

**The Future of  
Cape York Peninsula**

Address to the Developing Northern Australia Conference, Rockhampton

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**Introduction**

I wish to acknowledge the Darumbal People of the Rockhampton and Capricorn Coast Area and traditional owners from across Northern Australia. I bring greetings from Cape York Peninsula.

I am very pleased to have the opportunity to speak on the development of the North and to provide a perspective from our region.

Let me say this:

We don't have an agreed **Vision** for the future of our regions.

Our two governments harbour certain agendas for the North, industry and potential developers have their ideas, and residents of these regions have their own hopes and dreams.

Of course, traditional owners have their own thoughts about the future of their homelands and their people. I don't think we can have coherent development agenda without us sharing a common **Vision**.

In my address today I wish to put forward a perspective from the point of view of my people, but one which I hope takes into account the needs and aspirations of all residents and land owners who have an interest in the future of a region such as Cape York.

Before I identify what I think are the crucial issues that we need to come to terms with, I want to provide a quick survey of where we are at, as it is now 28 years since Mabo.

Native title has been part of our land law since the 3<sup>rd</sup> of June 1992, and the working out of justice has so far taken 27 years.

The original Mabo case took ten years to finalise from the time the Murray Islanders first launched their action, and we are about to complete three decades of arduous and costly land claims, to deliver the justice promised by Mabo.

My land council has played a role in this process, not least with the landmark case on behalf of the Wik Peoples.

And we have had some considerable successes in delivering land justice for our people.

The point is that the land claim era will soon come to an end.

Fifty percent of Cape York has been settled. The other 50 percent is slated for settlement in remaining claims.

The next phase is for traditional owners to enjoy, look after and develop their land.

Even as we complete remaining land claims, many groups are ready to enjoy their homelands.

Cape York Land Council has delivered millions of hectares of lands under Queensland's Aboriginal Land Act, and the Commonwealth Native Title Act.

Many groups now have Native Title, Aboriginal Freehold and leasehold title to their traditional homelands.

Also, traditional owners have made agreements for millions of hectares of their lands to be gazetted and managed as national parks.

These groups have added to the nation, the state and the world's conservation heritage by protecting its tremendous cultural and natural values.

Five years ago, the land council worked with traditional owner groups across the Cape, whose native title claims were still unresolved, to complete their claims in as efficient and timely way as possible: this is the Cape York United claim, known as the **One Claim**.

On our estimation, it would have taken another 30 years of land claim processes to resolve outstanding native title claims across the peninsula.

The intention of the **One Claim** was to settle these claims in a much shorter timeframe.

The claim has not been without controversy, however, we believe that the approach is correct.

Governments and other stake holders should be equally interested in settling as much as the traditional owners, who have been waiting a long time to receive justice.

Land claim resolution is crucial to the good development of the North, and is a precondition of development.

Sea claims have been settled on the North East Coast of Cape York and further claims will be prosecuted in the coming years.

Furthermore, the High Court decision in the Timber Creek case means that compensation claims for the extinguishment and impairment of native title remain outstanding and will be processed in forthcoming years as well.

The successful land claims have resulted in an increasing number of title holding bodies representing traditional owners as well as Land Trusts holding Aboriginal Freehold title under the State's Aboriginal Land Act.

At this point there is a plethora of land related structures across the region, with more to come.

It is a patchwork of land titleholding structures that are the result of land claim processes, rather than planning.

Because titles are held under various tenures, with various laws defining entitlement under different terms, this patchwork of structures makes for great complexity and administrative difficulty.

Many of the titleholding structures are unfunded, and most are poorly funded.

The structures have been tenure-driven, rather than being based on traditional titleholding.

This is an understandable result of the haphazard nature of land claim processes, but clearly, there is great scope and need for rationalization of land tenure-holding structures.

One example of the difficulty is that there are often layers of tenure over the same area of land involving sometimes two different decision-making bodies and processes for the same area of land.

This results in high transaction costs for planning and dealing with indigenous lands. This is something that must be carefully approached in the post land claim period.

There are many good reasons why careful land tenure rationalization will be in the interests of both landowners and governments.

The current situation, with all of its complexity and unfunded structures, makes land use and economic development very difficult if not impossible for land owners.

This complexity also makes Land Trusts and Native Title PBCs highly susceptible to “fly by night” developers. Without proper support traditional owners can be overwhelmed by promoters making big promises that do not stack up, or are not in the interests of landowners.

There is no coherent mechanism to enable genuine investors to engage in transparent dealings with landowning groups. There is a need for coordinated investment rather than allowing an unregulated “free for all” situation to play out.

Land Trusts and PBCs have no access to commercial advisory services in order to assess development proposals. Many good opportunities go begging and many poor ideas are entertained without being subject to proper due diligence and feasibility.

There is an urgent need for land owners to have access to commercial advisory support.

The end result of all of this, as it is clear to us in Cape York, is that our land ends up as dead capital. We are land rich and dirt poor, with no opportunities to use our land as well as its resources. Our land is unable to be mobilised for the benefit of our people.

Our largest asset remains un-utilised. Only outside proponents end up succeeding in using our land in Northern Australia for economic return: local landowners are rarely proponents in their own development.

It means industry development is impeded and regional development stifled.

As I've said, transaction costs are high.

One of the features of the post Native Title Claim scene is that there is little investment in land administration systems to enable private tenure for home and business ownership.

Tenure systems within mainstream Queensland townships have been developed over a century, as a result of government investment, and yet, indigenous townships and homelands have no such tenure infrastructure. We need new tenure systems to be developed to reflect land claim resolutions.

This will not happen through a "user pays" system: we need governments to create this foundational property infrastructure. The Peruvian economist Hernando de Soto made it clear in his book, *The Mystery of Capital*, that tenure systems are crucial for development.

Of course, the larger policy context of all of this is the development of Northern Australia, which is what we talking about at this conference.

It is now five years since this agenda was adopted by the Commonwealth and relevant state and territory governments across the North.

The establishment of **NAIF** demonstrated the seriousness of the Australian Government. However, it is not unfair to say that we have not made much progress over these five years. I want to take the opportunity today to return to my contention that there is no agreed **Vision**. We all have different thoughts and ideas and agendas but we don't have a compelling and driving **Vision**.

I don't propose to supply such a vision but I want to suggest some parameters for its articulation.

It seems to me, at the end of the day, that there is common ground amongst most people, that we are talking about regional development and specifically, **Sustainable Regional Development**:

- economically sustainable
- socially sustainable
- culturally sustainable and
- environmentally sustainable.

I think we need to agree on this. I think we need to agree on a **Vision** for the various regions of Northern Australia. I think each region, across the North should have its own particular vision. I think Cape York as a region has of course many commonalities with other places in Northern Australia, but we should have a **Vision** that is particular to our natural and cultural environment and people.

We as traditional owners and as a residential community, need to have regard to the advice of the great ecologist David Attenborough, whose recent testament tells us that we all have a responsibility to commit to rewilding the Earth. We have a responsibility to stop ecological degradation and to turn the tide back on the loss of biodiversity. This needs to be done in concert with the preservation of our cultural heritage, and we need to do this whilst never renouncing the right of all people who live in Cape York, to have an economy.

I'll leave you with this question: What is the **Vision**? What is our **Vision** for the future of Cape York? What are the principles by which we are all prepared to stand by and follow over the long term?

Once we are clear on our **Vision**, we can then think about how we can get from our current situation to that vision of sustainable development. This involves a question of strategy.

This is where we must think about the things that are needed to enable us to move from our current situation towards the **Vision** that we have for our people and our region.

We need **Investment Ready Projects**. These projects may be directed to the conservation of the natural and cultural heritage of the region. They may be projects that develop the human capital of our people, they may be projects aimed at building the infrastructure of our communities and our region. They may be projects related to enterprise and industry development.

But the key organizing objective is that we need these projects to be ready for investment. Assuming that **NAIF** and other sources of investment can be made available for these projects, then we need to work on three related agendas.

Firstly, there is a proposal that was first articulated in the **Pama Futures** agenda that our regional organisations set out in 2017. The concept of **Investment Ready Tenure** is about land councils working with traditional owners and communities to capture tenure opportunities. To sort out the legalities and anthropology necessary for proper consultation and consent to be obtained from traditional owners. And for the consent to be captured in a proper way through **Indigenous Land Use Agreements** and other such legal documents. **Investment Ready Tenure** is about capturing that consent and tying a ribbon around the tenure, so that it is ready and available for investment.

The actual investment opportunity may not always be identified. By creating a legally certain tenure, that tenure can be made available to the market for investors to consider what the best land use may be, and investors can make agreements with landowners, using their tenure as a commercial asset.

So **Investment Ready Tenure** is not a reactive process to development, it's an idea that enables landowners to be proactive, to create opportunities for themselves and for external investors to consider what best return might be yielded from such tenure.

This also means that there must be **Investment Ready Projects**. We need projects that are financially feasible, environmentally feasible and socially feasible. So that necessary regulatory approvals will be forthcoming.

We also need to think about creating **Investment Ready Bonds**, either for conservation, or for enterprise, or other forms of ethical and social impact investment. We should create bonds that enable external investors to see ways in which their capital can be mobilised in support of social, environmental, and enterprise development projects in regions such as Cape York.

We need to identify the sources of all such potential investment: the existing **NAIF**, as well as social impact investment and conservation and ethical investment.

All of these sources of investment should be able to be channelled into the region to enable the sustainable development we seek.

The third element of any strategy is to ensure that we have the necessary enablers that will facilitate the development that we want. One imperative is for important large scale projects on indigenous lands to be designated as **Projects of Indigenous Development Significance**, similar to Projects of State Significance. Such projects should attract high level support and facilitation so that regulatory, and other processes are undertaken as a matter of priority by relevant governments and agencies.

A second enabler is the creation of **Regional Taxation Zones** which make investment attractive to investors, either through allowances, or other mechanisms. Regions such as Cape York should be treated favourably to promote investment that enhances sustainable development.



A further enabler is the concept proposed by the Cape York Institute of **Tribal Wealth Funds** that would provide a facility under Commonwealth law, for groups to manage funds derived from resource royalties, rentals and other forms of income. To build tribal level sovereign wealth funds for the long-term benefit of landowner groups and communities.

Such **Tribal Wealth Funds** would provide a high level of prudential management, similar to superannuation funds, and provide access to expert investment management under the umbrella of the Future Fund.

For traditional owners who have resource development operations on their land, the long-term accumulation and growth and proper distribution and investment of such funds, are urgent priorities.

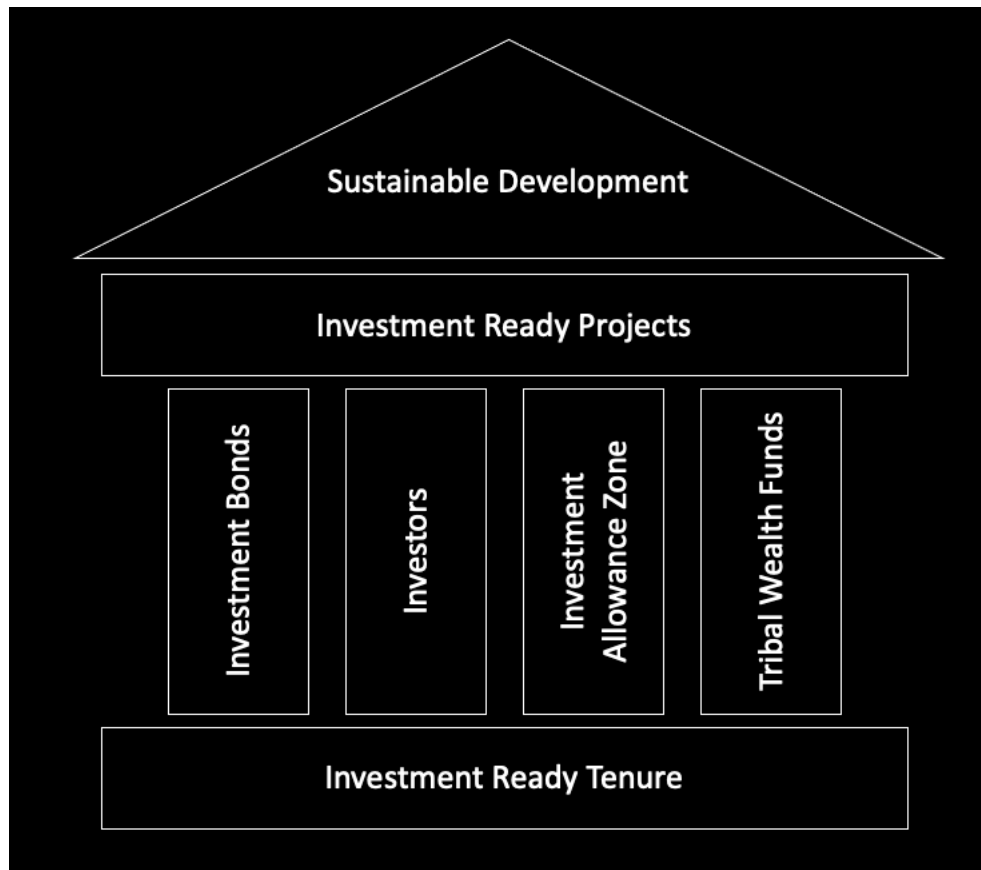
And the final enabler which I want to focus on in the last part of my address here this morning is the necessity for all these ideas that I have outlined, to be captured in an **Investment Interface** between investors and land owners where investment into our region can take place, with proper transparency and regulatory supervision.

I want to outline what I think we need to do.

This is the house that we need to build. The foundation of the house is the creation of **Investment Ready Tenure**. This is the work of the Cape York Land Council, as a representative body of the traditional owners, and each traditional owner group that wishes to capture an investment opportunity for which they are seeking funding.

The capturing of tenure for the purpose of investment is foundational to sustainable development.

There are four pillars to our structure:



Firstly, the creation of **Investment Ready Bonds** as financial instruments through which investment can be made.

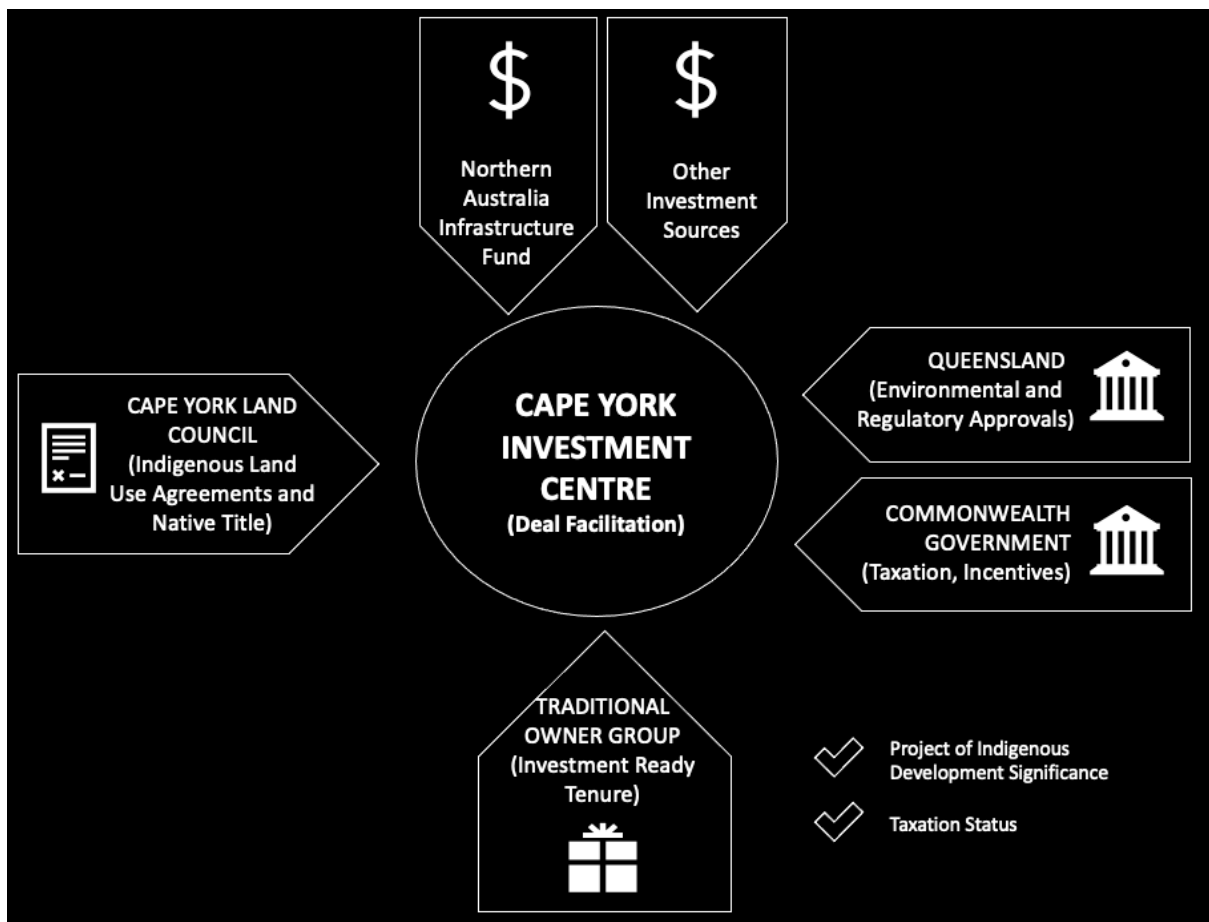
Secondly, the **Investors** themselves, whether it be NAIF, foreign or domestic investors, or ethical and conservation investors need to see clear opportunities for them to participate. There needs to be a gateway for investors.

The third pillar is based on **Regional Taxation Zones** for investment, through whatever appropriate means. Many industries in Australia have benefited from favourable taxation treatment in the past. Indigenous development remains a pressing agenda for Australia and we need to accept that **Regional Taxation Zones** for investment is a crucial incentive.

And finally, our fourth pillar is the creation of the necessary infrastructure for **Tribal Wealth Funds** to enable proper accumulation and management of capital over the long term.

The whole idea of **Investment Ready Tenure**, is to underpin **Investment Ready Projects** and through this process, we can achieve **Sustainable Regional Development**.

The second concept I want to leave you with is how we might deliver this investment. We propose the creation of an **Investment Centre** for Cape York to which the Queensland and Commonwealth governments would be party, along with the Cape York Land Council, and any relevant traditional owner group that is seeking investment on their land.



The Cape York Land Council would provide support in relation to Indigenous Land Use Agreements and Native Title consents to enable traditional owners to create their **Investment Ready Tenure** and grant necessary consents. Such **Investment Ready Tenures** can be designated as **Projects of Indigenous Development Significance** and benefit from

**Regional Taxation Zone** treatment. The Queensland Government would ensure environmental and other regulatory approvals, and the Commonwealth Government would ensure appropriate taxation treatment and other incentives to enable such development. The **Investment Centre** would provide deal facilitation and would be a conduit through which investment from **NAIF** and other investment sources could be channeled. The **Investment Centre** would be the place in which all the parties are able to put the pieces of the investment jigsaw into place.

The process would be transparent, it would be commercial, and it would ensure proper consent and appropriate regulations are observed and followed. The **Investment Centre** would be incorporated under an appropriate structure. I propose to this conference, that we commence in Cape York as a trial for the rest of Northern Australia.

I think a series of similar Investment Centres across the various regions of Northern Australia is the way to go.

I don't think a large Northern Australia-wide investment interface would work. But neither can landowners and communities be left to their own devices. It has to be regional, in order to drive regional development.

### **Closing paragraph**

My aim at this conference was to say that we are highly conscious in Cape York Peninsula that the land claims era will soon be concluded.

We have been giving a lot of thought in the past three years to the post land claims agenda of enjoying the land, looking after it, and finding opportunities to create an economy for our people.

That is what we have done. This is the agenda that we call **Pama Futures**.

We believe that the concept of **Investment Ready Tenure** is crucial to that future.

But none of this will materialize without the necessary infrastructure to enable projects to be identified and facilitated, and to allow investors to deal with landowners in a transparent way that can provide certainty to investors as well as landowners.

The State and Commonwealth governments will have to step up and face the fact that previous approaches to regional development, generally, and indigenous development specifically, have failed.

There has not been enough recognition that without this infrastructure and without a concerted determination to address the barriers and to create the mechanisms that are currently absent, we won't get the development we seek. And in five years' time, we will again look back and see little progress has been made.

So, I commend these thoughts to you and wish you all the very best for this conference.

Thank you.