

The Secretary  
The Joint Standing Committee on Trade & Investment Growth  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600  
30 June 2026

**The Mabo Centre & The National Native Title Council**  
*Submission to the Inquiry on Creating sustainable  
economic growth in rural and regional Australia*

## Introduction

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### 1 Overview

This submission is made to the Joint Standing Committee on Trade & Investment Growth by the National Native Title Council (**NNTC**) in collaboration with the Mabo Centre. The Terms of Reference in respect of the current Inquiry require the Committee to “inquire into and report on creating sustainable economic growth in rural and regional Australia”.

Sustainable economic growth in rural and regional Australia can be achieved through looking to what has always existed in Country – our unique native foods and botanicals.

Turning them into a sustainable industry, we must first ‘protect its integrity, authenticity and sustainability – and that can only be achieved through the leadership of Traditional Owners’.<sup>1</sup> In doing so;

- **We can reclaim** our sovereignty and custodianship – and save our Country.
- **We can protect** the cultural and intellectual property created and owned by our people.
- **We can become** not just workers in but leaders of bushfoods businesses.
- **We can share** native foods and botanicals with Australia and the world.
- And, in doing so, **we can create** jobs and opportunities for our communities.<sup>2</sup>

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<sup>1</sup> Rodney Carter, Tim McCartney & Marc Higgins, *Victorian Traditional Owner Native Foods and Botanicals Strategy* (‘TONFABS’), 2021, 6.

<sup>2</sup> Ibid TONFABS, 3.

Recognition of the role of Australia's Traditional Owners in this field not only advances the aspirations of this land's First Peoples and advances the economic prosperity of all Australians in rural and regional areas, it also aligns with Australia's obligations under international law. The elements of the international legal obligations will be briefly explored below.

In line with existing recommendations made in the *Victorian Traditional Owner Native Foods and Botanicals Strategy (TONFABS)*, this submission will make four recommendations:

1. Revive *REVIVE*.
2. Traditional Owners and custodians have the right to economic participation and benefits arising from natural resources.
3. Benefits are co-created with community to maintain ongoing connection with biocultural species.
4. Free Trade Agreements facilitate preferential trade environments for Traditional Owners.

To commence however with a brief description of the organisations that bring forward this submission.

## 2 National Native Title Council

Established in 2006, the NNTC is the peak body for Australia's Native Title and other Traditional Owner organisations. The NNTC represents Native Title Representative Bodies and Service Providers as well as Prescribed Bodies Corporate recognised under the *Native Title Act 1993* (Cth.) and other equivalent Traditional Owner Representative Institutions (**TORIs**) established under Traditional Owner land rights legislation such as the *Traditional Owner Settlement Act 2010* (Vic) (**TOSA**), the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) and the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (SA).

The NNTC's work is guided by a rights-based approach rooted in best practice standards, such as the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)* and Free, Prior, and Informed Consent (**FPIC**). It is a regular participant in a range of United Nations (**UN**) and regional international fora for addressing issues associated with the interaction between the resources sector and Indigenous Peoples across the globe.

In addition to representing the interests of our members the NNTC is a signatory to the National Agreement on Closing the Gap, the secretariat for the First Nations Heritage Protection Alliance (**FNHPA**) and Sea Country Alliance (**SCA**), the PBC Steering Group, and a member of both the First Nations Economic Empowerment Alliance with the Australian National University and the Coalition of the Peaks. This national leadership role of the NNTC is recognised by the Australian Commonwealth, state governments, and by key resources sector peak bodies.

### 3 The Mabo Centre

Launched in February 2025, the Mabo Centre is a First Nations-led partnership between the NNTC and The University of Melbourne. The Mabo Centre builds on the extensive and ongoing engagement with Traditional Owners undertaken by the NNTC.

Based on the University's Parkville campus, and working closely with Traditional Owners and communities, the Mabo Centre undertakes research to identify best practices, deliver training to strengthen and share knowledge, and develop local leadership skills to maximise economic outcomes through leveraging land and sea rights. Overtime, this will ensure strong principles of self-determination are embedded into native title agreements, better supporting community aspirations and provide greater opportunities for economic development and entrepreneurship on Country. Through this work, the Mabo Centre will provide that the benefits of land and sea rights are fully realised.

The Mabo Centre aims to achieve these outcomes through four focus areas:

- **Research** informing national policy development that will support Traditional Owners achieving the best possible outcomes from the resources they control and influence.
- **Training** working with Traditional Owners and their leadership to strengthen their capacities in crucial policy areas and skills.
- **Exchange** sharing knowledge through networked learning to support stronger Traditional Owner connections and effective agreement making.
- **Acceleration** driving entrepreneurship and leadership for Traditional Owner developed economies.

The Mabo Centre is guided by a Board of First Nations leaders and economic experts, Co-Chair Jamie Lowe and alternate Co-Chairs Professor Marcia Langton and Professor Serge da Motta Veiga (Dean Faculty of Business & Economics, University of Melbourne); and the Centre Director, Professor Rodney Carter.

### Relevant International Law

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#### 4 Convention on Biological Diversity – Nagoya Protocol<sup>3</sup>

Adopted in 2010 as a supplementary agreement to the 1992 Convention on Biological Diversity, the Nagoya Protocol (**NP**) mandates the fair and equitable sharing of benefits arising from the use of genetic resources provided by Indigenous peoples. Member states must newly enact or amend domestic laws to align with the NP. Consequently, many

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<sup>3</sup> United Nations, *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity*, 3008 UNTS 3 and doc no UNEP/CBD/COP/DEC/X/1 of 29 October 2010

countries are currently implementing legislative, administrative, and policy measures to ensure fair benefit sharing from the use of Indigenous genetic resources.

We examined the inclusion of intellectual property (IP) protection in the sharing of benefits from research and development that utilises Indigenous genetic resources. The NP does not specify guidelines for IP-related benefit sharing, leaving each member state to establish its own rules.<sup>4</sup>

While Australia is not yet a party to the NP, it attempts to align its domestic legislative arrangements to accord with the NP.<sup>5</sup> At the Commonwealth level, this commitment is reflected in the terms of Part 8A of the *Environment Protection and Biodiversity Conservation Regulations 2025*. The commitment is also consistent with Australia's commitment to give effect to UNDRIP.<sup>6</sup>

## 5 United Nations Declaration on the Rights of Indigenous Peoples

UNDRIP was passed by the UN General Assembly on 13 September 2007. One hundred and forty-four member states voted in favour of the resolution adopting UNDRIP, 11 abstained and four (Australia, Canada, New Zealand and the United States) voted against it. Since 2007, all four of the countries who voted against the resolution have reversed their positions and now officially endorse it.

The Australian Government position regarding the status of UNDRIP was contained in a report of the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs,

Australia is not legally bound by UNDRIP ... 'as a matter of policy, though, Australia supports the Declaration and shares the declaration's underlying commitment to delivering real and lasting improvements for First Nations people[s] and their communities'.<sup>7</sup>

The specific legal status of UNDRIP aside, UNDRIP is recognised as not creating new international legal obligations but as an articulation of a broad range of internationally recognised human rights applying in the particular context of Indigenous Peoples. Thus, a range of international human rights instruments that Australia is a party to and that are

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<sup>4</sup> Park TJ, Park SP. Legal and economic perspectives on fair and equitable benefit sharing in the Nagoya Protocol. *Conserv Biol.* 2025 Apr;39(2)

<sup>5</sup> DCCEEW, *The Nagoya Protocol – The Convention on Biological Diversity* (webpage, undated): <https://www.dcceew.gov.au/science-research/australias-biological-resources/nagoya-protocol-convention-biological>

<sup>6</sup> United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*, GA/res/61/295 Ann 1 (13 September 2007)

<sup>7</sup> Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs, Parliament of Australia, *Inquiry into the Application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia* (Report, 2023) (n 62) 23.

legally enforceable (under both domestic and international law)<sup>8</sup> are contextualised in the provisions of UNDRIP

The 46 articles of UNDRIP cover a range of matters and serve to recognise and protect Indigenous Peoples' rights to cultural integrity, education, health, and political participation. Of particular relevance to this discussion are UNDRIP's provisions that deal with rights in respect of flora, seeds and genetic resources. Specifically, UNDRIP Article 31 provides:

*Article 31*

*1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.*

*2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.*

It is our submission that the Committee should recognise the recommendations contained in this submission as giving effect to Australia's international legal obligations and on this basis urge Government to adopt them. Implementing a human rights-based policy framework transfers decision-making to communities and, in turn, significantly improves socioeconomic outcomes and reduces the fiscal burden on Australian taxpayers.<sup>9</sup>

Beyond this, the recommendations discussed below will provide a tangible benefit to all Australians in rural and regional areas if adopted and implemented.

## Consideration and Recommendations

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### 6 Recommendation One

#### *Revive REVIVE*

In 2023 the Australian Government committed to introduce legislation that recognises and protects First Nations traditional knowledge and cultural expressions. The problems

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<sup>8</sup> Including the *International Convention on the Elimination of All Forms of Racial Discrimination*, the *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights*.

<sup>9</sup> Australian Human Rights Commission, 'Chapter 2 – An Aboriginal and Torres Strait Islander human rights protection framework for the 21st century' in *Social Justice Report 2008*.

identified and commitment to their solution were detailed in *REVIVE Australia's Cultural Policy for the next five years*. The interceding three years have seen the isolation of 'fake art' as the first tranche of legislative delivery, with a further tranche anticipated for the extensive remaining Indigenous Cultural and Intellectual Property (ICIP) applications.

Submissions made by the Federation of Victorian Traditional Owner Corporations regarding the tranche approach heralded a broader concern amongst the Traditional Owner community. Namely, that this second tranche was of enormous importance to the self-determinative use of Traditional Environmental Knowledge (TEK) by Traditional Owners for economic growth in communities.

In order for genuine protections, it must extend to the areas of bioprospecting, native foods and botanicals (including bioceuticals and pharmaceuticals). Our TK [Traditional Knowledge] must be recognised as ours and in which we have more than a proprietary interest but that we own it within the full understanding of western law.<sup>10</sup>

Aside from the broader concerns regarding commercialisation of ICIP in biotechnology and pharmaceuticals, the first tranche of reform must necessarily define ownership.

The exercise of collective rights, such as those described in UNDRIP Article 31 must necessarily occur through some institution representative of the collective holding the right in question. In UNDRIP this requirement is given effect to in Article 18:

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.<sup>11</sup>

The corresponding Article 19 outlines the requirements of States regarding these institutions. Whilst the document itself is an instrument of international law designed for State party use; its principles should be accommodated within the broader state-based regimes.

To this end, the requirements are that States (parties):

shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.<sup>12</sup>

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<sup>10</sup> Paul Paton, *Submission to the Consultation on proposed Fake Art and broader Indigenous Cultural and Intellectual Property Legislation*, Federation of Victorian Traditional Owner Corporations ('FVTOC Submission'), 2024, 11.

<sup>11</sup> United Nations, Declaration on the Rights of Indigenous Peoples ('UNDRIP'), adopted by the General Assembly 13 September 2007.

<sup>12</sup> Ibid UNDRIP.

The introduction here of FPIC speaks to the need for agreement making to be a central aspect of any interaction between owners of ICIP and other parties.

**Action:** The current Australian Government commitment to bringing forward Indigenous Cultural and Intellectual Property legislation that extends to recognition and protection of Traditional Ecological Knowledge should be progressed as a matter of urgency.

## 7 Recommendation Two

### *Traditional Owners and custodians have the right to economic participation and benefits arising from natural resources*

The interest in Australian native foods and botanicals, from wattleseed coffee at McDonalds to Green Ant gin, is not as recent as you would imagine. Since the 19<sup>th</sup> century, species cultivated and managed according to agricultural principles by Traditional Owners, have been commercialised by others. A clear example is the macadamia industry.

Macadamias have been cultivated and managed by Traditional Owners in what is now Queensland and New South Wales for over 65,000 years. Their careful agricultural management has resulted in the continued existence of this globally desired native food. However, the commercialisation of macadamia production has not included Traditional Owner benefit sharing on a scale of parity with income generated by others. The production of macadamias is now a global enterprise with key growing production in Africa, China and Australia.<sup>13</sup>

Global production of macadamias in 2025 was 344,000 tonnes.<sup>14</sup> At the current 2026 wholesale offer of AUD 4.25/kg,<sup>15</sup> the 2025 global primary wholesale revenue generated by macadamia is estimated as being AUD 1.462b. The Australian production in 2025 of 56,000 tonnes<sup>16</sup> generated a wholesale price of AUD 238m.

Since the establishment of a macadamia industry in Hawaii in the 19<sup>th</sup> century,<sup>17</sup> this global industry has largely bypassed the Traditional Owners who are the reason for the nut's survival in the first place. The genetic diversity of macadamias across Southern Queensland and Northern New South Wales has ensured that the macadamia species retain genetic diversity. The gradual genetic modification that comes from cultivation from one small genus of macadamia, which is what happens as a natural product of agricultural commercialisation, compromises productivity and disease resistance.

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<sup>13</sup> INC International Nuts & Dried Fruit, *Macadamias Global Statistical Review* ('INC Review'), 2025.

<sup>14</sup> Ibid INC Review.

<sup>15</sup> Marquis Macadamias, *2026 Season's Pricing Offer*, 2026.

<sup>16</sup> Ibid INC Review.

<sup>17</sup> Zoe Kean, *In a nutshell: how the macadamia became a 'vulnerable' species*, The Guardian, 2020.

Without the careful management of Traditional Owners, which is what is being experienced now in macadamia crops globally, genetic diversity is not maintained.

The clear and careful management of macadamia, undertaken by Traditional Owners for tens of thousands of years, has maintained the viability of the species. Despite this, Traditional Owner communities have not received equitable benefit sharing from this billion-dollar industry. Similarly, the industries developed around finger lime and Kakadu plum are being developed overseas, as well as in Australia, and largely without Traditional Owner benefit sharing agreements. To ensure that this doesn't continue to happen, it is essential that ICIP is recognised. Increasingly, this recognition must extend to the areas of bioprospecting, native foods and botanicals (including biotechnology and pharmaceuticals).<sup>18</sup>

**Action:** The ICIP legislation referred to in recommendation 1 must extend to requiring that parties seeking to undertake the commercial development of Australia's indigenous flora or elements of the genetic resources of that flora only do so with Free, Prior and Informed Consent. This must be, evidenced through a legally enforceable benefit sharing and participation agreement with the relevant Aboriginal or Torres Strait islander Peoples, represented through their representative institution. Additionally, relevant associated Intellectual Property legislation (for example Patents Act 1990 and Plant Breeders Rights Act 1994) should be amended to reflect this requirement.

## 8 Recommendation Three

### *Benefits are co-created with community to maintain ongoing connection with biocultural species*

In 2019, the global value of Indigenous Knowledge was estimated in its application in agriculture, pharmaceutical and biotechnology:

- Agricultural value USD 275b
- Pharmaceutical value USD 75b
- Biotechnology value USD 60b.<sup>19</sup>

These figures are indicative of the benefits that could flow to Indigenous communities and their associated regional economies from the creation of an effective legal regime around ICIP in native foods, botanicals and associated genetic materials.

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<sup>18</sup> Ibid FVTOC Submission, 11.

<sup>19</sup> Indigenous Knowledge in genetic and natural resources in all markets (excludes subsistence or locally traded products). IP Australia, *Methods of estimating the Market Value of Indigenous Knowledge Report*, 2019.

The Australian native foods and botanicals industry is relatively small, still developing and includes Traditional Owners in the wild harvest crops of mountain pepper, bush tomato and Kakadu plum.<sup>20</sup>

The macadamia story is again a critical example of how things can be done better. With the rise of grafting and other genetically uniform cultivation used for commercial harvesting, wild macadamia trees are at risk from the usual environmental pressures of housing, agriculture and general development. In 2019, *Macadamia integrifolia* was listed on the IUCN Red List as Vulnerable and both *Macadamia ternifolia* and *Macadamia tetraphylla* were listed as Endangered.<sup>21</sup> The Traditional Owners communities who once cared for these species are affected by the ongoing issues associated with colonisation of dispossession and inability to care for Country holistically. These impacts, as well as the lack of economic support for communities that allow them to thrive and live culture on Country, have meant that wild trees are not cared for as they were before colonisation. So, we see a practical example of the effects on a native species when it is managed without the application of Traditional Knowledge.

**Action:** To support the implementation of the legislative regime referred to in recommendations 1 and 2, a program of financial, technical and business development support for Traditional Owner organisations wishing to develop or participate in the proposed development of Native Foods and Botanicals Projects should be established. Appropriately, such a program should be designed by a working group comprised of the National Native Title Council and other relevant Traditional Owner organisations and the National Indigenous Australians Agency in conjunction with the Department of Agriculture, Fisheries and Forests and relevant state and territory government agencies.

## 9 Recommendation Four

### *Free Trade Agreements facilitating preferential trade environments for Traditional Owners*

Among the inheritance passed to us from our Ancestors is a responsibility to care for our lands and waters, which provide a base of resources for trade and exchange. Victorian Traditional Owners have always engaged in economic practices and have always had the ingenuity to engage with neighbouring communities to mutually enrich our lives. The culture of trade is deeply embedded in the way we think and act. Our ways of doing business are different: they are relational and have evolved over thousands of years.<sup>22</sup>

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<sup>20</sup> Ibid, TONFABS, 8.

<sup>21</sup> The International Union for Conservation of Nature, *Red List of Threatened Species - Macadamia integrifolia, Macadamia ternifolia and Macadamia tetraphylla*, 2019.

<sup>22</sup> Federation of Victorian Traditional Owner Corporations, *Victorian Traditional Owner Economic Development Roadmap*, 2025, 6.

Respecting an Indigenous Peoples' approach to trade is central to the 2025 *Australia-UAE Comprehensive Economic Partnership Agreement (CEPA)*. The CEPA should be a model for all future similar Free Trade Agreements (FTAs) Australia is a party to and also inform any future revision of existing FTAs.

The significance of this aspect can be seen from the following excerpts from the CEPA First Nations Action Plan

- 'In 2022-23, First Nations goods exporters generated almost \$18 million in exports, with \$670 million in total turnover and employing 2,300 workers, which is 7.5 times more than non-exporting First Nations businesses.'<sup>23</sup>
- 'First Nations businesses are role models and multipliers – they train and employ more Indigenous staff than non-Indigenous businesses and channel profits back into their communities. A recent report by Supply Nation, *The Sleeping Giant Rises*, provides evidence that Indigenous businesses created \$42.6 billion of social value each year for Indigenous business owners, their employees, their households and Community.'<sup>24</sup>

An example of the economic effect multiplier can be seen at DJAARA (Dja Dja Wurrung Clans Aboriginal Corporation). Following their landmark 2013 Recognition and Settlement Agreement (RSA) under the *Traditional Owner Settlement Act 2010* (Vic), they estimate the economic effect multiplier to be between 3 and 5 times. This strikingly highlights the economic benefit flow on to the main economy.

- 'Historically, Australia's free trade agreements have focused on articles that maintain the Australian Government's right to regulate key social policy and issues affecting First Nations Australians, such as ensuring the Indigenous Procurement Policy continues to benefit Indigenous-owned businesses. The *Australia-UK Free Trade Agreement* (2023) went one step further, by including commitments that First Nations artists receive royalties when their artworks are resold in the UK. CEPA is historic, elevating First Nations interests across various provisions in the agreement. It contains Australia's first-ever standalone chapter in a free trade agreement dedicated to Indigenous trade and investment cooperation.'<sup>25</sup>
- 'The Agreement eliminates tariffs on over 99 per cent of Australia's exports to the UAE by value, with most tariffs eliminated on entry-into-force (1 October 2025) or locked in at zero. The Agreement offers Australia a competitive advantage in

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<sup>23</sup> Australian Government, *Australia-United Arab Emirates Comprehensive Economic Partnership Agreement First Nations Action Plan* ('A-UAE Action Plan'), 2025, 6.

<sup>24</sup> Ibid A-UAE Action Plan, 6.

<sup>25</sup> Ibid A-UAE Action Plan, 6.

areas such as bush foods, botanicals, art and fashion, which may be of particular interest to First Nations exporters.<sup>26</sup>

- 'The Agreement preserves Australia's existing government procurement exceptions, including the Indigenous Procurement Policy.'<sup>27</sup>

Article 17.6 clearly defines the importance of 'Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions' in the implementation of the CEPA. Particularly of note, is the identification that for practical purposes under the Agreement, ICIP is inclusive of the full range of applications anticipated to be included in tranche 2 of *REVIVE*:

1. The Parties acknowledge the cultural significance of genetic resources, traditional knowledge, and traditional cultural expressions, including with respect to the names and uses of plants, traditional foods, language, song, stories, songlines, dance and works of art.
2. The Parties recognise the value of protecting traditional knowledge and traditional cultural expressions, including through intellectual property rights.
3. The Parties recognise the contribution of genetic resources, traditional knowledge, and traditional cultural expressions to the participation of Indigenous Peoples in international trade and investment.
4. The Parties affirm the importance of working towards multilateral outcomes on intellectual property-related aspects of genetic resources, traditional knowledge, and traditional cultural expressions, including through the World Intellectual Property Organization.<sup>28</sup>

**Action:** The ICIP legislation referred to in previous recommendations must be prioritised to meet the requirements of CEPA, amongst other legislative instruments, and inform the work of the World Intellectual Property Organisation Intergovernmental (**WIPO**) Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (**IGC**). The CEPA should be a model for all future similar Free Trade Agreements (FTAs) Australia is a party to and also inform any future revision of existing FTAs.

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<sup>26</sup> Ibid A-UAE Action Plan, 10.

<sup>27</sup> Ibid A-UAE Action Plan, 10.

<sup>28</sup> Ibid A-UAE Action Plan, 17-3.

## Conclusion

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The Mabo Centre and the National Native Title Council thanks the Committee for the opportunity to bring the important matters set out in this submission to your attention. If implemented, the following four recommendations can contribute significantly to better protection of cultural heritage, economic prosperity from this cultural heritage and acknowledgement of the unique rights of Traditional Owners to their cultural heritage.

We recommend;

1. Revive *REVIVE*.
2. Traditional Owners and custodians have the right to economic participation and benefits arising from natural resources.
3. Benefits are co-created with community to maintain ongoing connection with biocultural species.
4. Free Trade Agreements facilitate preferential trade environments for Traditional Owners.

We welcome any opportunity that arises to explore any matters raised in this submission further, either in writing or in person.



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