

The tactics of dispossession

Power has various guises. It is possessed and exercised in diverse ways. Many of us recognise power in its most overt forms—authority, coercion and domination—where it is sometimes underpinned with the threat, or practice, of violence, as Jack Green illuminates in ‘Hunting us down like dogs’.

But power is also marshalled and exercised in ways that are sometimes disguised through persuasion, seduction, manipulation and policy. When deployed in ways like this power can be exercised at a distance so that those whose lives are upended, suppressed or radically altered remain unseen and voiceless.

This is the experience of the Garrwa, Gudanji, Marra and Yanyuwa peoples, who since being violently dispossessed of their lands, waters and self-determination have been forced to endure, for over 150 years, settler colonial power exercised by governments, churches and settlers. This has been done through hegemonic discourse and legislative disciplinary power that sought to control almost every aspect of their lives, as well as their ancestral lands and waters.

Australian governments, through the crafting and implementation of policy ensured Indigenous economies, lands, waters, food, movement, kinship, sex, education, employment, natural resource use, and security were all controlled through a myriad of legislative and administrative tools.

These tools are facilitated by government ministers and bureaucrats and result in slow violence that occurs gradually and out of sight. It is a violence of delayed destruction that is dispersed across time and space. It is an attritional violence that is typically not viewed as violence at all.¹

The legislative and administrative tools of governments have never done away with the settler colonial frontier, but rather created another kind of settler colonial frontier, an extractive frontier.

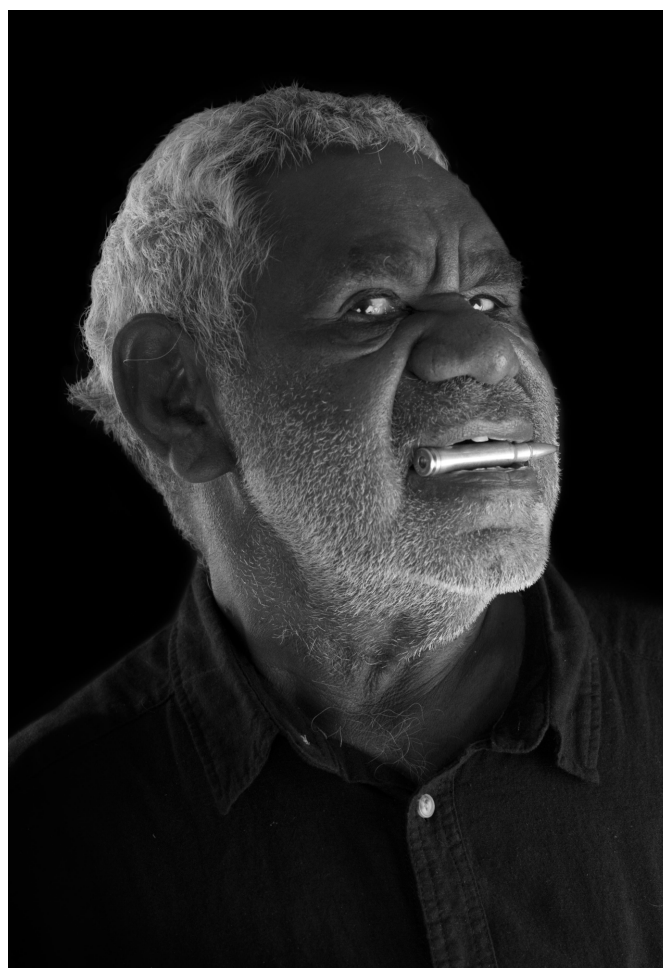
The extractive frontier continues to be a place of battle, ‘between short-termers who [...] arrive to extract, despoil, and depart and the long-termers who must live inside the ecological aftermath and must therefore weigh wealth differently in time’s scales’.²

What the settler colonisers continue to make clear with their tactics of dispossession and control is that there is to be no place for Aboriginal authority and Law.

In laying out the timeline below, we aim to document how settler colonisers have used and continue to use western law and policy to usurp Aboriginal peoples’ lands and waters and suppress their sovereignty. It lays out how Aboriginal peoples’ right of self-determination has slowly, but persistently, been eroded. And it shows how Indigenous peoples’ lives and lands have been captured and controlled by settler colonisers through numerous settler-colonial laws, policies and regulations.

We were inspired by the work of John McCorquodale (1987) in his examination of the thousands of Ordinances and Acts of Parliament used by Australian governments to first take Indigenous lands as waste lands, and then control Indigenous peoples’ lives.³

Using his work as a foundation, and our own research examining more recent legislation and government programs, we set out below a small number of these legislative and administrative tools, along with the people who administer or benefit from them. We do this to remind ourselves how settler governments, instead of recognising Indigenous sovereignty and working collaboratively with Indigenous peoples continue to exercise disciplinary power to erase Indigenous sovereignty to extract minerals and energy resources and in their place discard toxic waste.



William Thomas Denison

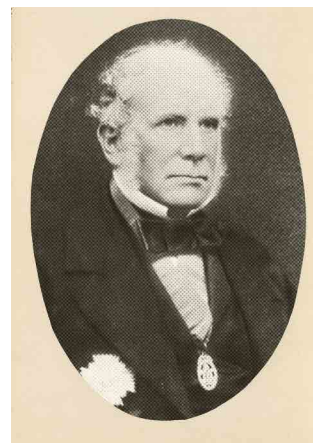
Australian Waste Lands Acts 1855 (Imperial)

'An Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies, and to make further Provision for the Management thereof'.⁴

With this Act the British Crown usurped Aboriginal peoples' property, their lands, waters and all the natural resources contained within. Aboriginal people were made invisible in the eyes of the British Imperial law, their ancestral lands were declared to belong to the Crown and to be 'waste' and open for sale.

William Thomas Denison, NSW Governor 1855–1861.

In September 1858 Denison wrote to the Colonial Office: 'The physical peculiarities of the race, their want of stamina to resist the slightest access of disease, seem to render their gradual extinction a matter almost of necessity when coupled with the unproductiveness of the females'.⁵



Wentworth D'Arcy Uhr

Northern Territory Land Act 1872 (SA)

This Act allowed persons to apply for land outside settled districts and to use that land for pastoral purposes. Leases were initially for 14 years (although this was later amended to 21 years or 42 years), and covered an area between 25 and 300 square miles, at a rental of sixpence per square mile.⁶

Wentworth D'Arcy Uhr, acting sub-inspector of Queensland Police at Burketown 1867.

Uhr was involved in numerous murders of Aboriginal people across the Gulf region. In 1872 he drove 400 head of cattle from Charters Towers to Darwin, pioneering the Gulf-McArthur-Katherine route, which marked the beginning of the Gulf massacres.⁷



Henry Ayers

NT Gold Mining Act 1873 (SA)

This Act provided for the allocation of mining leases and divided the NT into a series of mining districts.

Individuals rather than large companies worked most mines at this time. In the late 1880s, following the discovery of gold, silver, copper, lead and coal in the Gulf region, settlers hoped mining might save their ailing economy. Many of these mineral sites were encompassed within ancient sacred sites and Dreaming tracks, which were cared for, and nurtured, through songs and ceremonies. Settlers rendered the religious and cultural significance of these vital places invisible.⁸

Henry Ayers, SA Premier 1872–1873.

Ayers made his wealth through the Burra Burra Copper Mine known as a 'Monster Mine', and as Secretary of the South Australian Mining Association. He encouraged exploration of the interior and subscribed to several expeditions.⁹



Alfred Deakin

Commonwealth of Australia Constitution Act 1900 ('Australian Constitution') (Imperial)

Section 51 (xxvi) of the Constitution gave the Australian Commonwealth power to make laws with respect to 'the people of any race, other than the aboriginal race in any State, for whom it was deemed necessary to make special laws'. Section 127 of the Constitution provided: 'In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted'.¹⁰

Alfred Deakin, Prime Minister 1903–1904, 1905–1908, and 1909–1910.

Deakin played a significant part in making and shaping the Constitution. Deakin 'had a mystical faith in the virtues of the British race and his vision was of a great white Australia living at one with and within a greater white Empire'.¹¹



W. G. Stretton

The Northern Territory Aborigines Act 1910 (SA)

'Aboriginal' within the meaning of the Act defined as 'An Aboriginal native of Australia or any of the islands adjacent or belonging thereto; or A half-caste who lives with such an Aboriginal native as wife or husband; or A half-caste who, otherwise than as a wife or husband of such an Aboriginal native, habitually lives or associates with such Aboriginal natives; or A half-caste child whose ages does not apparently exceed 16 years. A half-caste is any person either but not both of whose parents is, or, was an Aboriginal, and any child of any such person'.

The administrative violence of the legislation provided the means through which segregation could be legally achieved.¹²

W. G. Stretton, Chief Protector of Aborigines, NT 1908–13 stated that: 'Truly, civilization with the aboriginal is a failure'.¹³



Henry Newman Barwell

Dog Ordinance 1923 (Cwlth)

'Any unregistered dogs in excess of one kept by any Aboriginal outside the limits of any Municipal Area may be destroyed by any Police Officer, Protector of Aborigines, or a person thereto authorized by the Administrator'.

Dingos (dogs) have long been important to Aboriginal people. They feature in the Wankarla (The Dreaming). They also play an important role in the hunting economy.

In 1929, Police visited various camps where many Garrwa and Gudanji families were living on the northern Barkly Tablelands and killed 73 pet dogs.¹⁴

Henry Newman Barwell, Premier of South Australia 1920–1924, Premier of South Australia 1920–1924.

Barwell argued that northern Australia had proven unsuitable for white settlement and only the large scale importation of 'selected Asiatics working as coolie labour under indenture to white men' would help develop the region as they were the only race suited to such conditions'.¹⁵



Stanley Bruce

Workmen's Compensation Ordinance 1923 (Cwlth)

Definition of 'Workman' does not include ... '(a) any Aboriginal'. In 1929, it was estimated that 80% of Aboriginal people employed in the non-Indigenous economy were in the cattle industry.¹⁶

Work in the rough, no-pay, hands-on cattle industry was dangerous. Aboriginal people sustained many lifelong injuries but settler governments excluded them from workers compensation schemes.

Stanley Bruce, Prime Minister of Australia 1923–1929.

In his campaign speech for the 1925 election, Bruce stated: "It is necessary that we should determine what are the ideals towards which every Australian would desire to strive. I think those ideals might well be stated as being to secure our national safety, and to ensure the maintenance of our White Australia Policy to continue as an integral portion of the British Empire."¹⁷



Cecil (Mick) Cook

Aborigines Ordinance 1927 (Cwlth)

'This ordinance extended the definition of "Aboriginals" to a half-caste male 'whose age exceeds twenty-one years and who, in the opinion of the Chief Protector, is incapable of managing his own affairs and is declared by the Chief Protector to be subject to this Ordinance'.¹⁸

Cecil (Mick) Cook, Chief Medical Officer and Chief Protector of Aborigines NT 1927–1939. Cook reported in 1934 'Practically all half-caste children of both sexes, formerly left to live with aboriginals in compounds and bush camps ... have been removed to 'half-caste' institutions under Government control. Cook's aim was to 'breed out the colour'.¹⁹



John Arthur Perkins

Aboriginals Ordinance 1933 (Cwlth)

‘Payment of wages may be made, if so directed, to Chief Protector, banked in trust by him until it reaches 20 pounds (after deduction of all amounts spent by Chief Protector “on behalf of or for the benefit of the Aboriginal”) and pay it and all future moneys to account of the Aborigine. Aborigine permitted to spend only on expenditures authorised by the Chief Protector. Until account reaches 20 pounds, all interest earned to be paid to Aboriginal Trust Fund established under the Regulations’.²⁰

Regulations also gave the Chief Protector power to exempt an employer from the payment of wages to an Aboriginal person if the employer fed and maintained ‘relatives and dependents’. Regulations were enforced through licences which entitled pastoralists to recruit an unlimited number of ‘aboriginal natives’. Licences cost 10 shillings.

John Arthur Perkins, Minister for the Interior 1932–1934.

In November 1932, the Minister for the Interior ordered a 20 per cent reduction in the rates of wages prescribed for Aboriginal drovers.²¹



John McEwan

Evidence Ordinance (No 2) 1939 (Cwlth)

On effect of unsworn testimony of Aborigines

‘Court required to explain to Aborigine that he is required to tell what he knows about the matter; can receive it by means of the interpretation of another unsworn Aborigine providing Court is satisfied as to the latter’s capacity. Once reduced to writing, evidence may be received as any other evidence given under oath.

Nothing contained in this section shall be deemed to authorize any court to take or admit the unsworn testimony of any person who appears upon examination to believe in a God, or a future state of reward and punishment, and to understand the obligation of an oath’.

Aboriginal people were *prima facie* assumed to be persons incapable of giving sworn testimony. This closely compared to colonial NSW legislation almost a century previous, and to the same or similar effect.²²

John McEwen, Prime Minister 1967–1968.

‘In 1939 John McEwen, the Minister responsible for the Northern Territory, proposed what he called a new deal for Aboriginal people based on economic and social assimilation. In practical terms, assimilation meant that in the course of time all persons of Aboriginal birth or mixed blood would live like white Australians. Under McEwen’s new deal there would be greater government control over people of mixed descent [...].’²³



Paul Hasluck

Welfare Ordinance 1953 (Cwlth)

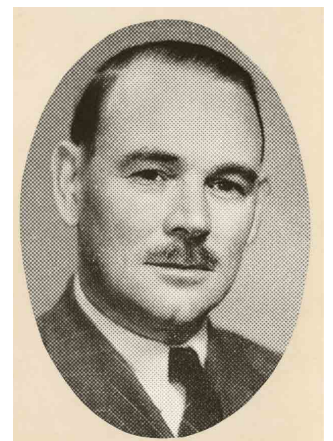
“Setting out duties of Director, including ‘in relation to wards, to take steps to promote their social, economic and political advancement for the purpose of assisting them and their descendants to take their place as members of the community of the Commonwealth’.

A person may be declared a ward if by reason of ‘(a) his manner of living; (b) his inability without assistance, adequately to manage his own affairs; (c) his standard of social habit and behaviour; and (d) his personal associations’.

Persons under control of ‘Aboriginal’ legislation of SA, WA or QLD become wards upon entering the NT. Director to keep a ‘register of wards’. The register of wards was notoriously known as the ‘Stud Book’.²⁴

Paul Hasluck, Minister for Territories 1951–63.

“Assimilation means not the suppression of the Aboriginal culture but rather, that for generation after generation, cultural adjustment will take place. The native people will grow into a society in which by force of history they are bound to live.”²⁵



Harry Giese

Wards' Employment Ordinance 1953 (Cwlth)

'Constitution of a 12 man Employment Advisory Board (one being an Aboriginal who is not a ward) to advise Administrator on training of wards'.

Director empowered to declare a ward who 'appears to be over the age' of 14 years and 'who may successfully complete a course of vocational training' to be a ward-in-training, as apprentices, or by agreement with an approved employer for a maximum of five years.

Upon completion of course, Director shall issue a certificate of competency but not before that person 'has gained a knowledge of English and hygiene deemed by the Director to be appropriate to the calling for which he has been trained'.

In 1949, Aboriginals Ordinance regulations provided for a cash wage for station workers of one pound per week. In 1953, it was increased to two pounds. To avoid this payment many station owners converted wages to credits to be used at their own stores where prices were inflated.²⁶

Harry Giese, Director Welfare Branch NT 1954–1970.

In 1953 the Native Affairs Branch of the NT became the Welfare Branch. Giese, as the Director became the guardian of all 'wards' and had complete control over their lives, overseeing the removal of Aboriginal people from their homelands and their enforced concentration in residential settlements, missions and pastoral stations. In 1960, the Welfare Branch forcibly moved 133 Aboriginal people, resident at Borroloola, to a reserve at Robinson River.²⁷



Paul Everingham

The Northern Territory Land Corporation Act 1979 (NT)

Long seen as a settler instrument which interfered with, or limited, land claims, the NT Land Corporation was set-up to 'acquire, hold and dispose' of property. It is 'not an authority or an instrument of the Crown' and 'is not subject to the control of a minister of the Crown'. With few public records it is an opaque organisation. NT governments have used the Act to give unalienated Crown land to the Land Corporation where the land quickly becomes alienated freehold land, and therefore not available for claim under the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cwlth)*.

This legal ruse was used to limit Gudanji people's claims to ancestral lands which were vacant Crown land (the Billengarra pastoral lease). The Corporation continues to hold the land today.

Paul Everingham, Chief Minister NT 1978–1984. In 1998 Charles Perkins alleged, 'Paul Everingham ... he was pretty bad on Aboriginal Affairs... he's been like every Country Party or Coalition Premier or Chief Minister in the Northern Territory. [They] have all been pretty racist in their attitudes towards Aboriginal practices and they always played the race card at election'.²⁸



Ian Tuxworth

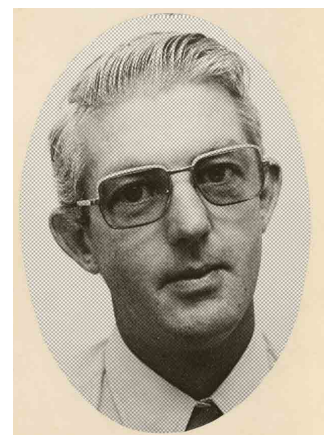
The Conservation Commission Act 1980 (NT)

This Act established the Conservation Land Corporation, a sibling to the NT Land Corporation, to control the NT's national parks. The act operated on a similar basis as the NT Land Corporation Act to interfere and limit Aboriginal land claims. NT national parks before the act were unalienated Crown land and therefore open for claim under the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cwlth)*.

By simply passing land title to the Conservation Land Corporation, NT governments could limit Aboriginal land claims to ancestral territories.

Ian Tuxworth, Chief Minister NT 1984–1986.

Tuxworth said about the passing of the Conservation Commission Bill 'I think the government has already demonstrated its intention to preserve the environment, particularly in relation to making it compatible with mining'.²⁹



Marshall Perron

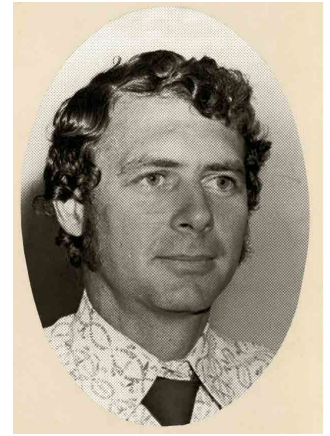
McArthur River Project Agreement Ratification Act 1992 (NT)

This Act granted mineral leases to Mt Isa Mines, but provided that the grant did not extinguish native title. The legislation was passed before the Native Title Act 1992 (Cwlth) was enacted, and accordingly the statutory 'right to negotiate' provisions in that legislation were not available to traditional owners.³⁰

Marshall Bruce Perron Chief Minister NT 1988–1995.

On 6 July 1993, Perron, told international journalists that Aboriginal people were 'centuries behind us in their cultural attitudes and aspirations and had poor hygiene practices'. In the same year, while pushing through the McArthur River Mine Project, he claimed the NT is 'a vast region rich in resources where we do not ask what's wrong with a development project but what can be done to ensure it proceeds'.³¹

Perron also stated, 'we believe having a marginal mine paying no royalty is preferable to no mine at all'.



Shane Stone

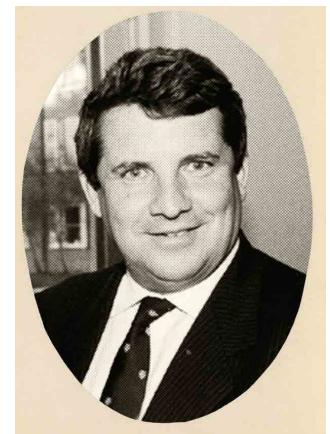
Sentencing Act 1995 and the Juvenile Justice Act 1993 (NT)

In 1997, amendments to these Acts introduced mandatory sentencing for property offences, incarceration of young people for the non-payment of infringement notices and proposed increases in police armoury and numbers.

Mandatory sentencing laws are arbitrary, and are not proportionate to the crime.

In 1997, 90% of under 17-year-olds held in detention in the NT were Aboriginal people. White-collar crime, such as fraud, obtaining financial advantage by deception, and related offences were not subject to mandatory sentencing.³² In 2018, 100% of children in detention in the NT were Aboriginal.

Shane Stone, Chief Minister, NT 1995–1999. In 1997, Stone was Attorney General of the NT and appointed himself a Queen's Counsel. Stone introduced mandatory sentencing, boasting that: 'The court will have no choice in relation to findings of guilt for specified property offences. Other options, such as suspension, home detention or community service orders, will not be available as a sentencing option in relation to the mandatory period.'³³



Amanda Vanstone

Shared Responsibility Agreements 2004 (SRAs) (Cwlth)

In 2004, Prime Minister John Howard and Amanda Vanstone announced the government's intention to abolish the Aboriginal and Torres Strait Islander Commission and to transfer funding and responsibility for its programs to mainstream government departments.

Vanstone called it a 'new conversation' and imposed SRAs on Indigenous communities, whereby extra government funding for infrastructure or services was provided on the condition that communities committed to specific behavioural change or other actions.

Amanda Vanstone, Minister for Immigration and Multicultural Affairs 2003–2007.

In 2005 Vanstone termed Indigenous homeland communities 'cultural museums' suggesting they were unsafe for women and children. 'Listening to Indigenous Australians does not mean blindly accepting, for example, that services—like education, health and housing—can be delivered at equal levels and equally well in townships and the homelands for the same people'.³⁴



Mal Brough

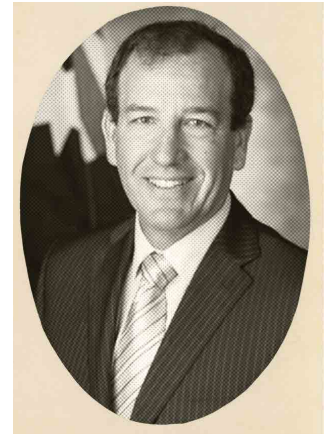
The Northern Territory Emergency Response 2007 (the Intervention) (Cwlth)

The Intervention was a package of disempowering legislation, hurriedly pushed through the Parliament and Senate. Legislative measures included:

- Removing the permit system governing access to Aboriginal land in the NT;
- Introducing an Income Management Regime to divert income regulated by 'cashless' state rules;
- Removing customary Law as a consideration in sentencing or setting bail;
- Providing for Commonwealth management of 'business management areas' in Aboriginal communities and closer management by the Commonwealth of community stores;
- Discouraging the use of alcohol by imposing various penalties;
- Banning access to pornography within 'prescribed areas' and requiring the installation of filters of publicly-funded computers;

Provisions of the legislation were classified as 'special measures' under the *Racial Discrimination Act 1975*, making the legislation exempt from Part II of the Act.

Mal Brough, Minister for Families and Community Services and Indigenous Affairs 2006–2007. 'He constructs his moral authority, in order to support his proposed actions, via shadowy anonymous anecdote: the unnamed old women who come to speak with him outside formal meetings, who plead with him to send more police, who tell him the permit system is "part of the problem".'³⁵



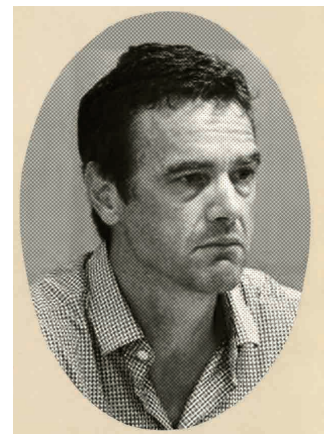
Rob Knight

Local Government Act 2008 (NT)

Reform of local government in the NT saw the 58 community councils amalgamated into 8 mega-shire councils.

The reform resulted in the reduction of representation and participation of Aboriginal community members in governing their own communities. This resulted in the further erosion of Aboriginal self-determination.³⁶

Rob Knight, Minister for Local Government NT 2008–2012. 'We are not going to let the bush wither. We are going to do something, which is going to attract private investment. We are going to ensure services are provided to men, women and children out bush so that they can have a better life'.³⁷



Jenny Macklin

Stronger Futures in the Northern Territory Act 2012 (Cwlth)

This Act was a continuation of the NT Intervention, enabling state and territory government agencies to refer a welfare recipient for the management of their income.

Compulsory Income Management has been criticised because it "punishes the majority who are effectively managing their money and fails to promote personal responsibility or improve money management skills for those that don't."³⁸

Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs 2007–2011, Minister for Families, Community Services and Indigenous Affairs from 2011–2013. 'In 2013 Macklin was asked whether she could survive on the \$246 a week welfare payment. She said: "I could". As a cabinet Minister Macklin at the time was earning \$6321 a week'.³⁹



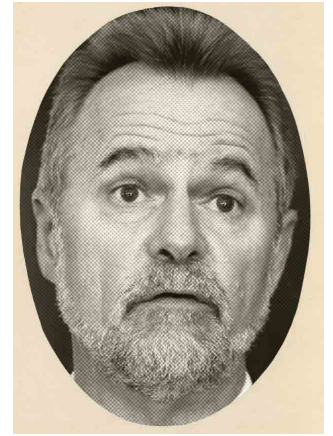
Nigel Scullion

The Community Development Program (CDP) (Cwlth)

The Abbott Coalition Government ended the Community Development Employment Project (CDEP) program when wages ceased and all participants became social security income support recipients. Under the new Community Development Program participants are typically required to work 25 hours a week for \$280 a week, or \$11.20 per hour, well below the minimum Australian wage of \$18.29.

Nigel Scullion, Minister for Indigenous Affairs 2013–2019.

In 2018, Scullion voted in the senate in support of the white supremacist slogan, 'It's OK to be white'.⁴⁰



Michael Gunner

Hydraulic Fracturing (Fracking) (NT)

The NT Labor Government lifted its pre-election moratorium on fracking in April 2018 following the Scientific Inquiry into Hydraulic Fracturing concluded the challenges and risks associated with any onshore shale gas industry in the NT could be 'appropriately managed'. Shortly after lifting the moratorium the Australian Government allocated an extra \$260 million to the NT to compensate for its low GST share. Despite the GST being described by the finance minister, Mathias Cormann, as a 'potential lever' to get states to exploit the resources, all denied the link.⁴¹

The Gulf region has one of the richest shale gas deposits in the NT. In 2014, the owners of the Nawimbi Land Trust that surrounds Borroloola voted to reject Armour Energy's application for petroleum exploration rights, blocking the company from acquiring access to roads and infrastructure around Borroloola needed to link surrounding shale gas tenements to existing gas pipeline grids.

Michael Gunner, Chief Minister, NT 2016–current. Gunner imposed a moratorium on fracking before he was elected, saying the expansion of the resources industry depended 'on the social approval of the people of the Northern Territory'.⁴²

In April 2018, Gunner lifted the moratorium on fracking and has allowed fracking to go ahead in the NT even though page 28 of The Scientific Inquiry into Hydraulic Fracturing in the Northern Territory states the community felt "the Government and the gas industry neither have the will nor the capacity to implement meaningful regulatory change in the NT" and "overwhelmingly, they were opposed to hydraulic fracturing and were opposed to the lifting of the moratorium."



Tony Abbott

Special Envoy for Indigenous Affairs Envoy 2018 (Cwlth)

Abbott was given the role of 'special envoy for Indigenous Affairs' after being left out of the new Prime Minister Scott Morrison's ministry, in an effort to heal the wounds of the 2018 leadership coup against Malcolm Turnbull.

Garrwa man Gadrian Hoosan said of Abbott's visit to Borroloola, 'He just rocked up... He was really arrogant. He didn't want to sit down and listen to us. We asked him, "why are you here?" He said, "I'm here because I heard that a lot of kids are not attending school". But Borroloola school has one of the highest attendance rates in the NT. We were confused. He was really arrogant. He didn't want to sit down and listen to us.'⁴³

Tony Abbott, Prime Minister 2013–2015.

Abbott is a self-made 'expert' on Indigenous issues. In 2010, Abbott stated, "There may not be a great job for [Aboriginal people] but whatever there is, they just have to do it [...] And if it's picking up rubbish around the community, it just has to be done."⁴⁴



Nicole Manison NT Minister for Mining and Industry

In 2020, disregarding due process, the NT Minister for Mining approved McArthur River Mine's Mine Management Plan allowing the mine to double in size. The Minister approved the Mine Management Plan even though the Aboriginal Areas Protection Authority, that is responsible for overseeing the protection of Aboriginal sacred sites on land and sea across the NT, had rejected Glencore's application for an Authority Certificate because the Authority were of the view that consultations with the custodians and traditional owners of the sacred sites near the mine had not been undertaken with the correct people.

Nicole Manison is well known around the NT for the adage 'We will do whatever it takes'.⁴⁵



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