022, <https://aigi.org.au/toolkit/nation-building-in-practice>

⁹ AIGI, ‘Exceptional Governance Stories of Success from the 2018 Indigenous Governance Awards’, 2018, p.14.e

¹⁰ 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.

¹¹ *Ibid.* Mabu liyan equates to a sense of well-being and living the ‘good life’

developing pathways for Yawuru and other Aboriginal people to participate in the local economy.

We are fortunate that we have the resources at present to undertake this work. But for an Indigenous organisation like Nyamba Buru Yawuru—and the Yawuru people whose interests we work on behalf of—there has never been a moment yet since colonisation where we have arrived at a safe harbour, where we can rest from the constant need to defend our interests, to resist cultural and political assimilation and degradation. There has never been a time where we could simply consolidate the journey undertaken so far. But we are closer to this point—to the moment where we can say that we have arrived and that our nationhood is no longer under constant assault—than we ever have been since the colonisers invaded our country late in the nineteenth century. It has been a long and sustained battle, but the tides are turning in our favour. The journey towards self-governance and towards a healed community is itself an exercise in autonomous navigation; in sovereignty.

... 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.

Mundine and Henderson (2021)¹² identify three critical foundations for business creation. These are:

- **“Capability:** capacity to provide goods or services someone else will pay for.
- **Entrepreneurship:** will and motivation to generate your own income by marketing and selling those capabilities through your own enterprise.
- **Business Support:** functions and activities for business health and survival and ensuring the business operates legally.”

AI GI’s work supports this third pillar of ‘business support’, in supporting governance development of all types of First Nations organisations and ventures.

Through documenting and sharing the experiences of communities and First Nations with others, and disseminating practical resources to support governance development, First Nations Peoples have access to information and resources to support the development of their own two-way governance practices.

Intellectual Property

¹² Nyunggai Warren Mundine Ao and Elizabeth Henderson, ‘Back to Basics : A New Model for Business Creation in Remote Indigenous Communities’ (The Centre for Independent Studies, 2021), p.1.

Digital inclusion must extend beyond access and include the intellectual property rights afforded to First Nations Peoples under the UNDRIP.

First Nations Peoples have the skills and knowledge to leverage their assets to IP. However, too often, this IP is utilised and/or stolen by non-Indigenous organisations because of the gaps in the Copyright Act 1968 (Cth), which means that much First Nations Intellectual Property is open to be taken or misused.¹³

Leveraging the IP of First Nations Communities necessitates that non-Indigenous peoples and organisations respect and value First Nations IP through appropriate remuneration. This includes not just tangible IP such as artwork, but also the 'cultural capital' First Nations Peoples bring to their day-to-day jobs, and to consultations, advisory panels, committees, and so forth. For too long First Nations Peoples have been asked to contribute their knowledge, advice, and experience with either no remuneration or minimal remuneration.

These rights are asserted in the UNDRIP, which further affirms the need for self-determination of First Nations data and information.¹⁴

At present, the Commonwealth Government contributes to this acquisition of First Nations IP, specifically through the Commonwealth Grant Contracts. In these contracts, grantees are still required to give the Commonwealth a "permanent, non-exclusive, irrevocable, royalty-free licence to use, reproduce, publish and adapt the Activity Material."¹⁵ These contracts lock First Nations IP to the Commonwealth Government, minimising the ongoing investment that communities could utilise for themselves.

If the Commonwealth Government invests in self-determination economic funding that allows communities to decide how to use their IP, then progress towards economic outcomes can be achieved through the skills and knowledge already present in First Nations communities.

Target 17 in the National Agreement on Closing the Gap seeks equal digital inclusion for First Nations Peoples.¹⁶ The Digital Inclusion Advisory group has done significant work to understand the metrics of the gap using the Australian Digital Inclusion Index.¹⁷ However, the

¹³ Terri Janke and Company, 'Rights to Culture: Indigenous Cultural and Intellectual Property (ICIP), Copyright and Protocols', 2018, <https://www.terrijanke.com.au/post/2018/01/29/rights-to-culture-indigenous-cultural-and-intellectual-property-icip-copyright-and-protoc>.

¹⁴ Articles 3, 4, 5, 15(i), 18, 19, 20(i), 23, 31, 32, 33, 38 and 42 'United Nations Declaration on the Rights of Indigenous Peoples' (2007), https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf.

¹⁵ National Indigenous Australians Agency, 'Local Investments Funding Grant Agreement' (Commonwealth Government of Australia, 2024), p.12.

¹⁶ The Australian Commonwealth Government, 'Closing the Gap Targets and Outcomes | Closing the Gap', 2020, <https://www.closingthegap.gov.au/national-agreement/targets>.

¹⁷ First Nations Digital Inclusion Advisory Group Initial Report, 'First Nations Digital Inclusion Advisory Group: Initial Report' (Commonwealth Government of Australia, 2023), <https://www.digitalinclusion.gov.au/sites/default/files/documents/first-nations-digital-inclusion-advisory-group-initial-report.pdf>.

Commonwealth must include Data Sovereignty and Indigenous governance principles into this priority to ensure First Nations Peoples receive equitable access to financial capital through their data.

AIGI is keen to work with Commonwealth and First Nations organisations to build strong culturally specific two-way governance structures that allow organisations to own and leverage their IP in ways they define.

4. The international and intergenerational experiences of fostering economic independence for First Nations communities.

Fostering economic independence for First Nations communities provides equitable outcomes and delivers justice to communities. Strong two-way Indigenous governance principles build organisations with the means and the self-determination to successfully implement multi-generational succession plans.

AIGI has worked alongside international Indigenous governance organisations on several publications and resources. In the book co-written by AIGI, *Developing Governance and Governing Development: International Case Studies of Indigenous Futures*,¹⁸ AIGI understands the need for governance models that are place-based specifically to allow for culturally integral practices.

Self-determination is a core value in assessing the experiences of a strong First Nations economy. Government programs built independently of First Nations communities do not provide economic independence, especially programs not culturally specific to the community they serve. The Commonwealth Government has made gains in this area, but First Nations voices must be included and listened to in all policy areas¹⁹. This was noted as a recommendation in the Committee's previous inquiry into the application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia, Recommendation 1, 4.100.

First Nations communities continue to develop solutions that improve their community lives; when this occurs, there are significant wins for intergenerational economic independence. AIGI has worked with numerous organisations and has provided governance advice on successful succession planning strategies.²⁰

"In planning for the long-term sustainability of Waltja, Directors bring young women to the Directors meetings. This is important so that the young women

¹⁸ 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).

¹⁹ *Inquiry into the Application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia* (Canberra: Commonwealth of Australia, 2023), pp. 23-24.

²⁰ AIGI, 'Succession Planning - AIGI', 2022, <https://aigi.org.au/toolkit/succession-planning>.

*learn about Waltja's governance, can listen to the senior women and learn from them and in the future take up leadership roles themselves.*²¹

The Waltja Tjutangku Palyapayi Aboriginal Corporation is a community-based organisation that assists community needs in the Central Desert Region and has been registered with ORIC since 1997. This succession planning celebrated in the Indigenous governance Awards of bringing on young leaders has led to an organisation that sustains 15 employees and services an area of 900,000 square kilometres.²²

Strong Indigenous two-way governance provides pathways for independent intergenerational success for First Nations Communities. As communities already have the skills to produce success stories, governance frameworks provide the structures, systems, and processes they can use to make the best decisions for themselves and future generations.

If the Commonwealth invests in local organisations' governance to develop governance practices that balance their cultural requirements and those of the wider environment, the leaders these systems build will deliver intergenerational sustainable economic outcomes.

Recommendations

AIGI has four recommendations for the Committee to consider, which we hope will inform the progress of the Inquiry and future Commonwealth Government developments.

1. Make a concerted effort to fund Indigenous-led organisations to do work with and for their communities, particularly in relation to strengthening organisational governance. Indigenous organisations, such as AIGI not only design and deliver culturally safe and strengths-based learning but are also more likely to employ Indigenous staff and foster Indigenous careers, leading to greater economic participation and self-determination. This in turn benefits the broader community.²³ Commonwealth funding should be preferential to Indigenous organisations and service providers. When no Indigenous-led organisations are available, partnerships with existing Indigenous organisations should be formed to enhance the sector's capacity.
2. Provide greater funding for organisational training focused on translating and championing strong pre-existing cultural governance structures into corporate governance arrangements. This involves investing time and effort into assisting organisations in ensuring that their governance is fit for purpose and tailored to their cultural values, practices, and circumstances.

²¹ Waltja Tjutangku Palyapayi Aboriginal Corporation, Indigenous Governance Awards, category A winner, 2014

²² AIGI, 'Waltja Women in Governance - AIGI', 2022 <https://aigi.org.au/resource/video-waltja-women-in-governance>

²³ Christian Eva et al., 'The Importance of Understanding Indigenous Employment in the Indigenous Business Sector', *Australian Journal of Social Issues* 58, no. 3 (September 2023): 494–522, p. 495.

3. Develop Target 17 in the National Agreement on Closing the Gap to include place-based training and knowledge of IP so communities can leverage and protect their Intellectual Property.
4. Invest in the current and future First Nations leaders, which is critical to the long-term success and accountability of their governance structures and will minimise issues later in an organisation's governance practices.

AI GI recently made a Pre-Budget Submission which presented the *Strong Governance Strong Futures* Program for small incorporated Aboriginal and Torres Strait Islander organisations, which is designed to strengthen the community sector by empowering small Indigenous organisations, their key leaders and staff, with the skills needed for succession planning, economic empowerment, and self-regulation practices. We submit that initiatives like this can support self-determination of First Nations Peoples.

AI GI is willing to attend any public hearings related to this inquiry and answer any questions the Committee may have. We also have a wealth of relevant resources we can provide.

Please do not hesitate to contact us if you have any questions or require any further information in relation to this submission.

Yours sincerely,

Jessica Bulger
Chief Executive Officer, AI GI