

**Expert Mechanism on the Rights of Indigenous Peoples
9th Session Palais des Nations, Geneva 11-15th July, 2016**

**Agenda Item 6: Discussion on the Human Rights of Indigenous Peoples in Relation to
Business Enterprises**

Statement by Ms Susan Sandery on behalf of the Northern Land Council

Thank-you Chairman.

The Northern Land Council is an independent statutory authority of the Australian Commonwealth Government. It is responsible for assisting Aboriginal peoples in the Top End of the Northern Territory to acquire and manage their traditional lands and seas.

In 1976 the Parliament of Australia passed the Aboriginal Land Rights (Northern Territory) Act (ALRA). Since then approximately 50 percent of the land in the NT has become Aboriginal land in addition to 85 percent of the coastline. A large proportion of the remaining land mass is subject to Native Title interests.

Aboriginal land is private property owned under special freehold title. It is inalienable – in other words, it cannot be bought, acquired or forfeited. Inalienable Aboriginal freehold is the strongest form of title in Australia.

For the most part, Aboriginal landowners with inalienable Aboriginal freehold have the exclusive power to control the direction and pace of development on their lands. The public, in the form of Government at various levels, has only limited rights to impose external development or conservation direction or constraints.

Aboriginal land and sea in northern Australia is rich in biodiversity and natural resources, and has the potential to deliver economic opportunities and outcomes for Aboriginal people.

The number of micro-enterprise, private business, Government and community development activities occurring on Aboriginal land is increasing. Section 19 of the Aboriginal Land Rights Act allows for a Land Use Agreements process that gives traditional owners an opportunity to consider, develop terms and conditions and the right to consent to or reject proposals on their land.

The NT Land Rights Act squarely puts First Australians, Traditional Owners at the forefront of decision making, yet they are still amongst the most disadvantaged people in Australia. Land Rich and dirt poor, as it is often said.

The need for economic development on Aboriginal Lands has become the refrain, yet Australian Governments often talk and develop policy about and for Indigenous people without affording them a seat at the table. The Land Rights Act and Australia's First Peoples' inalienable freehold and rights to decide what happens on their traditional lands is often

cited by Governments as the impediment to development, and prosperity for Indigenous peoples.

There are fundamental concerns that governments continue to harbour and agenda to diminish the rights of Indigenous Australians that have been so hard fought for through the diminishing of those hard fought rights to land and title most typically in the name of development.

Recommendations

Today, we respectfully make the following recommendations to the Expert Mechanism on the Rights of Indigenous Peoples:

- To support Indigenous peoples' right to development – promoting opportunities for development on Indigenous land and identifying access to resources on the Indigenous estate.
- Promote the inclusion of Aboriginal and Torres Strait Islander people in the development and creation of policy affecting them and their estate, as opposed to the top down approach.
- Emphasise the need to governments and the private sector to resource economic development within the Indigenous estate – developing financial products, to underwrite economic development through engaging the financial services sector to enable and build on their underlying communal title to create opportunities for economic development.
- Encourage governments and private sector to resource business development support and succession planning, to ensure that Aboriginal and Torres Strait Islander peoples have the governance and risk management skills and capacity to successfully engage in business and to manage their estates.
- Emphasise to governments and the private sector to view Indigenous rights to the lands and waters not as an impediment to development, but rather an unparalleled opportunity to work with Indigenous peoples for the mutual benefit of all Australia's peoples.