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THE ABORIGINAL LAND AND SEA ECONOMIC DEVELOPMENT AGENCY (ALSEDA)

Prepared by Centrefarm Aboriginal Horticulture Limited

Submission to the Joint Standing Committee on
Northern Australia Inquiry into the Opportunities and
Challenges of the Engagement of Traditional Owners in
the Economic Development of Northern Australia

February 2019

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Acronyms
AAPA – Aboriginal Areas Protection Authority
ABA – Aboriginal Benefits Account
ALRA – Aboriginal Land Rights Act
ALSEDA – Aboriginal Land and Sea Economic Development Agency
ALT – Aboriginal Land Trust
BBRF – Building Better Regions Fund
CDP – Community Development Program
CDU – Charles Darwin University
CEFC – Clean Energy Finance Corporation
CLC – Central Land Council
CoRE – Country Relationships Economy
DAWR – Department of Agriculture and Water Resources (Commonwealth)
DEWR – Department of Environment and Water Resources (NT)
EDS – Economic Development Strategy
GPs – Guiding Principles
IAS – Indigenous Advancement Strategy
IBA – Indigenous Business Australia
ILC – Indigenous Land Corporation
ILUA – Indigenous Land Use Agreement
IM – Information Memorandum
LC – Land Council
NAIF – North Australia Infrastructure Facility
NAILSMA – North Australian Indigenous Land and Sea Management Alliance
NLC – Northern Land Council
NT – Northern Territory
NTA – Native Title Act 1993
NTG – Northern Territory Government
NWI – National Water Initiative
PBC – Prescribed Body Corporate
PM&C – Prime Minister & Cabinet
RDA – Regional Development Australia
SoSI – Statement of Strategic Intent
TO – Traditional Owner

Executive summary

This submission has been prepared by Centrefarm Aboriginal Horticulture Limited on behalf of the Aboriginal Land and Sea Economic Development Agency (ALSEDA), which has recently been incorporated by the Northern Land Council (NLC) and Central Land Council (CLC) to deliver on the Economic Development Strategy (EDS or 'Strategy') for the Northern Territory (NT). Over a decade of practical on-the-ground research and development in remote area Indigenous economic development has led to the design of the EDS for the mainland NT, in which self-determination and economic independence are the overarching goals. The most challenging issue remains how to shift current approaches to Aboriginal economic development from their position amongst piecemeal social welfare programs to a place where coordinated government policy and program delivery can effectively engage and support Aboriginal-driven commercial development.

The Indigenous-led Strategy focusses on developing joint venture commercial scale enterprises on Aboriginal lands for the benefit of Aboriginal landowners, while addressing the relevant social and economic issues in this multi-scaled, multi-stakeholdered and complex environment. The Strategy is a transitional framework, designed to facilitate Aboriginal landowners to overcome the barriers and achieve their aspirations of engagement with the broader Australian economy on their own terms. Traditional Owners (TOs) are determined to engage in sustainable economic development, driving action to overcome its challenges and to secure the full range of benefits that will contribute to the overall productivity of Northern Australia. For Indigenous agency, control and prosperity it is essential that TOs are at the forefront of any economic development in Northern Australia.

To date the strategic plan has:

- Been endorsed by the Executive Committees of both the NLC and CLC in a Statement of Strategic Intent;
- Developed eight Guiding Principles, endorsed by the NLC and CLC, to form the basis of all aspects of the Strategy along with ALSEDA governance, operations and systems;
- Received widespread support from Territory-wide on-site consultations with over 90% of elected CLC and NLC delegates regarding the EDS and Guiding Principles;
- Received funding and support from the Indigenous Land Corporation, the Commonwealth Government, and the NT Government (NTG);
- Received support from the highest levels of the NTG who are currently in negotiations regarding Major Project Status;
- Had investment and leasing models approved by independent financial and legal sectors;
- Received support from the industry bodies, proven operators, national wholesalers, the Northern Australia Infrastructure Facility and Regional Development Australia NT; and
- Received partnership interest from the North Australian Indigenous Land and Sea Management Alliance (NAILSMA) and the Northern Institute of Charles Darwin University.

With the support of the Joint Standing Committee we can move towards delivering on the strategy that will be tested at six locations in the NT between 2019 and 2023. During this time an investment-ready opportunities and investment portfolio (Land and Opportunities Prospectus) to raise upwards of ~\$250M for projects beyond the initial pilot phase will be developed to meet with a fully proven Strategy and Capital Fund in 2023. ALSEDA is advancing to the next stage which includes workshops

with the NTG and Commonwealth followed by workshops with industry to present proposed structures to deliver on the EDS goals. These will cover: representation on ALSEDA's board; the role and structure of regional organisations; and changes to the way Government funding is programmed and delivered under principle of subsidiarity and pooled funding.

Given the scope and complexity of the EDS a pilot phase is essential for stakeholders to work together to develop all aspects and methodologies of the EDS to test and evaluate the framework. The pilot will be split into two regions (NLC and CLC). Each pilot will have an economic as well as the social component accompanied by a targeted research program incorporating both Indigenous and non-Indigenous partners. The social component is to include Job Services, training and other funded services that had been devolved to community authority entities via pooled funding and subsidiarity. The economic component consists of three commercial farming projects in each trial region where the new policies and governance systems can be worked through with the TO entities that hold the commercial head leases.

ALSEDA's Capital Fund is an innovative response to the need to source the high level of capital required to develop greenfield sites in remote locations. Worth around \$75m in the pilot phase, the Fund is a commercial investment mechanism that partners public and private investment for a commercial return. It is designed as a transitional measure to bring capital onto Aboriginal land, financing the development of infrastructure and so creating wealth (equity) for the landowners, using this equity to stimulate commercial activity. The Fund is focussed on developing the infrastructure for six "turn-key" farming enterprises. Investment in the infrastructure enables an operator to generate immediate revenue, thereby reducing the establishment costs for the operator and, thus, the term of the lease they would require to enable them to recoup these costs. By using government investment to leverage private investment the overall cost to each party is minimised and confidence is provided to the private sector. For the first time the Aboriginal Land Rights (NT) Act 1976 (ALRA) has been used to enable Section 19 (S19) leases to be borrowed against (commercialised). Commercialising a S19 lease turns Aboriginal landowners into landlords. It enables landowners to use their land to generate income without ceding control. This is the basis for self-determination and economic independence.

Via ALSEDA the joint Land Council EDS seeks to establish well-functioning capital markets, provide an economic base for Indigenous Territorians, act as a hub-and-spoke agency to assist Aboriginal landowners, and provide an opportunity for further practical research and development. It closely aligns with the 2015 *Empowered Communities: Empowered Peoples Design Report* and complements the recommendations of the 2018 *Indigenous Reference Group to the Ministerial Forum on Northern Development*, which states Indigenous economic development must:

- Be built around an evidence-based theory of change;
- Address wide spectrum of Indigenous employment and enterprise capabilities and aspirations;
- Seek to build sustainable enterprises in competitive markets (not create a subsidised Indigenous sector);
- Complement, not replicate, mainstream economic development frameworks; and
- Leverage existing resources where possible.

The Joint Standing Committee's Terms of Reference are addressed in Section 1 of this submission in the context of how they are related to ALSEDA and the EDS. Figure 1 displays the timeline of high-level strategic planning, milestones achieved and process towards a fully operational Economic Development Strategy. We ask for the Joint Standing Committee to endorse and provide support for implementation of the Northern and Central Land Councils' Economic Development Strategy via the recently incorporated Aboriginal Land and Sea Economic Development Agency.

This support could be as follows:

- Recognition of the Statement of Strategic Intent and Guiding Principles (see appendix) as central to planning and development of the NT Indigenous Estate
- Support for the grant component of the pilot phase (~\$27m) from either the Indigenous Advancement Strategy (IAS) or the NT Aboriginal Benefits Account (ABA)
- Support for the concessional loan component of the pilot phase (~\$17m) from the North Australia Infrastructure Facility (NAIF)
- Recommend that the Commonwealth Treasurer instigate a Productivity Commission report into the Joint Land Council EDS – this will clearly demonstrate both the positives and negatives of this pilot project through thorough research and cost benefit analyses
- Acceptance of subsidiarity principles through devolution of social programs (Job services etc.) to local Traditional Owner companies and corporations.

1) Terms of reference

ALSEDA wish to address the terms of reference as follows:

1. The current engagement, structure and funding of representative bodies, including land councils and native title bodies such as prescribed body corporates.

Indigenous people are further disempowered and development is impeded by the current practice of placing responsibility with distant central governments. Key to the implementation of the EDS are structures and systems to deliver on the Statement of Strategic Intent (SoSI) and Guiding Principles (GPs) as well as the recommendations from the *Indigenous Reference Group to the Ministerial Forum on Northern Development* and the *Empowered Communities: Empowered People Design Report* that has support of PM&C. In keeping with the first Guiding Principle 'Authority comes from the land' and essential to bringing control to remote Australia is: 1) the principle of subsidiarity, in which decisions should be made by the people or organisations the decision/action is designed to serve; and 2) pooled funding, to provide an opportunity to overcome the administrative silos that currently deliver a plethora of uncoordinated programs and structural rigidities.

The principle of subsidiarity along with pooled funding will allow for the devolution of administration of social programs, such as Job Services (currently CDP), to local organisations and for greater flexibility in allocating funds towards the needs of the communities. The *Empowered Communities* report argues that 'power and responsibility should be more widely shared among individuals, families and communities at the local, subregional and regional levels'. It is well established that greater flexibility is required in these matters and a one-size-fits-all approach has significant limitations. Regional pools of funding result in Indigenous people and governance bodies working together for local solutions to local problems.

The development of the six commercial projects in two trial regions, central to the Joint CLC/NLC EDS, provides a *real-life* opportunity to have and see subsidiarity and pooled funding working in a commercial situation. It is of particular importance and of critical relevance due to the remote Aboriginal communities proximate to these '*greenfields*' projects.

2. The role, structure, performance and resourcing of Government entities (such as Supply Nation and Indigenous Business Australia).

Indigenous Business Australia (IBA), Indigenous Land Corporation (ILC), Supply Nation, Austrade and the Clean Energy Finance Corporation (CEFC) are just a few of the government entities who if not already, will have strong interests and partnerships with ALSEDA as it develops the EDS. Planned for the first two quarters of 2019 is a series of stakeholder workshops that will be designed to ensure that they will be strong partners throughout the roll out of the 6 pilot projects and 2 trials and remain through development and operational stages.

IBA and ILC have already indicated strong interest in providing investment capital. Supply Nation will be first-rate partners in sourcing services and hardware during the developments. It is intended to trial an off-grid power generation facility at one of the 6 projects, the CEFC will potentially be partners in this.

3. Legislative, administrative and funding constraints, and capacity for improving economic development engagement.

One of the key barriers to Indigenous economic development that ALSEDA has identified over the past decade of research and practical experience is a lack of capital and coordination. Currently there is no agency established exclusively for remote Indigenous landowners to access capital and provide assistance with establishing commercial business on their land. There is a clear need for a coordinated framework to provide the capital and capacity for Indigenous economic development that encourages and fosters business development, labour participation and entrepreneurialism. Without investment in infrastructure, or access to capital and domestic/international markets, the economic development of Northern Australia will not occur. The critical requirement to address this is infrastructure such as bores, power and transport access. However, there is currently no policy framework or funding source to construct this infrastructure, while: Aboriginal landowners have no equity to approach commercial lenders for the level of funding required; government agencies do not invest in infrastructure on Aboriginal freehold; other grant-funded options are risk averse and focused on social outcomes; and the level of investment required makes an operator's business model unviable.

To address this the EDS has been developed to match public and private investment to stimulate development. The EDS focuses on local aspirations, leveraging existing government development programs, and using private investment to stimulate development that is locally governed, participatory and inclusive. Revenue from the resulting commercial activity will repay this investment. In the meantime, the infrastructure itself will form the landowners' ongoing equity, and the commercial activity will also generate jobs. Profits secured by the landowners after loan repayments can be used to support those community development projects that they determine will contribute to the wellbeing of the whole group.

The challenges of operating commercial businesses in Northern Australia are numerous and well known, while the challenges faced by TOs in the space are more complex and include greater barriers such as access to capital, lack of an economic foundation, welfare dependency, and a history of policy that has excluded Indigenous Australians from participating in markets. It is well established that there are significant opportunities in Northern Australia and Indigenous Australians are key to the success of any economic development in the region as they make up a large percentage of the population and own large amounts of land in both Indigenous and non-Indigenous law.

It is essential to bridge this gap between welfare dependency and commercial activity by providing real jobs and opportunities for TOs that fit with their goals and aspirations, while protecting and preserving land and culture. To achieve this the Capital Fund and development agency (ALSEDA) must be established to address the interrelationships between the key elements of land, capital and labour in the remote Aboriginal context, while managing activities, bringing together stakeholders and coordinating action in accordance with the wishes of the TOs.

"It is absolutely vital that political risk aversion or administrative caution does not stand in the way of public and social innovation. Governments need to explore their appetite for risk, learn by doing and carefully measure the results. Let's be willing to use public money to pilot new approaches, accept occasional failure and demonstrate success... There are occasions when we should 'just do it' and evaluate what works and what doesn't. This is such a time."

Peter Shergold AC 2012

4. Strategies for the enhancement of economic development opportunities and capacity building for Traditional Owners of land and sea owner entities.

ALSEDA provides a unique opportunity to trial development opportunities, programs and capacity building strategies for Traditional Owners. There is a very real risk that without social programs being integrated with economic development there will be few benefits for Traditional Owners, as there currently is in many extractive industries and other developments such as the Ti Tree Table Grape industry.

“The challenge we face, therefore, is an adaptive one. Adaptive in the sense that it will require constant revision and reflection, and an ongoing reassessment of the way we have typically gone about addressing difficult problems in the past.”

Martin Parkinson AC PSM 2017

A key component of the Strategy is CoRE [Country, relations and Economies], which is embedded within ALSEDA and aims to integrate the economic and socio-economic components of the EDS. CoRE ensures ALSEDA and all its activities are consistent with Aboriginal principles, protocols, and processes; and in line with each individual project’s local aspirations and requirements. Strategies need to be in place that concerns all aspects that are important to support the success of a development – from stakeholder relations and service provision, to research and development, capacity building and governance. This is required to ensure that the development is what the TOs want, is done according to their requirements and supports the outcomes they wish to see. Some aspects of this area of activity are well established (for instance, the work of the community planning and development branch in capacity building, governance, and planning for money generation and use), while other areas are less well developed (for instance, suitable policy and delivery of training and employment in remote NT). Therefore, CoRE’s role and responsibility is: firstly, within ALSEDA; secondly, to oversee a go-to-whoa process supporting the full range of activities against a clear policy framework tied to the commercial development that the landowners wish to see; and thirdly, to focus on communication, research and development, and driving policy change with Commonwealth and NT Governments.

Without a comprehensive information technology platform, or Knowledge Management System, the productive engagement with market economies is compromised by information asymmetries. This EDS positions Indigenous landholders to facilitate developments that maximise local benefits by using a two-way knowledge approach to communication and planning. The EDS uses existing Aboriginal/non-Aboriginal co-mapping methodology, extending this for the first time to use in Indigenous-led commercial development planning on Aboriginal land. The conventional approach to economic development on Aboriginal land has proven to consistently fail. As Aboriginal identity, knowledge and law derives from Country, thoughtful collaboration on Country within the framework of free, prior and informed consent is essential for managing risk and attracting commercial proponents.

The proposed Knowledge Management System and co-mapping program is to overcome obstacles (i.e. communication and understanding) by developing a framework for greater capability and accessibility to assist in empowering local communities to make decisions regarding their assets and future commercial development. Maps are excellent ‘boundary objects’ for negotiating the space

between different cultures/knowledges. They are tangible items with salience for both Aboriginal and non-Aboriginal people that facilitate discussion and planning in complex environments. The co-mapping process will provide essential information required for successful commercial development, enabling planning and implementation of development activity that fits with aspirations and expectations of all stakeholders. The resulting maps (digital/physical) will form the foundation of a detailed planning process and portfolio for Indigenous-led commercial development, forming the foundation of the Land and Opportunities Prospectus. The Prospectus will become an 'alive' portfolio to be populated with new/emerging Indigenous-led commercial opportunities for Aboriginal land. Participation and confidence are promoted by Indigenous-led whole-of-estate planning and informed decision-making.

5. The principle of free, prior, and informed consent.

The principle of free, prior, and informed consent is essential to any economic development in Northern Australia. ALSEDA supports Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples regarding free, prior, and informed consent. It is the fifth Guiding Principle in the ALSEDA constitution and forms an essential component of the operational and strategic planning.

6. Opportunities that are being accessed and that can be derived from Native Title and statutory titles such as the Aboriginal Land Rights (Northern Territory) Act 1976.

The Aboriginal Land Rights (Northern Territory) Act 1976 puts the Northern Territory in a unique position for Indigenous led economic development. Under the Act ~52% of the mainland and ~87% (~9,000km) of the coastline is Aboriginal freehold land. As discussed earlier, the EDS passed a major unprecedented milestone with legal and financial institutions ensuring the fungibility of ALRA Section 19 leases allowing them to be fully commercialised and borrowed against. This breakthrough allows Aboriginal landowners, who have vast assets, to become landlords, generate income and retain control. Allowing for economic independence and self-determination.

2) Background

With proven success in remote area Aboriginal lead economic development and over a decade of practical on-the-ground experience ALSEDA have developed a comprehensive EDS for Indigenous land in the Northern Territory, which once trialled may be adopted more widely throughout Northern Australia. The draft Strategy, together with the Statement of Strategic Intent (SoSI) and eight Guiding Principles (GPs) (see appendix), form the operational and strategic base for ALSEDA.

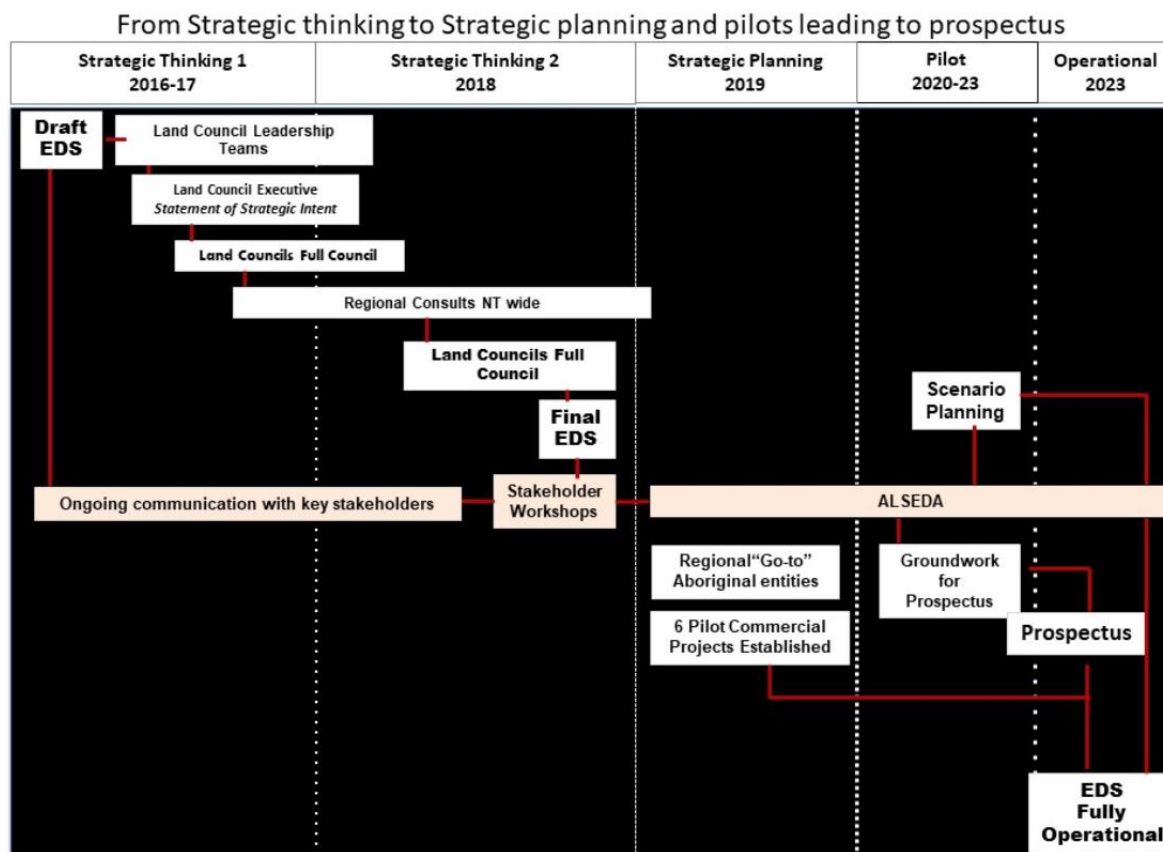


Figure 1: illustrates the planning phases from strategic thinking to a fully operational Economic Development Strategy

Through this experience the opportunities and challenges of the engagement of Traditional Owners in the economic development of Northern Australia is a space that ALSEDA knows well. Many agree that the potential of Northern Australia is enormous and that Aboriginal Territorians are essential to the success of this development. It is in the national interest for Indigenous Australians in Northern Australia to be leading economic development in the region. However, it is also clear that Indigenous economic development in the Northern Territory is a an inherently complex space.

Due to its demographics, governance and land tenure legislation the NT is a unique space for examining the opportunities and challenges of the engagement of Traditional Owners in the economic development of Northern Australia. According to the Australian Bureau of Statistics 2016 census 25.55% of the NT population is Indigenous, the median age is 25 and 79% of the Indigenous population live outside of the capital city area. This makes the NT both have the highest proportion of Indigenous people and the highest percentage of Indigenous people living remotely in Australia. Under ALRA over 50% of the land and 85% of the coastline is Aboriginal freehold land. An interest in 46% of the remaining NT landmass from existing land claims under the NTA. The purpose of highlighting these figures is to show that the NT is unique as it has a large young Indigenous population with a vast amount of freehold land, however decades of failed policy have resulted in poor outcomes for this population.

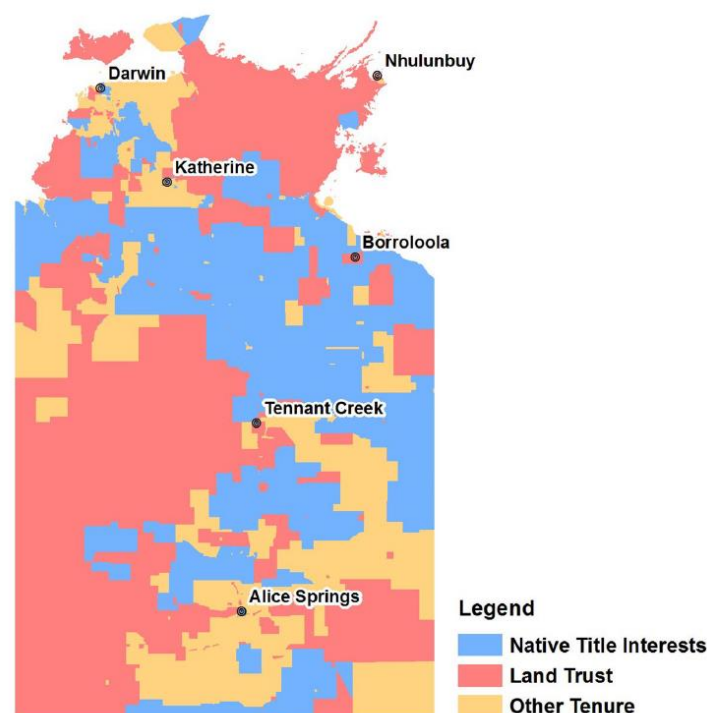


Figure 2: Northern Territory Aboriginal Estate comprises lands and seas controlled as follows: 52% Aboriginal Land Rights Act; 46% Native Title Interest in Pastoral Leases; ~87% (~9,000km) Aboriginal Freehold Coastline.

It is important to note that the NT Indigenous estate currently lacks an economic foundation and that governments have frustrated and undermined attempts for Aboriginal control over their economies and resources to build an economic base, which is fundamental for any economic development. The situation today is not dissimilar from what Charles Perkins noted in 1993 when he stated:

“One of our problems is that we don’t have this independent economic base, away from Government ... we have got to really create it in the sense that we have to empower people at the local level with assets they control and they in fact own. And that is not the situation at the current time.”

Charles Perkins 1993

3) Challenges: Current barriers to Indigenous economic development

Although teeming with opportunity, Northern Australia is inherently difficult for economic development due to: extreme weather; difficult to attract labour; small local markets / population; transport, construction and maintenance costs; transport distances; lack of infrastructure; communications difficulties; and tenure complexities. Whilst there are further challenges for the Engagement of Traditional Owners in the Economic Development of Northern Australia including: access to capital, lack of economic foundation; top-down policy approaches that lack appropriate consultation; domination of non-Indigenous agendas; and generations of welfare dependency, dispossession and exclusion.

Economic development is not simply about employment and living standards but more broadly include Sen’s (1999) ideas of providing the freedom for people to make choices by removing obstacles

such as poverty, hunger, illiteracy, poor health, lack of opportunity, poor governance, powerlessness, voicelessness and inequality, all of which are relevant to Northern Australia¹.

From Mick Miller's 1985 report to the Commonwealth, *Aboriginal employment and training programs*², to John Taylor's 2003 paper, *Indigenous economic futures in the Northern Territory: The demographic and socioeconomic background*³, decades of Indigenous exclusion from economic development is clear. In 2003 Taylor reported that Indigenous employment was 'trending downward' and that the population were 'overly-dependent on welfare, structurally detached from the labour market, and ill-equipped to engage with it'.

Former senior federal bureaucrat Michael Dillon has likened Government policy outcomes in remote Indigenous communities to a failed state with national security implications, noting:

*"the apparent incapacity of governments to both address the disadvantage and effectively ensure order and good governance."*⁴

Dr Martin Parkinson, the current Secretary of the Department of Prime Minister and Cabinet, notes that the key to achieving real change in this space lies in the ability for government and industry to scrutinise themselves and the values and assumptions that inform their current practice⁵.

The Council of Australian Governments (COAG) Report on Performance 2016 summarised the nation's performance against its National Agreements and indicated most bench marks/Indicators were not met. In 2017 the Prime Minister acknowledged as much in his Closing the Gap address that:

*"we cannot shy away from the stark reality that we are not seeing sufficient national progress... We must do things differently... our greatest strides in Closing the Gap will come when we work together."*⁶

The failure of policy is dramatically evident in the lack of substantive engagement with the Indigenous community in the recent Commonwealth Government *White Paper on Developing Northern Australia*. As noted by the previous NLC CEO Mr Joe Morrison in his address to the Developing Northern Australia conference held in Cairns in June 2017, this threatens the success of all planning for northern development and calls for structural reform of the thinking around Indigenous people and their place in northern development.

The inadequacy of such policy and the thinking behind it was demonstrated in the program for that conference which illustrated a range of development issues that require the coordination of technical, social, and economic policy and delivery mechanisms; yet failed in the keynote KPMG analysis to address either the challenges or the opportunities presented by the Indigenous sector. As the Productivity Commission has stated:

"Government acting alone is unable to overcome Indigenous disadvantage. Meaningful change

¹ Sen, A 1999, *Development as Freedom*, Oxford University Press, Oxford

² Miller, M (chair) 1985, 'Report of the Committee of Review of Aboriginal Employment and Training Programs', Australian Government Publishing Service, Canberra.

³ Taylor, J 2003, 'Indigenous economic futures in the Northern Territory: the demographic and socioeconomic background', *Centre for Aboriginal Economic Policy Research*, Australian National University, Canberra.

⁴ Dillon, M 2007, "National Security and the Failed State in Remote Australia", APSNet Policy Forum, January 25, 2007,

⁵ Parkinson, M 2017 Wentworth Lecture

⁶ Closing the Gap Prime Minister's Report 2017

also requires continuing involvement and action by Aboriginal and Torres Strait Islander Australians themselves, with support from the private and non-profit sectors and the general community."

Productivity Commission 2016

Top-down policy such as the reactionary 2007 'Intervention', the 2008 establishment of the 'super shires' and the 2014 Indigenous Advancement Strategy (IAS), are prime examples of a system that lacks appropriate consultation and often fail in practice due to increased disempowerment and disengagement. People living locally often have better understandings of the realities within their communities and are, thus, best suited to govern them, however, these policies have undermined Indigenous organisations' capabilities forcing many to close, downsize or reduce their services, resulting in non-Indigenous organisations undertaking the work with little understanding of the realities on the ground or of cultural sensitivities.

More recently the tenth 'Closing the Gap' Report 2018 has revealed that targets are still not on track, while in 2017 the UN Special Rapporteur on the Rights of Indigenous Peoples concluded that current Government policies and priorities

"...do not duly respect the rights to self-determination and effective participation; contribute to the failure to deliver on the targets in the areas of health, education and employment; and fuel the escalating and critical incarceration and child removal rates of Aboriginal and Torres Strait Islanders."

Victoria Tauli-Corpus United Nations Special Rapporteur on the rights of indigenous peoples
2017

While mineral and petroleum activity may provide some opportunities and capital, the benefits are often inaccessible to Aboriginal people due to the hostility of institutional structures making the socio-economic benefits for Indigenous Australians rare. Many attempts to stimulate economic development have failed due to their: top-down one-size-fits-all approach; ad hoc and fragmented nature; and lack of engagement, capacity, coordination and capital. Ultimately these agencies focus almost solely on provision of welfare and continue the self-perpetuating cycle of welfare dependency.

Decades of failed policy and systems that encapsulate people in welfare programming that is planned from a distance and delivered by silos that:

- do not learn from experience;
- do not collaborate; and
- are not fit for purpose.

"I have also been a sometime participant and longtime observer of honest attempts by governments to do better. The uniformity of failure to match results with good intentions makes it clear to me that failure is not a matter of partisan politics, of lack of good intentions, of just getting policy settings wrong, or of having the wrong people. There is a system failure here; the present instruments of government are not fit for use in remote Australia."

Fred Chaney AO 2012

4) Opportunities

The Aboriginal Land and Sea Economic Development Agency

ALSEDA supports the 2018 Indigenous Reference Group's recommendations to the Ministerial Forum on Northern Development that identifies six areas critical for economic development in the region:

1. Creating jobs, fostering labour participation, entrepreneurship and business acumen
2. Knowledge management systems and research and development to support Indigenous commercial end-users
3. Infrastructure investment to support Indigenous economic development
4. Access to capital and domestic and international markets
5. Activating the economic value of land, water, sea and cultural resource rights
6. Institutional arrangements that work to activate, accelerate and optimise Indigenous economic development across Northern Australia.

The rationale for a separate entity is that the Land Councils cannot be both regulators and operators, but must remain central to the process as representative bodies under the Aboriginal Land Rights (NT) Act 1976 and prescribed bodies corporate under the Native Title Act 1993. ALSEDA is to act as the point of reference and be the lead agency for economic development on Aboriginal land. Their goal is to ensure self-determination by achieving Indigenous economic independence through the creation an economic foundation and an entity to assist with the identified challenges, while unlocking the full potential of the region. Development of the EDS has been supported by the NTG via \$1.3m in grant funding. NTG is also providing technical support for development of a submission seeking Major Project Status for establishment of a dedicated agency with an embedded means of capitalising projects (Capital Fund). The EDS via this agency will be piloted through the development of six 'at scale' horticultural projects requiring investment totalling ~\$75m.

The key purpose of the fore-mentioned regional trials is to integrate the economic and social components of the EDS. Senior members of the finance industry have advised that the economic component must be piloted at commercial scale while adhering to the Guiding Principles outlined below. The trials will introduce a new development architecture that will deliver on: 1) the Statement of Strategic Intent (SoSI); and 2) the Guiding Principles (GPs). Both of which have been strongly supported during consultations across length and breadth of the NT mainland Indigenous Estate.

The role of ALSEDA is to identify opportunities with Traditional Owners, produce bankable business plans, test feasibility and provide capital. An operator is then secured, management agreements are agreed upon and turn-key infrastructure is developed for the operator to manage the enterprise under the conditions of the negotiated agreement⁷. The establishment of turn-key infrastructure makes the project attractive to investors, while giving Aboriginal landowners greater control and the ability to take over the lease if they wish to operate the project once skills have been shared. The lease money is used to repay the loan and for other community development priorities. The land owners ultimately

⁷ Turnkey describes projects that are developed to a point where they are ready to operate. This includes development of capital infrastructure like borefields, packing sheds, cool-chain, staff housing and tree crop establishment. It means that operations can commence immediately without having to provide capital. The only funds a farmer would bring are operational, which can be borrowed. Turnkey development allows the TO's to offer shorter time frame leases so they can take over all aspects of the farm as capacity emerges.

have infrastructure, commercial enterprise and equity. This economic foundation however is only the first step, the non-commercial activities including training, governance, capacity building, communication, and bringing together Indigenous and non-Indigenous laws and knowledges is the greatest challenge of the strategy.

INVESTMENT , LEASE AND RE- PAYMENTS

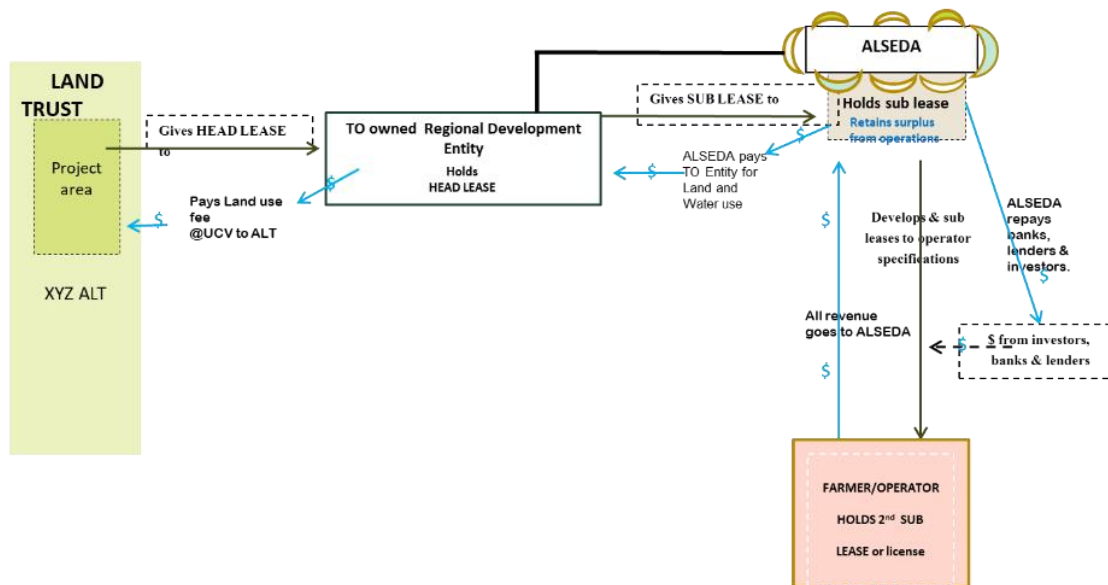


Figure 3: displays the leasing structure that forms the basis of the EDS

Architecture to deliver on the Statement of Strategic Intent and the Guiding Principles

The EDS architecture is based on the principle of subsidiarity (place matters), which is consistent with the first Guiding Principle – Authority Derives from country- and Pooled Funding to overcome the administrative ‘silos’ that currently deliver a plethora of uncoordinated programs. Country is the basis of Aboriginal law, identity and knowledge, authority comes from Country and Aboriginal-controlled economic development is a means to achieve self-determination and provide the knowledge to make decisions and the power to enact them. The EDS will develop commercial scale enterprises on Aboriginal Freehold as Joint Ventures and turnkey developments, while concurrently addressing social issues in remote communities of the Northern Territory. Local Aboriginal control drives the strategy via the EDS architecture, which includes Regional Development Companies owned by appropriate TOs.

A key feature of the EDS will be the ALSEDA which the LCs will establish to partner with Aboriginal landowners and managers in delivery of a Strategy that transitions the vast Northern Territory Aboriginal Estate, which currently has minimal economic activity, to an estate that creates economic value, as well as social returns. The EDS is an interlinked process for commercial and social development based on the elements of economic development: land, capital and labour. The proposed ALSEDA enterprise projects across the NT may include agribusiness, pastoral businesses, tourism, fisheries, construction and mining. The value to the NT economy in the future will be vast. A

key feature of the ALSEDA strategy is the inclusion of stakeholders from the beginning, to ensure that commonly held goals are included in the planning and delivery for each project. The EDS, through ALSEDA and Regional Development Companies, will address the frustration caused by the current proliferation of programs and service providers by driving a coherent strategy. It will provide all stakeholders with a clear process and point of reference, with ALSEDA acting as the hub in a hub-and-spoke model with TO owned and controlled Regional Economic Development Companies working closely with Progress Associations delivering on the social component.

Ownership and Control

The Land Councils must be central to the economic development process as the statutory authorities under the Aboriginal Land Rights Act for representing and supporting the wishes of traditional Aboriginal landowners in the development and management of their land and sea assets. However, under the Act, the Land Councils are not able to take any commercial risk, and good governance demands they cannot act as both regulator and operator.

ALSEDA has been incorporated as an ASIC proprietary limited company, following completion of consultations with all stakeholders – LCs, NTG, Commonwealth, ILC and industry. It will comprise different classes of shares, to satisfy the Aboriginal Land Rights (1976) Act (ALRA) and investors. Figure 2, below illustrates how ALSEDA will be structured to represent landowners, Land Councils and Investors. Income from rents and investments can be used to support the social component of development.

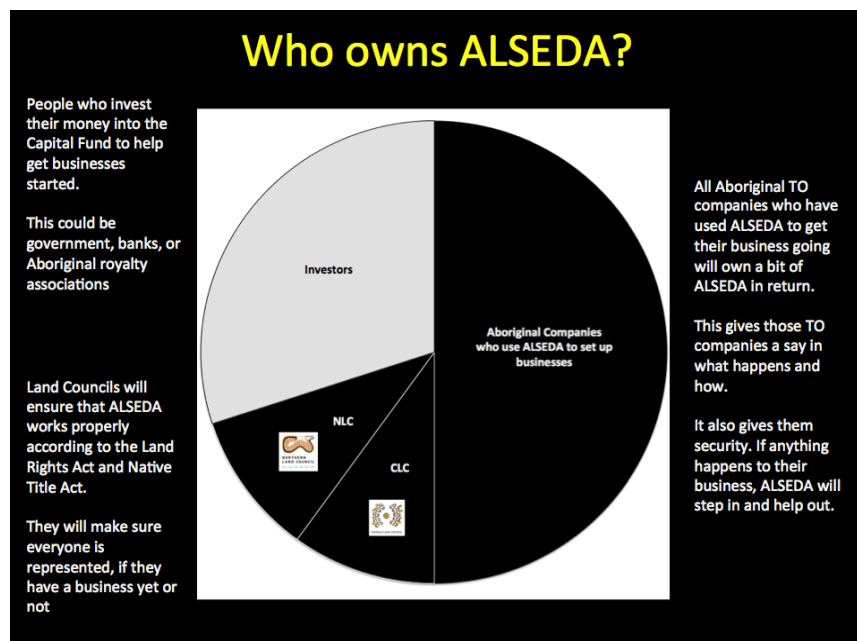


Figure 4: displays proposed ALSEDA ownership structure

ALSEDA's incorporation and constitution are at an advanced stage. As fungible ALRA section 19 leases are finalised and sub-let to ALSEDA shares will be issued to the relevant Regional Development Companies. Shares will also be issued as share capital from the investor class. The structure of the board is not finalised but initial discussions with Land Councils' legal teams and the finance sector have indicated a high profile independent chair is a pre-requisite with other representative positions under

consideration. However, it is clear that board positions will be influenced from where capital is sourced. Best practice governance of ALSEDA and its embedded capital fund is an imperative in both the establishment and ongoing operational periods. The 8 Guiding Principles will make up the objects of the constitution as powerful guidelines for the ALSEDA board.

6) Recommendations

As stated in the Executive Summary: We ask for the Joint Standing Committee to endorse and provide support for implementation of the Northern and Central Land Councils' Economic Development Strategy via the recently incorporated Aboriginal Land and Sea Economic Development Agency.

This support could be as follows:

- Recognition of the Statement of Strategic Intent and Guiding Principles (see appendix) as central to planning and development of the NT Indigenous Estate
- Support for the grant component of the pilot phase (~\$27m) from either the Indigenous Advancement Strategy (IAS) or the NT Aboriginal Benefits Account (ABA)
- Support for the concessional loan component of the pilot phase (~\$17m) from the North Australia Infrastructure Facility (NAIF)
- Recommend that the Commonwealth Treasurer instigate a Productivity Commission report into the Joint Land Council EDS – this will clearly demonstrate both the positives and negatives of this pilot project through thorough research and cost benefit analyses
- Acceptance of subsidiarity principles through devolution of social programs (Job services etc.) to local Traditional Owner companies and corporations.

Appendix

1. Statement of Strategic Intent



CLC/NLC Statement of Strategic Intent for the Economic Development Strategy

21 March 2017

The NLC & CLC support the proposed Economic Development Strategy, including the establishment of ALSEDA and the Capital Fund, to be tested in the NLC & CLC regions through 6 pilot businesses.

The Councils will work to articulate clear guiding principles for the strategy and set out the process and options for achieving the sustainable economic development of the NT Aboriginal estate in accordance with the wishes of Traditional Owners.

2. Guiding Principles developed and endorsed by NLC and CLC in 2017

A set of 8 guiding principles has been resolved for the Strategy. All aspects of the strategy along with ALSEDA governance, operations and systems will be driven from these guiding principles. These reflect Aboriginal aspirations and globally accepted best practice use of principles in this space⁸.

These are the statements of each principle accompanied by the logos that have been used throughout the NT-wide consultation process. A 6-minute film has also been made as part of this communication, providing the background and illustrating these principles.

1. Country



Country is the basis of Aboriginal law and identity. Authority comes from Country. It is culturally important that any economic development activity on Country is done properly. This means that any economic development activity needs the consent of the TOs according to the usual processes of the Aboriginal Land Rights (NT) Act; that any economic development activity happens in accordance with TO wishes; that it does not make it difficult for TOs to access their Country, or to use it for ceremonial purposes; and that it does no damage to any sacred site.

The flag was used for this design because the strategy does not require giving away any rights to, or ownership of, Aboriginal Country. The strategy is about economic development on Aboriginal Country, so the yellow circle has black lines in it representing this.

2. Sustainability



Country is the foundation of Aboriginal wellbeing and the wellbeing of all things. It is culturally, ecologically and economically important that the economic development of Country not only does no harm but that the physical environment is maintained or improved by that activity. All economic development activity on Country will be regularly assessed using both Aboriginal and non-Aboriginal methods to measure change and determine suitable responses.

To tread lightly (footprint) on Country (do no damage) requires knowledge of how to do that. The best of both Aboriginal and non-Indigenous knowledge must be used. Each must pay attention to the other, so there are white lines in the black foot and black lines in the white foot. The red background represents Country.

3. Self-Determination



Aboriginal-controlled economic development is the means to achieve true self-determination: the knowledge to make decisions and the power to enact them. It is morally important that all economic development on Country supports the strengths of both Aboriginal and non-Aboriginal systems to work together to find the best solutions.

To be in control requires all the information. That information has to make sense and an individual then needs the power to act on it. The black hand on the red background represents Aboriginal people

⁸ c.f. United Nations Global Compact (2016). *The UN Global Compact Ten Principles and the Sustainable Development Goals: Connecting, Crucially. A White Paper*. Available from: https://www.unglobalcompact.org/docs/about_the_gc/White_Paper_Principles_SDGs.pdf
c.f. also The World Bank Equator Principles for managing environmental and social risk in projects

in control of what happens on Country. The white circles are held in the black hand, because it is about Aboriginal people having access to all the knowledge so they can act.

4. Knowledge



The successful economic development of Country requires everyone's knowledge. Aboriginal people want to work with other people to seek a balance between the economic rights and needs, and the imperative to care for Country. It is both morally and economically important that Aboriginal knowledge has equal priority in the planning, activation and management of all economic development on Country.

There are two laws involved in economic development. They don't often talk well to each other and the non-Indigenous can dominate. The strategy is designed to bring them together and benefit from both so neither dominates. The yellow cog is the strategy, or the individual project on Country (red background). It is the thing that brings the two knowledges together and makes them work.

5. Free Prior Informed Consent



Both Aboriginal and non-Indigenous people have the right to understand the implications of any proposed economic development activity on Country. It is morally and economically important that information is presented in ways that people understand, and that enough time is provided for people to take information on board before they are required to make decisions about actions.

A person needs to understand before they can act. The strategy is about bringing together two ways of doing things. These two ways need to understand each other for the partnership to work and to avoid the dominance of one over the other. They need to come together around Country (red), joining in the middle and sharing knowledge.

6. Ownership



The Aboriginal Land Rights (NT) Act has helped Aboriginal people get their Country back. This Country can never be broken up or sold off. But Aboriginal people need to borrow money for economic development. The Capital Fund will be the lender for the Aboriginal Economic Development Strategy. The Capital Fund will own part of each project it puts money into. This helps manage risk.

Because there is a difference between ownership of Country and ownership of projects on Country, the bottom of this design is like the first one, the flag with the project in the middle. The hands represent partnerships between Aboriginal landowners and investors.

7. Relationships



The Strategy brings together two systems, Aboriginal and non-Aboriginal, to create a new way of doing economic development on Country. It is important that there is a clear process for this and that everyone involved understands what their responsibilities are, and what to expect. There must also be clear pathways for action and processes for conflict resolution. ALSEDA will be the hub for managing stakeholder relations. ALSEDA will operate against these guiding principles and will require all stakeholders to adhere to them.

Each project or business (yellow circle) on Country (red) will involve lots of different people, both Aboriginal and non-Indigenous (smaller black and white circles). It is really important that these people

are linked up (black lines) so non-one is operating in isolation. The yellow circle is also ALSEDA, which is there to make sure everyone involved is linked up and in communication.

8. Integrity & transparency



The economic development of Country is essential to Aboriginal people's self-determination. But it also involves many other people. Successful economic development of Country requires that everyone involved knows what is happening and that there are clear lines of communication and accountability. ALSEDA will coordinate the economic development strategy. It will monitor activity and report to Land

Councils, government and industry as appropriate. Good monitoring and reporting is also the basis for good risk management, and for learning and improving. Key performance indicators will be determined that have meaning and value to both Aboriginal and non-Aboriginal people. These will be reported against in ways that have meaning and can be understood by both Aboriginal and non-Aboriginal people.

This design represents all the different people (Aboriginal and non-Indigenous) sitting around a project or business (yellow) on Country (red). It is also about ALSEDA, and all the different people involved in the economic development strategy. The black and white lines are about sharing information and reporting between all these people/groups.