Aboriginal Land Rights (Northern Territory) Amendment (Economic Empowerment) Bill 2021:

Reply – Lhudi Noralima, Gudanji and Wakaya Nations.

Thanks, but NO THANKS!

The proposed amendments to the *Aboriginal Land Right Act* do nothing more than to further erode the already meagre rights of First Nations in the Northern Territory (NT) of Australia. They masquerade as 'progressive' legislation when, in fact, they represent a reincarnation of successive waves of colonial policy initiatives designed to usurp Our rights and transfer them to the Settlers. The carefully chosen term 'Economic Empowerment' was coined, no doubt, as an attempt to deceive First Nations people: An attempt to prey on the economic poverty that afflicts many of us, by suggesting a way out of our situation, through money – as if money will 'solve all of our problems'. Lacking in the detail is how these amendments will deliver this 'economic empowerment', how the NT Aboriginal Investment Corporation (NTAIC) will be more successful than its predecessors (ATSIC, ASIS, National Indigenous Council, et al) in achieving this goal. One only has to look around all of the Indigenous communities exploited by mining and industry and see how they live in abject poverty, whilst the 'wealth' of their land is exploited around them: Victims of broken promises and deceitful practices.

What the amendments to the Act, and the Act itself, fail to do is to understand that there can be no Economic Empowerment without Cultural Empowerment. There can be no Economic Empowerment without Social Empowerment. There can be no Economic Empowerment without Political Empowerment. Any conversation regarding empowerment of First Nations must begin and end with Self-Determination. Only when our rights to self-determination are recognised and honoured, can we begin to see an emergence of true cultural, social, political and economic empowerment.

These proposed amendments were introduced to the Federal Parliament by the *Minister for Indigenous Australians*. The same Minister who, when requested to investigate the Northern Land Council (NLC), stated that he wished to keep 'an arms length' away and 'respect the autonomy of the NLC'. Now, the Minister has tabled legislation which seeks to further empower the NLC, further disempower First Nations and further divest himself of any responsibility that he may have to First Nations: He may as well divest himself of his title as well, lest we confuse it with a need for him to have some level of accountability to Indigenous Australians. The already omnipotent NLC has been granted even greater powers – including the capacity to grant leases on First Nations without Ministerial input or oversight and to hold meetings about Country away from Country, further marginalising Traditional Owners and diminishing our capacity to participate in decisions affecting our Country. This is a body which has not acted in our interests historically. No further power should be given to them until an independent senate inquiry is held into their practices, involving First Nations and listening to our experiences.

The premise of the proposed amendments warrants further interrogation. Let us be transparent here: The proposition is that they will assist First Nations to 'activate the economic potential of their land'. What is really being said is that the amendments will allow governments, land councils and industry to profiteer from the exploitation of First Nations and destruction of their country. It is unsurprising that the proposed amendments have been widely welcomed by the Minerals Council, NLC and NT Government. The façade of monetary compensation for this destruction is just that, a façade. Current arrangements, where land councils manage all aspects of commercial activity on Country, leave First Nations in the NT receiving less than 15 cents in every dollar raised by land

councils through this activity – out of which they are often left to 'pay costs'. The amendments will serve only to worsen the status quo and do nothing in terms of validating our right of refusal to these projects.

Amendment 65BA outlines the purpose of the NTAIC: To *"promote the self-management and economic self-sufficiency of Aboriginal people living in the Northern Territory; and… to promote social and cultural wellbeing of Aboriginal people"*. What about just leaving us alone? 65,000 years of successful civilisation clearly illustrate our capacity for self-sufficiency and maintenance of our social and cultural wellbeing. It is precisely through the 'assistance' of the NLC that our Country is currently overgrazed, over leased and under threat of catastrophic destruction through fracking. Once again, thanks for nothing. Thanks, but NO THANKS!

In deciding how money should be spent on First Nations, the NTAIC is expected to have a 'Strategic Investment Plan' which requires it to *"consult with... Aboriginal people living in the Northern Territory; and… Aboriginal organisations based in the Northern Territory"*. What is not explicitly required is the culturally appropriate consent of Aboriginal people or organisations. *Amendment 12D* requires that "traditional Aboriginal owners (if any) of the land 1 understand the nature and purpose of the proposed grant and, 2 as a group, consent to it". Yes, consent should be required in legislation - recognition of, and adherence to, traditional law and customs regarding how consent is given, not just 'a group decision' as referred to in the legislation. More concerning though, is, despite consent from Traditional Owners being an apparent pre-requisite for deciding how NTAIC funds should be spent, *subsection 7* states that *"failure to comply with (this requirement) does not invalidate the agreement"* - So, 'Yes means Yes', 'No means Yes' and, if you cannot be bothered to even ask us, that mean 'Yes' too! Once again, we are excluded from the decision-making processes regarding our own Country. We are tired of being consulted. We are tired of being heard, but not listened to. We are tired of consent being manufactured.

Even more infuriating is the proposed composition of the NTAIC and its Board. *Section 65EA* outlines the membership criteria for nomination to the Board of the NTAIC – that the Board *"must consist of: (a) for each Land Council--2 persons appointed by the Land 1 Council under subsection 65EB(1); 2 (b) a person appointed by the Minister under subsection 3 65EC(1); and 4 (c) a person appointed by the Finance Minister under subsection 5 65EC(2); and 6 (d) 2 persons appointed by the Board under subsection 65ED(1).* There is no requirement under the legislation for any Indigenous voices on the Board – not 50%, not 25%, NONE! So we have an organisation acquitted with a responsibility to spend funds designated for the 'economic empowerment' of Indigenous Australians, on Aboriginal Country, but without a requirement for the involvement of First Nations in the critical high level decision making processes. Once again, we are excluded: We cannot achieve economic empowerment without political empowerment.

The disregard for First Nations, our culture and our Law, is further illustrated in amendment *After subsection 41(3)*. There is a requirement, upon receipt of a request for activity on First Nations for the relevant Land Council to "notify the Northern Territory Mining Minister of the day on which the Land Council receives the application". However, there is no legal requirement for them to notify Traditional Owners until after they have reviewed the application themselves (*Subsections 42(4) to (5A)*). Furthermore, although this legislation requires the NLC to "give reasonable notice to: the applicant… and the minister before any meeting", there is no such obligation for timely notification of Traditional Owners. It is precisely this problem with notification that we have faced in our own interactions with Land Councils over the past few decades. We are treated as superfluous to the entire application and approvals process. What needs to happen is that Traditional Owners must be advised of proposed activity on their country at the time of the application, at the same time as the

Minister – it is our Country after all. This way, we can veto the application outright, if we wish, or be engaged in the subsequent 'approvals process', as is our right. That would represent an important step towards true social, political and economic empowerment.

We are fundamentally opposed to the idea of a body 'acting on our behalf'. We do not need a body to 'represent us' nor 'protect our interests'. We do not need guardianship, advocates, advisors or proxies. We do not need land councils or the NTAIC. What we need is respect for our sovereignty and our right to self-determination. If we choose to develop our country for economic interests, it will be on our terms and in a sustainable manner, consistent with our cultural practices developed over millennia. We are tired of the paternalistic, colonialist and Settler mind-set that views us as inferior and incapable of managing our own affairs. We will continue to fight for self-determination.

Whilst the term First Nations has been used extensively throughout this submission, it is, instructively, absent in the legislation. The abject lack of recognition of the existence of First Nations reflects the prevailing attitude of government toward the First Nations people. The proposed aspiration of 'Economic Empowerment' is nothing but lip service to our people. If the empowerment of our people was a legitimate goal of government, then we would have been consulted in the development of this legislation, several years in the making. What is very clear is that the proposed amendments are nothing more than a cynical attempt to exploit an already exploited people. It is clear that, if empowerment is what we seek, that it is certainly not something that will be provided by government, it is something that we will have to take for ourselves.

We Are Ready.