PAMA FUTURES

Empowerment and development agenda to close the gap on Indigenous disparity in Cape York Peninsula

Submission to the Commonwealth Minister for Indigenous Affairs and the Queensland Minister for Aboriginal and Torres Strait Islander Partnerships

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Introduction

The time has come

The time has now come for our Cape York reform agenda to move beyond pilots and trials and for Pama Futures to become the new way forward for the social, economic and cultural development of the First Nations of Cape York Peninsula.

If we take the year 2000 as the time when we first germinated our social and economic reform agenda with the establishment of Cape York Partnerships with the Queensland Government, then we are veterans of 18 years of regional reform activity, including various permutations of partnership with the two levels of government.

In this time we developed mature partnerships[1] with the private and philanthropic sectors that culminated in the formation of what is now called Jawun Corporate Partnerships. Jawun now works with ten regions across the country based on the model we developed in Cape York.

An array of programs followed a great deal of innovative policy and design work that we have implemented in Cape York. Some of these innovations have influenced developments nationwide.

For example Cape York pioneered financial literacy with the invention of Family Income Management (now called MPower) as the first output from our reform agenda.

In the past ten years our reform work was captured in the Cape York Welfare Reform trial, which has been evaluated and the failures and successes of the trial are clear to us.

Our organisational capability has grown exponentially since we began this agenda and the necessity for us to move from trial phase to a comprehensive implementation phase has been pressing upon us for some years now.

There has been an obvious need for us to move from trials and pilots to an unequivocal adoption of the reform agenda indicated by the outcomes of these trials.

As well as organisational capabilities there has been a flourishing of Indigenous leadership at the community and regional levels. Our young people have become educated and they have come to occupy positions of leadership in our organisations and communities. We are now equipped to move to a full reform agenda across all of our communities involving all of our people.

Now is the time. The time has come for us to bring the whole agenda together and move forward in partnership with our people and with governments.

This is our best chance

Pama Futures represents the best chance we have to close the gap on Indigenous disparity in our region. It represents the distillation of everything we have argued for almost two decades, all of the lessons we

have learnt, all of the policy arguments we have won and lost, all of the initiatives that have succeeded and failed, and all the learnings we have accumulated in this period.

We now know what needs to be done about closing the gap on our people's disadvantage.

All over Australia there is a level of anxiety if not despair about the failure of our country to solve the Indigenous predicament as evidenced by the miniscule progress on Closing the Gap over the past decade. This year's report by the Prime Minister to the parliament on the disappointing progress in reaching the targets that were set ten years ago not only tells the national story of failure but it tells the story of our regional failure to close the gap.[2]

We in Cape York have constantly argued a new paradigm of Indigenous affairs is needed to really come to terms with the predicaments our people face and the reforms that are needed.

Some of our thinking is challenging to Indigenous affairs orthodoxy in other parts of the country however there is also a great deal of resonance with what Indigenous leaders and organisations are saying in other regions, particularly those associated with the Empowered Communities initiative which we are part of.

Pama Futures represents our best chance to seize the reform leadership that has grown in Cape York Peninsula over the past 18 years and which commenced with our first act of regional self-determination when we established the Cape York Land Council in 1990, so we need to seize this chance with all the vigour and alacrity we can muster.

WE HAVE HAD MANY SUCCESSES

Over the past 18 years we have had many successes. Our land rights campaigns which began in 1990 have been very successful with many millions of hectares of traditional lands returned to traditional owners. As well as land justice, our various initiatives concerning social, economic and cultural development have yielded considerable and exciting success.

There is much outside opinion held by the wider Indigenous and non-Indigenous public that is completely unaware of the progress we have made. Much of these external views focuses on our continuing challenges and the cyclical crises that explode in media reports, however, our story of success is real and mostly underreported. We have fanned the flames of aspiration and ambition in parents for their children and this is evidenced in the great successes we are having with our secondary and tertiary leadership programs. We have hundreds of graduates of these programs who are now university graduates and secondary school retentions to year 12 have grown. These young people form the basis of our future leadership.

Our adult leadership programs have similarly been greatly successful. Education in our Cape York Aboriginal Australian Academy has fundamentally improved teaching and learning for our primary school students. There are many areas associated with our Cape York Welfare Reform trial where we are so excited and pleased with the

1. See www.jawun.org.au

2. Commonwealth of Australia, 2018 Closing the Gap Prime Minister's Report, Department of the Prime Minister and Cabinet.

progress we have made and this is evidenced in the data we rigorously collect and report on in our regular Family Empowerment Reports.[3]

We believe there is a considerable gap between the successes we have achieved and wider community understanding of this progress. It is a gap we are conscious needs to be addressed however the point to understand now is that the success we have had underpins our confidence in the agenda going forward.

WE HAVE LEARNED FROM OUR SUCCESSES

We have learnt many things about what works. We have learnt that certain incentives produce certain responses. In crafting our Pama Futures agenda we are able to learn from the things that have succeeded during the Cape York Welfare Reform trial and our work extending back to 1990. When we commenced Cape York Partnerships we were conscious that many of our initiatives would require piloting and trial. We did not know whether some of the interventions we proposed would succeed. This was of course to be expected: there is no guarantee that plans and intentions will pan out in practice. Before scaling any program we needed to conduct some implementation trials: we have now done this, we have learnt the lessons and are now in a very good position to implement the lessons we have learnt.

WE HAVE LEARNED FROM OUR FAILURES

We have also learnt from our failures. In fact the point is often made in business that the greatest lessons come from failure. Our Cape York Welfare Reform trial did not succeed with home ownership for example. We are still facing a brick wall in relation to our aspiration for families to own their own homes. It is not for want of trying and we applied a great deal of policy advocacy in relation to housing and we garnered support from government at various times, however success did not ensue. We are learning from our failure and we have not abandoned the home ownership agenda.

There are other initiatives that have been partly successful and we have learnt lessons about how those initiatives might be redesigned and tackled in a different way. There are very important implementation lessons we have garnered over the past decade. Our intention was to implement trials from which we could learn and this we have done.

WE WILL SCALE THE GOOD THINGS

We are now at the point where we have seen more pilots than Qantas, and we have undertaken many trials. We now have a suite of initiatives that should be scaled across Cape York Peninsula. We have learnt many lessons in relation to implementation and scaling success. Indeed the main lesson we have learnt is that implementation is nearly everything.

We are good at designing compelling and effective interventions, however we know only too well that it all comes down to implementation in the end: successful program implementation is crucial. We have learnt many lessons and we have become very good at program implementation. Implementation is always at the forefront of our minds and

3. The Family Empowerment Reports are available at www.cyp.org.au

our track record is constantly improving in relation to our capabilities and experience in making the rubber hit the road and sustaining the operational success of initiatives.

WE WILL MAKE MORE MISTAKES AND ADAPT ALONG THE WAY

We have learnt from implementation over the past two decades that the capacity to learn and to adapt as we move forward is crucial. Adaptation is absolutely key to successful development. It is one thing to make a plan at the beginning to reach a certain destination, but to get there requires tacking and change of direction according to the prevailing circumstances. Mistakes are part and parcel of the challenge.

Some of our plans will simply not work out. Some of our plans will half work out and half fail. That is why we must take a positive attitude towards the mistakes, to anticipate that we will make them and to constantly have an eye to learning from the mistakes and adapting our plans for the future. The destination is very clear but the means by which we get there never are.

We have very good ideas and some of our initial plans are indeed cogent and well thought out, however learning is part of the whole journey. So we intend to build into our implementation going forward a continual process of learning from our mistakes and adapting our implementation practice. We have a very firm belief that we will learn more from our mistakes than we will from our successes, and this is fundamental to our reform journey.

WE HAVE DIFFERENT VIEWS BUT WE ALL WANT THE SAME THING: A BETTER FUTURE FOR OUR CHILDREN

It is clear from the process we undertook in the second half of 2017 through the two Summits and the co-design workshops with sub-regions, that a common language about reform has grown amongst our people. We are all talking a very similar language. Certainly there is a great diversity of views that are held by people coming from different perspectives, and this contributes to our agenda and is part of our strength.

Our agenda cannot be simple consensus. It is good that we have forthright views from all quarters, and that our people have the freedom to express those views and to contribute in a co-design process to our plans going forward.

Whilst there is a healthy level of debate and discussion in relation to our agenda, it is very clear that we all want the same thing: a better future for our children. It is in relation to our reform goal – to Close the Gap on our people's disparity – that we have complete common ground. This is why we have united together in proposing this reform direction.

THERE IS A NEW SEASON – AND A RISING LEADERSHIP

Cape York Partnership board member, Fiona Wirrer-George, from the Mbaiwum/Trotj and Alngith/Liningithi Wikway Nations of western Cape York Peninsula, describes the phase that we are in as Cape York people as "a new season". This is a season of hope and aspiration and determination. A time of resolution and dedicated commitment to rebuilding our people, to strengthening our culture and to setting our children up for better futures.

We have had great success in nurturing our leadership. The Cape York Leaders Program has been probably our most successful venture. It has been singularly supported by our great friends the McCauley family of Kilcoy, Queensland. The McCauley investment has paid off very handsomely indeed. Many of our current generation of new leaders are graduates of the program that the McCauley's have steadfastly supported over the past decade. It is this new leadership that is heralding the new season. We are so well placed to move into this next phase because of the scores of regional leaders and hundreds of community leaders that are graduates of our Leaders Program over the past decade and a half.

THIS IS OUR BEST CHANCE TO CLOSE THE GAP

Many ingredients are in the mix. Many stars are close to alignment. There has never been a more propitious time for us to make a drive forward to close the gap, and to commence the serious journey of moving towards Indigenous parity. This will likely be a three-generation long journey but now is the time to make the start.

Nothing we have done in the past has been calculated to achieve the goal we have in mind. Only now do we have a connection between the goal we seek and our determination to make the journey towards it.

As we have said we have had many pilots and trials, we have had many alterations of policies that have aimed to address certain aspects of our predicament, but now is the time to pull the whole strategy together and Pama Futures represents our best chance to close the gap on disparity.

The gap can close through a combination of structural reform and Indigenous agency

We believe that overcoming disparity and closing the gap can occur through a combination of structural reforms and Indigenous agency. We know a lot about Indigenous agency and much of our thinking over the past two decades has been directed towards stimulating Indigenous agency. By agency we mean Indigenous people taking charge of their lives, through self-determination and through our right to take responsibility. Indigenous agency is about practical day-to-day, week-to-week, month-to-month action in our families, in our communities and in our

First Nations. This is about black fellas taking first responsibility for their own people.

Our destiny can only be secured by ourselves. Nobody can save us in our stead. So, this whole notion of Indigenous agency has been at the forefront of everything we have tried to do through our pilots and trials over the past 18 years. We know a lot about it. We have a great deal of conviction about it. We have a common language about it now and there is a common leadership that has arisen through the "new season."

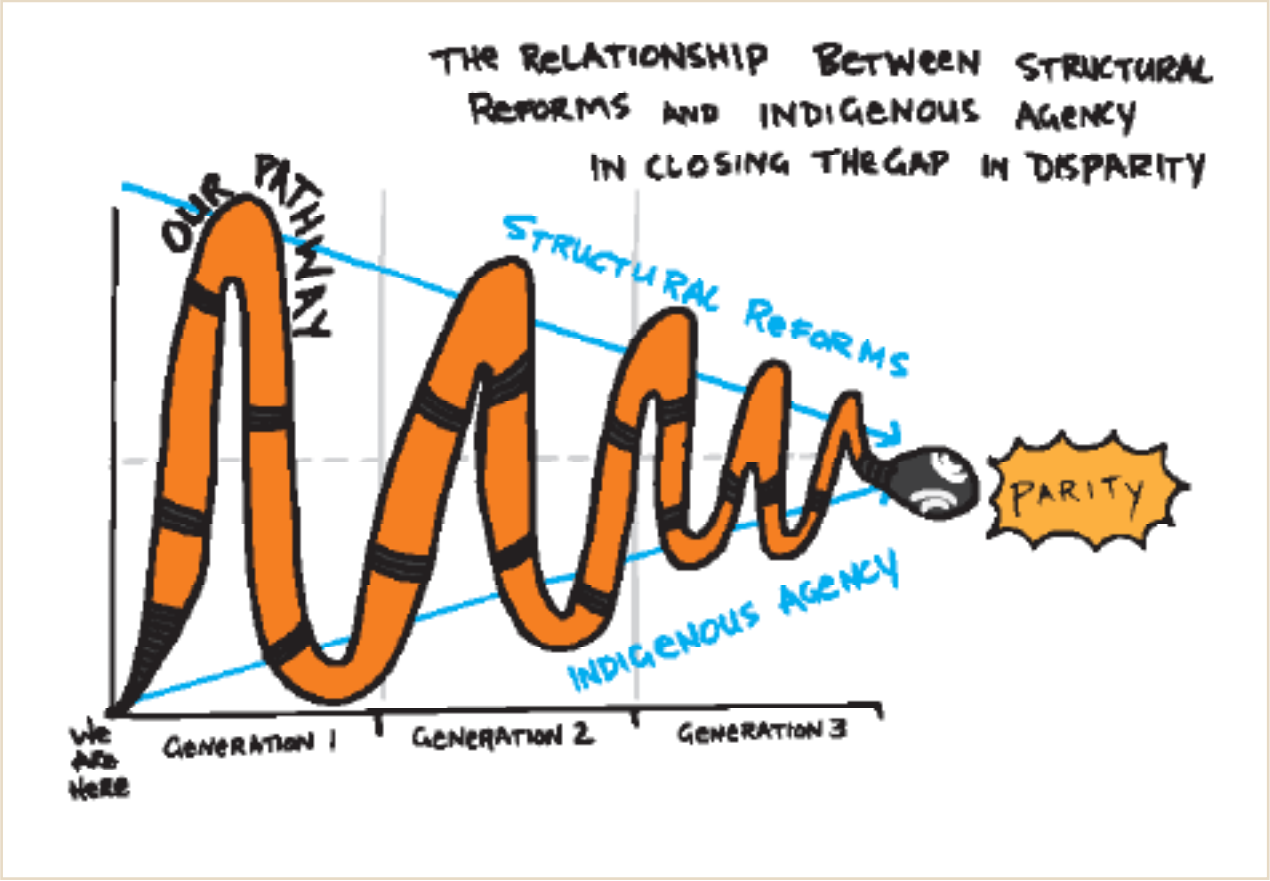
But we have always argued that Indigenous people rising up and taking charge of our problems and seizing our opportunities has got to be accompanied by structural reforms. It is not just a matter of our people taking responsibility. The structures that our people live within and our communities are trapped within have got to be reformed. It's not just a matter of human agency. There are institutions and laws that need to be reformed. We have always understood this but these reforms have still yet to be made. These reforms require governments to work with us in partnership to change some of these profound structural barriers to change, barriers that keep our people in desperate circumstances of disadvantage and release us to be able to convert our aspirations for a better life into reality.

One example of a discrete but important structural reform is the Family Responsibilities Commission (FRC) under Queensland legislation. The FRC, linked with amendments to the Commonwealth Social Security Law, enables elders from our community to make decisions in relation to income support payments to community members, depending upon whether they are fulfilling some basic social responsibilities. This is a crucially important linkage and a completely vital reform. This is what we mean by structural change: changes to institutions and laws.

Another example of a structural reform is laws enabling leasing of Aboriginal freehold land for 99 years. Again, this can enable home ownership to occur. This is a structural reform requiring legislative change by the Queensland parliament. Without it, people are trapped in a no-win situation.

Now, there are a number of structural reforms proposed in Pama Futures which are crucial to enable development to take place. It is through the combination of structural reforms and Indigenous agency that will enable us to inexorably, over the next three generations, close the gap of our people's disparity (see Figure 1).

FIGURE 1 CLOSING THE GAP IN DISPARITY THROUGH STRUCTURAL REFORM AND INDIGENOUS AGENCY



We build capabilities and the gap will close

The national Closing the Gap strategy does not have a theory about how the gap can close over time. From our point of view in Cape York Peninsula, our theory is that we need to build capabilities in order for the gap to close. It is when we build these capabilities and grow these capabilities that these indicators that have been set under the Closing the Gap strategy will start to show progress.

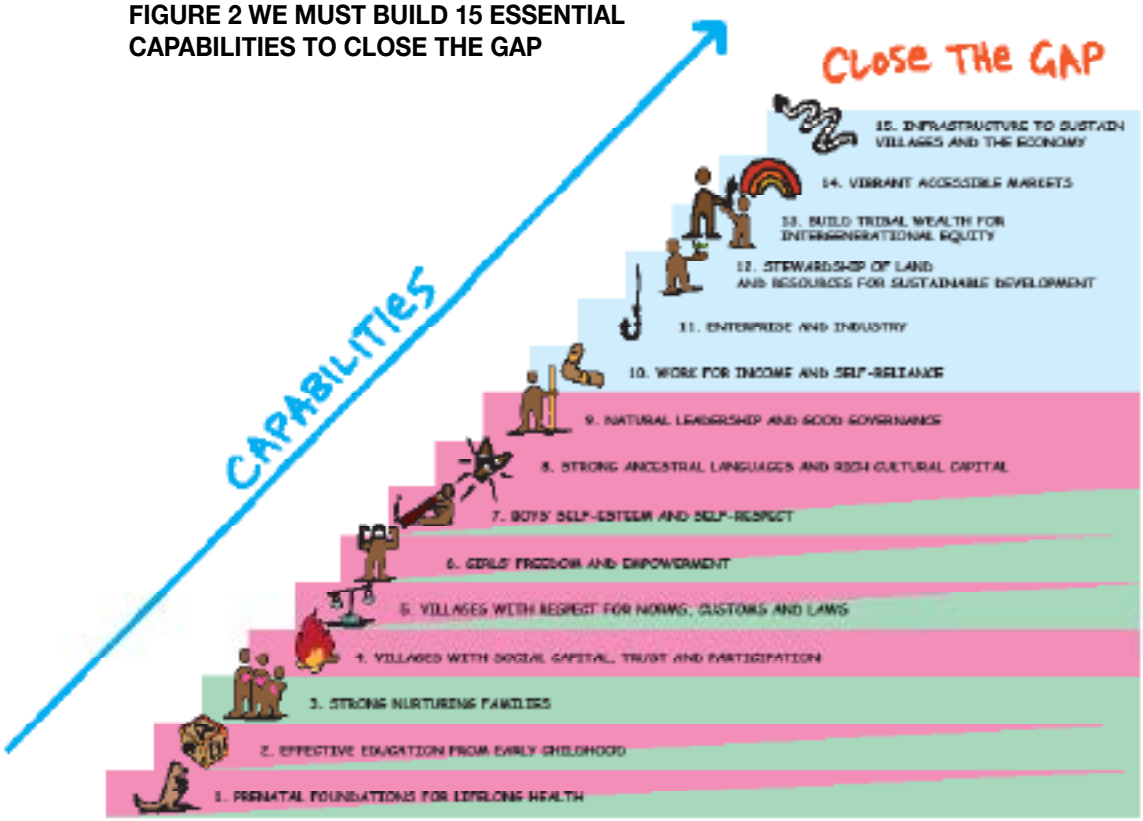
People's lives become better, life expectancy grows, health gets better, education improves, family life becomes happier, investments are more productive when we build capabilities in our individual community members, in our families and in our First Nations.

Pama Futures is based on the premise that we have to build a set of capabilities, all of which are universal to successful human societies across the planet. This is no magic new formula but rather they are lessons to be learned from other societies and nations that have undertaken the development journey. It is the crucial importance of building capabilities, because when you have capable people and capable families, the important parameters of life expectancy, good health and good education will start to show progress.

THESE ARE THE CAPABILITIES THAT WE MUST BUILD IN ORDER TO CLOSE THE GAP

There are many ways to describe the various capabilities that individuals, families and First Nations need in order to improve their lives and to prosper. This list of 15 capabilities is our particular representation of the capabilities that we believe need to be built within Cape York society (see Figure 2). Pama Futures is all about implementing and turning into reality these capabilities that we think are so crucial for better prospects for our people.

FIGURE 2 WE MUST BUILD 15 ESSENTIAL CAPABILITIES TO CLOSE THE GAP



1. PRENATAL FOUNDATIONS FOR LIFELONG HEALTH

We start with prenatal foundations for lifelong good health, care and management. It all starts in the womb.

We focus on prenatal foundations because we want everyone to understand that good health starts at conception. There is comprehensive evidence of the importance of mothers and babies' health, not just for early development but for lifelong health. In societies across the world including traditional Australia, prenatal health was foundational, a natural part of human life. Following the colonial invasion of Europeans in Australia this natural positive prenatal health of our traditional society was severely disrupted. Our people now languish in unnatural circumstances. These circumstances have given rise to high incidences of impaired childhood development and compromised growth. That is why our whole focus on health and wellbeing for our people starts in the womb.

2. EFFECTIVE EDUCATION FROM EARLY CHILDHOOD

We provide effective education from early childhood onwards to maximise our children's potential and set them up for lifelong learning.

We believe that capabilities for education start with early childhood education, and then moves onto good primary schooling, successful secondary schooling and further education at university and technical trades, and then the importance of lifelong learning throughout careers. The entire education, training and human capital development progress through life is important. We focus on early childhood because we want our people to grasp the importance of the first three years of life and particularly the importance of kindergarten. We must get kindergarten education right—including the commitment to deliver twenty minutes of explicit instruction in pre-literacy —as a crucial stepping stone to successful primary schooling. Our children can and will succeed in primary school if we furnish them with pre-literacy skills in kindergarten. This is the most crucial step in the entire educational process facing our children and in the future we must therefore ensure that stepping stone is in place.

3. STRONG NURTURING FAMILIES

Families nurture and provide for each other and have strong bonds of responsibility and care, parents give children good memories and set them up for the future living in safe, prideful homes.

As we have stated above, our first intervention was Family Income Management—or MPower as we now call it—that provides financial literacy and money management services to our people because we believe that "a better life begins with a budget". The strong preference to support families with the practical details of their domestic lives so that they have money, they have prideful homes, they have good beds to sleep in, and their material needs are met by simply managing their domestic lives better.

Pama Futures is based in the conviction that supporting families to have their domestic lives sorted out and they are provided with support in order to do so, is foundational to our development agenda. Functioning families are also a natural state of affairs. Functioning families were a feature of our traditional society. Functioning families were destroyed by the European invasion. Our experience over the past two centuries saw our people striving hard to keep our families intact and indeed rebuild families after they were destroyed. The parlous situation we are in today is because of the injuries and violence suffered by families through the colonial period and it is to honour, and restore the natural strength of our traditional families, that we value nurturing families and want to restore them as the norm in our communities.

4. VILLAGES WITH SOCIAL CAPITAL, TRUST AND PARTICIPATION

Our villages provide respectful and mutually contributing neighbourhoods, with a volunteering ethic to build social capital, trust and participation. Ask not what your community can do for you but what you can do for your community.

Social capital is important to our communities: when we live together with our neighbours and relatives we need to develop trust and cooperation. It is not just a matter of service delivery and individual enterprise, it is also a matter of contributing to the communities that we live in. Volunteering to participate in social, cultural and recreational activities within the community are crucial to the health of a vibrant community. Recreational facilities for children, youth and grownups requires community members to contribute freely of their time and to value the investment they make in their own people. The more participation you have the more trust you build within a community. And trust is the currency of social capital. And communities with high levels of social capital are communities where there is high level of trust, and they have high levels of participation and voluntary activities.

5. VILLAGES WITH RESPECT FOR NORMS, CUSTOMS AND LAWS

Our villages are places where there is respect for each other and people abide by our norms, customs and laws, and we are able to settle disputes and violence of all forms is strongly sanctioned.

It is universally known that successful societies are those where respect for the law and institutions that enable disputation that arises to be settled efficiently are present. But it is not just the laws of the community its members abide by that underpin its strength, but also the norms and customs of the people. Indeed norms and customs are as important if not more important than the laws themselves. Laws alone will not make for a successful community. Qualities of respect, mutual cooperation and honour are based in custom and norms as much as they are in the law. Part of our challenge in Cape York Peninsula is that we need to restore respect for norms, obeisance to our customs, and fidelity to the laws that we want our peoples to abide by.

6. GIRLS' FREEDOM AND EMPOWERMENT

We ensure the safety, growth and empowerment of girls so they realise their fullest potential and inequality and injustice against women is eradicated from our society.

We want to emphasise the importance of our girls for the future of our people. We want them to be empowered. We want them to look

forward to life with all the promise and potential that they deserve. They are key to our future, both in themselves and in terms of their role in making our vision come to pass. So Pama Futures is all about changing the circumstances of girls and women so that they stand in a position of quality with men and they are respected by all of our people, and our girls in particular are celebrated and nurtured in their future lives.

7. BOYS' SELF-ESTEEM AND SELF-RESPECT

Our boys grow up with self-esteem and respect for themselves and for women, all deserving of dignity and care.

We also believe that self-esteem and self-respect for boys is a crucial capability that we must build. We want boys to have respect for themselves and for women, we want them to have self-esteem, and we want them to be confident about the future. We want particularly to help them to be positive about seizing their potential and to take advantage of opportunities before them. We want them to avoid the pitfalls of youth and all the "croc pools" that face them in their formative years. We want them to look forward to their futures. So in addition to our focus on the empowerment of girls is our focus on a pathway for our boys.

8. STRONG ANCESTRAL LANGUAGES AND RICH CULTURAL CAPITAL

Our people have the opportunity to learn and transmit to their children their ancestral language and cultural knowledge and heritage to preserve and grow our cultural capital.

The strength of our ancestral languages and rich cultural capital is a true capability. It is not just a nice addition to the social and economic dimensions of our capabilities that we must build, it is actually crucial to the achievement of those social and economic objectives. Revivification of our languages and cultures is a necessary concomitant to social and economic growth. It is when we are confident about our identity and our path and how we can carry them successfully into the future that we will embrace the changes to our social and economic condition that are necessary.

As long as assimilation remains the only option we will fail in our socio-economic quest. By marrying our identity and culture with our socio-economic aspirations we will then have the engine we need to close the gap on disparity. It is when we put assimilation behind us and we locate what Yolngu leader Galarrwuy Yunupingu said about becoming "a modern version of ourselves" that we will succeed.

9. NATURAL LEADERSHIP AND GOOD GOVERNANCE

Natural leadership thrives and we are all free to participate in decisions about the future, organisations are well managed and there is good governance at all levels.

The international development literature says that development requires reform leadership and good governance. This is obvious and we have taken great strides engaging all forms of leadership in Cape York Peninsula. We have a model for leadership that we have been promoting based on the idea of "natural leadership". It is based on the belief there are natural leaders everywhere in our communities at all levels of our families, communities and First Nations. These are not necessarily leaders in a structural sense, they are not present in organisations, they may not have organisational or political power, but they have the moral authority of leadership within them, and they display it within their social environments. As well as ensuring natural leaders are able to contribute to our development we want to support the formal leadership of our First Nations and the formal leadership of our society.

We also need good governance of our organisations, rigorous prudential stewardship of our resources, and absence of corruption and mismanagement. Building and maintaining good governance is something we have paid a great deal of attention to over the past two decades and have built capabilities in our organisation to continue the growth of good governance at all levels of our society.

4. Sen A 1999 Development as Freedom. New York: Alfred Knopf.

10. WORK FOR INCOME AND SELF-RELIANCE

Every post-school person is able to work, including unpaid self-reliance, to sustain a living and there are jobs for those needing them, and mobility to go to places where jobs are.

It is important to realise that we want our people to work regardless of whether it is for money. Not all work generates an income, self-reliance is also an important aspect of our work agenda. Building ourselves good bush homes on our traditional homelands, looking after our country, fulfilling our cultural and social responsibilities, are also about unpaid work. The dividend we get from self-reliance and this type of unpaid work is different from money, but just as important.

Also we require work for income so that we are able to lift ourselves out of poverty and able to build assets and wealth for ourselves and our families. We want to mandate work across the entire spectrum of community members throughout their lives. Everyone can perform work. Everyone must perform work, if we are to have happy lives in the future.

11. ENTERPRISE AND INDUSTRY

Every person or group that desires to establish and operate an enterprise is able to do so, and there is local and regional economic development and industries to sustain them.

Amartya Sen who first articulated the concept of capabilities in his book Development as Freedom[4] identifies the ability to engage in enterprise as a key capability. Because of the structural constraints

and barriers facing members of Indigenous communities on communally held lands, relying upon static bureaucratic structures as we are, we have not really had that capability. We do not really enjoy that capability today as we have not been able to do so in the past. The capabilities we must build must allow industries to be developed on our newly restored homelands. Industries that can sustain enterprise either via external investments into our lands, or enterprises established by our people. This capacity to develop enterprise and industry is fundamental to the economic development of Cape York Peninsula.

12. STEWARDSHIP OF LAND AND RESOURCES FOR SUSTAINABLE DEVELOPMENT

There is stewardship of the land and resources of the community, and we are able to use them for sustainable development.

Our lands are naturally and culturally of international conservation value and significance to our own First Nations. We have an important national and international role, as well as a role within our own cultures to preserve and manage our traditional homelands. The ecosystem services we provide need to be a fundamental part of the economy of our region.

Building the capability of our people to continue the management of our lands and seas and the resources within them for the benefit of our own people as well as the planet, is a stewardship capability that is key to Pama Futures. We do not have those capabilities fully developed and we believe that stewardship of our lands and resources, including the ability to utilise the land for sustainable development, is a key component of our development agenda.

13. BUILD TRIBAL WEALTH FOR INTER-GENERATIONAL EQUITY

Tribes and communities are able to build their tribal wealth for intergenerational equity.

We believe that tribes need to accumulate wealth over time, particularly where they have the opportunity of generating profits and rental income from the harvesting of the natural resources on their lands. The question is one of equity for future generations and the crucial need to invest in the future. Tribes must develop their tribal wealth in order to support their future generations. Particularly with non-renewable natural resources, there is a moral duty to preserve the capital extracted out of mining and other resource development to be set aside for the development of future generations. Natural resource capital must be converted into future human and cultural capital of our people

Tribal wealth funds are required to maintain languages, cultures and the cultural capital of First Nations. We will work on structures to enable wealth funds to accumulate, to have the requisite prudential

management to ensure their safe-keeping and proper management, as well as fair mechanisms for distributions and allocations in the future. National legislation establishing tribal wealth funds as a species of "superannuation" funds is a concept that Cape York Institute has developed. Pama Futures will be prosecuting the concept of tribal wealth funds with government as we believe it is a crucial element of our reform plans for the future.

14. VIBRANT ACCESSIBLE MARKETS

There are markets for goods and services, property, capital and labour that are accessible and vibrant and which enable a strong private and co-operative sectors to grow.

There is an absence of vibrant markets on Aboriginal land. It is the most crucial missing piece when you consider the nature of First Nations communities and homelands. No modern societies can prosper without accessible markets in labour, property, and goods and services. Markets need to be built where they are absent, barriers and constraints to the operation of markets must be overcome and removed, and these markets need oversight and governance. As well as the growth of private sector firms through the establishment of markets, we believe that cooperative structures represent a particularly suitable mechanism for encouraging enterprise on Indigenous land involving Indigenous people.

15. INFRASTRUCTURE TO SUSTAIN VILLAGES AND THE ECONOMY

There is necessary transport, telecommunications and energy infrastructure to sustain the community and enable economic development.

The development of the Third World tells us about the importance of physical infrastructure to development. Every community requires access to transport, telecommunication and energy infrastructure, to service communities, and particularly to enable economic development. Much infrastructure is put in place by governments to enable local and regional economic development. Crucial infrastructure requirements need to be identified and solutions found. This is a universal capability necessary for regions to rise out of poverty and under-development. Pama Futures places the need for physical infrastructure at the fore of our program to develop capabilities.

WE BUILD THESE CAPABILITIES ITERATIVELY OVER TIME AND THE GAP WILL CLOSE

As with many development journeys, building capabilities is an iterative process that takes time, not all of the capabilities can be built in short order and all at once. The building of capabilities requires a great deal of patience and persistence. Some set of cogs drive other cogs, and some things are pre-requisite before other things become possible. This

is a question of how well we plan and adapt our plans as we move along. The point is to get a virtuous cycle of progress to start rolling; once we get momentum on good things then that creates its own forward progress. The development of Singapore under its foundation leaders took 50 years to go from Third World to leaders of the First World.[5] Our development aspiration and opportunity may be different from that of Singapore, but nevertheless we can build those capabilities that are necessary. We can close the gap on disparity for our people, understanding that as long as we stick to the vision for our people and we continue to build our own agency in our own development, then we will reach the goal we seek.

5. Yew, LK 2000 From Third World to First: The Singapore Story - 1965-200. Harper Collins Publishers, NY.

WE NEED LEGISLATION

Legislation is crucial. This is the core work of governments. This is the responsibility of governments. This is what we mean by structural reform: when governments take the responsibilities, they have to create the necessary institutions that enable development to take place and remove barriers to Indigenous people taking charge of their destiny.

We call upon governments to enact legislation to give effect to Pama Futures. Too often in the past, governments have shirked their responsibilities to secure the structural reforms, because they shied away from the responsibility of conceiving and enacting the requisite legislation. Legislation is the means by which government's alignment and fidelity to reform agendas is secured. We need legislation.

WE ARE ASKING THE STATE AND THE COMMONWEALTH TO LEAVE BEHIND THE FAILURES OF THE PAST AND WORK IN PARTNERSHIP WITH US FOR OUR PAMA FUTURES

Our message at the end of the day is that the failures and shortcomings of the past should not leave us pessimistic about the future. We are asking the State and the Commonwealth to face up to the failures of the past but not lower our aspiration for the future. We urge the Queensland Government and the Commonwealth Government to work with us in partnership to make Pama Futures a reality.

We cannot do it alone without the government. And the government certainly has shown that it cannot do it alone. It requires a partnership. We urge both governments to study carefully our proposal here, to apply all diligence to its consideration, and to work with us in a timely and diligent manner to ensure that the hopes that are fervently set out here become our common commitment.

Policy Context

We want to take responsibility for our own future.

Agreed aspiration of Cape York First Nations people at the Palm Cove Summit, December 2017

Genesis of Pama Futures

LAND RICH BUT DIRT POOR

In 2017, the Cape York Land Council started an important conversation about the future. The strategic planning process, conducted with its Board of Directors, highlighted that the next three decades will be very different to the past three. The fight for land rights has been largely successful. We are now land rich, but still dirt poor. The key challenge will be the use of land to generate and sustain livelihoods for our people. A reform agenda started to take shape.

It was decided to approach Senator the Hon. Nigel Scullion, Minister for Indigenous Affairs, to ascertain agreement with the Australian Government for such an agenda to prepare for the post-land claims future of Cape York.

At a meeting with Minister Scullion and his department in June 2017 in Cairns, the case for change was made.

For Cape York's First Nations people land is once again an asset, with great potential to build livelihoods free from dependency. We now hold 26% of land in Cape York as Aboriginal freehold. There is a single remaining native title application to be determined on the mainland area, which is referred to as One Claim.[1] When One Claim is finalised in coming years, it is likely that native title will be recognised over 95% of land on Cape York.

Despite our Land Rights successes, First Nations people often observe we are 'land rich but dirt poor'. Land is not effectively used to build wealth. Wealth is not just about money: it is also about culture, country and kinship. It is about ensuring for generations to come First Nations people do not just survive but thrive.

Although land is now a significant asset, its potential to create wealth remains difficult to realise. Our cultures, history, and the patchwork of laws that delivered Land Rights, have produced a system that often impedes development. These challenges are unique to Indigenous landholders. Although Aboriginal freehold is communally held title—private land that should provide the same expansive private property rights and attendant potential development opportunities as fee simple freehold—burdensome red and green tape hinders development.[2]

The communal nature of Indigenous land ownership means development cannot proceed with the same ease as in the broader Australian system. Aligning private interests with communal interests must occur through negotiations in which intra-group politics, 'free rider' and 'rent seeking' behaviour can discourage enterprising individuals.[3]

The recognition of Land Rights under various statutory land rights schemes and native title has created different titles with different development opportunities. This patchwork is mirrored in a plethora of land holding bodies, as required under the various statutory schemes. These structures facilitate transactions on Indigenous land. Across the Cape there are now more than 70 such organisations, including Prescribed Bodies Corporate (PBCs) and Land Trusts. These organisations vary in their capacity, but most are small and lack the resources needed to

assist local people to effectively use and manage their land. Sometimes multiple land holding organisations exist to hold and manage different titles over the same area of land (e.g. Aboriginal freehold and native title may co-exist, so there may be both a Land Trust and PBC). This creates structurally embedded conflict and adds further administrative and legal complexity to decision-making about such land.

As a result of these complexities affecting Indigenous land, transactions are characterised by costs, delays, and uncertainty—which deter investment and impede entrepreneurial activity. Large areas of land are currently languishing. It is held by Indigenous owners but sits entirely outside the real economy and is not being used to generate wealth. The impact is cumulative. Indigenous landowners remain stuck in extreme socioeconomic disadvantage and lack the resources and capabilities required to access and use their country for any purpose, including for economic, social, cultural/spiritual or land management reasons.

As the Land Rights claims era draws to a close, it is no longer the fight for Land Rights that demands attention, but the struggle to ensure we can effectively use and manage our land. The complexity hindering social, economic and cultural development, must be reduced, and landowners need resources to be able to use their land to generate wealth.

Decisions to simplify the existing system and implement creative solutions can, and must, only occur with the consent of landowners. There is a great deal of work to be done so that the First Nations, as individuals, families and as land-owning groups, can plan and make these decisions. This requires structural reform, including changes to the role and structure of the Land Council, so support services enable First Nations to take charge of this next phase in our fight for empowerment and development.

MINISTER URGES EMPOWERMENT AND ECONOMIC DEVELOPMENT

Minister Scullion heard us. He agreed there was a need to prepare for the post-land claims future, including restructuring the Land Council, and urged that Land Rights should not be considered in isolation, but should incorporate Empowerment and Economic Development. It was agreed that there must be broad support from the Cape York First Nations people for reforms to proceed.

There is a now an historic opportunity to bring together Land Rights, Empowerment and Economic Development as part of one cohesive reform agenda—Pama Futures. This is our chance to cut through the deep and persistent policy challenges faced across Indigenous affairs in Australia. The success of Pama Futures can provide benefits and lessons for the nation, beyond Cape York Peninsula.

1. Cape York United #1 claim (QUD673/2014).

2. For example, there is approximately 15% of Cape York that is Aboriginal freehold as the underlying title, but which is overlaid with national park protections. There are also other statutory land use planning and environmental regulations that limit development opportunity that impact on Aboriginal freehold. See also the 2016 Our North, Our Future: White Paper on Developing Northern Australia which confirms regulatory compliance and red tape are holding the region back.

3. Rent seeking is where people want to unrealistically benefit from wealth creation through enterprise, without making any contribution toward its creation. This use of the term 'rent-seeking' carries a different meaning to how it would ordinarily be used by economists.

The Gap is not closing

Australia is one of the richest countries in the world, but despite an extended era of unprecedented growth and prosperity, pervasive inequalities persist for Indigenous Australians. The socioeconomic gap between non-Indigenous people and the original inhabitants outstrips any other settler country. Crises in suicide, child protection, incarceration, health and unemployment continue to escalate. Extraordinarily, Australia's Indigenous peoples are now the **most incarcerated people on the planet** and Indigenous **suicide rates are amongst the highest in the world**.[4] The child protection story is **dire** and continues to worsen. In Queensland, at current rates Aboriginal and Torres Strait Islander children will represent more than **50% of children in care** by 2021. In Queensland, gaps in areas of health, education, employment, housing, imprisonment and mental health outcomes are also forecast to expand.[5] The problems are most acute in remote areas such as Cape York. These are Australia's most disadvantaged communities.

We have failed to meet the seven specific Closing the Gap targets that provide the overarching framework in Indigenous affairs, agreed by all Australian governments from 2007. The Closing the Gap targets are:

1. To halve the gap in child mortality by 2018
2. To close the gap in life expectancy by 2031
3. For 95 per cent of all Indigenous four-year-olds enrolled in early childhood education by 2025
4. To close the gap in school attendance by the end of 2018
5. To halve the gap in reading and numeracy for Indigenous students by 2018
6. To halve the gap in Year 12 attainment by 2020
7. To halve the gap in employment by 2018.

By the tenth anniversary of Closing the Gap in 2018, only three targets are on track: to halve the gap in Year 12 attainment by 2020; to halve the gap in Indigenous child mortality by 2018, and to enrol 95% of four-year-olds in early childhood education by 2025. Three targets expire in 2018 without being met: to close the gap in school attendance; to halve the gap in reading and numeracy; and to halve the gap in employment.

In some areas outcomes continue to worsen. The Closing the Gap target of halving the gap in employment by 2018, for example, has not been met—instead this gap has widened. Recent Census data shows the gap in labour-force participation is growing in Queensland's remote communities (from 29.0% in 2006 to 35.4% in 2016) and the gap in median weekly personal income is also widening nationally, and across Queensland's remote communities.

OUR CULTURES AND LANGUAGES ARE IN PERIL

Strong ancestral languages are essential to First Nations' identity, but they are important to Australia's identity as they are a core element of our common heritage. The revitalisation of culture, language and

heritage is crucial to closing the gap because confidence, dignity and pride form the foundations for all wellbeing.

First Nations' land, languages and cultures are spiritually and practically interconnected. When the organised struggle of Cape York First Nations began in 1990, Elders at key Summits held on Cape York said they wanted their land back, and their languages and culture to be maintained. The Land Council was formed for this dual purpose. Yet while we have achieved substantial Land Rights success, there is little recognition or support for the maintenance of our languages and culture. Our languages are now critically threatened: the work to be done to preserve them is extensive and urgent.

In Cape York, our languages are almost exclusively used in private contexts. There are few published texts, almost no educational resources, and levels of literacy in First Nations languages are low. The recording of oral literature and even the most basic linguistic data for the region is unfinished. Fluency in ancestral languages is decreasing with each generation. Many young parents are now unable to speak confidently to their children in their own mother tongue. Even the Wik-Mungkan language is shifting to English.

Of around 55 macro languages and 155 language varieties once spoken in the region, many are moderately to severely endangered and the remainder are critically endangered. Since 2015, the Australian Government has supported the Pama Language Centre to work on salvaging linguistic detail and oral literature, language maintenance, revitalisation and revival projects. More effort is needed to halt the irreplaceable loss of our cultural heritage. The last fluent speaker of one of our languages passed away just as the Pama Language Centre was being established.

SUBSTANTIAL RESOURCES BUT POOR RESULTS

In sharp juxtaposition with the ongoing crises affecting First Nations people, Australia has devoted substantial resources to closing the gap. A total of around $33.4 billion each year, or expenditure of around $44,000 per Indigenous person, is spent by governments in the name of First Nations people across Australia.[6] This means Australia spends around double the amount per capita on programs and services for Indigenous people, and this ratio is even higher in remote areas where need and the cost of delivering services is greatest. The Queensland Government alone, for example, spends around $1.3 billion, or $32,000 per person, on service delivery in Queensland's remote and discrete communities, including communities in Cape York.

The majority (84%) of these Queensland Government expenditures are on mainstream services including schools, health care and policing.[7]

This point must be clearly understood. Whilst the headline figures are enormous, it is wrong to assume these funds are spent on Indigenous peoples. The vast majority of these funds go to mainstream government programs—in health, justice, education and so on—that service all citizens. There is no guarantee these funds actually service Indigenous people. Indigenous numbers within a state or territory determine funding allocations by the Commonwealth, including significant

4. See also http://www.abc.net.au/news/2016-08-12/indigenous-youth-suicide-rate-highest-in-world-report-shows/7722112.

5. Queensland Government, 2016 Towards a Queensland action plan for vulnerable Aboriginal and Torres Strait Islander children and families, Department of Communities, Child Safety and Disability Services.

6. Of the total spend of $33.4 billion, around $6 billion is allocated specifically for Indigenous programs (referred to as 'Indigenous specific' expenditure) and the remainder is spent on services all Australians enjoy such as health and education services. See SCRGSP (Steering Committee for the Review of Government Service Provision) 2017 Indigenous Expenditure Report, Productivity

7. The Australian Government also makes significant investments in Queensland's remote and discrete communities in Queensland, although these details are not available. See Queensland Productivity Commission (QPC) 2017 Draft Report: Service Delivery in remote and discrete Aboriginal and Torres Strait Islander communities, QPC, Brisbane.

loadings for levels of disadvantage but it does not mean this is what governments actually spend on Indigenous disadvantage.

This point is poorly understood in public policy discussions and media reporting. The Productivity Commission reports on expenditure have failed to provide this clarity—and to ascertain and report more accurately actual spending levels rather than nominal allocations. This is a major disservice to Indigenous Australians.

There is a serious productivity problem in Indigenous affairs. This is the main point.

Substantial and increased expenditure has not produced corresponding improvements in outcomes. There is a desperate need to improve outcomes with the funds available. Further increases in funding alone cannot close the gap. As stated by the QPC "more money is not the answer—there needs to be changes to the way that services are resourced."[8]

A new productivity approach is needed

Vast resources devoted to closing the gap are distributed through a substantial governance, funding, policy and service delivery system. It would be wrong to call it an architecture, because there is no good design to the system. A succession of inquiries, reviews and reports over many years highlight the flaws embedded across the Indigenous affairs system. The most cogent articulation of the problems and solutions needed, has been provided in the **Draft Report of the Queensland Productivity Commission (QPC)** on its Inquiry into Service Delivery in Queensland's Remote and Discrete Indigenous Communities.[9]

The QPC's Draft Report is consistent with the preceding 2015 **Empowered Communities Design Report**, a collaborative effort of Indigenous leaders across eight regions of Australia, setting out the case for change and proposing systemic reform. As the problems have been previously described, they are only briefly reprised here.

Firstly, as noted by the QPC, governments have "usurped 'responsibility' for the welfare of Indigenous people over many decades."[10] Government assumes a disproportionate importance in Indigenous communities, and effectively define and confine the potential for socio-economic development. Public funding dominates the economies of remote Indigenous communities in the form of welfare payments and grant funding for service delivery. There are very few private sector economic activities, and most of the jobs depend on public funding. As the QPC concludes, in Queensland's Indigenous communities "the government essentially 'operates' the community—individual choice, markets, rewards and responsibilities have a limited role."[11]

Secondly, decisions about what services get delivered, where, to whom, by whom and for how long, are not cohesive but are made through the top-down bureaucratic policy and funding 'maze' (see Figure 3). The QPC notes that for any Indigenous community in Queensland, at least 13 Queensland Government departments, as well as the Australian Government are involved in coordination, policy development and

8. p.114. See also e.g. 2017 Royal Commission into the Protection and Detention of Children in the Northern Territory at p. 222; Carmody, T 2013 Taking Responsibility: A Roadmap for Queensland Child Protection, Queensland Child Protection Commission of Inquiry at p.11. Commission, Canberra.

9. The QPC's Draft Report was released for further input in October 2017. The report was finalised and provided to the Queensland Government on 22 December 2017. Under the QPC Act, the Queensland Government has up to six months to provide a response. It is not until a response is issued that the final report can be published by the QPC.

10. QPC 2017, Draft Report, p. 83. See also Empowered Communities 2015, Empowered Communities: Empowered Peoples: Design Report, Wunan Foundation, p.13.

11. p. xx.

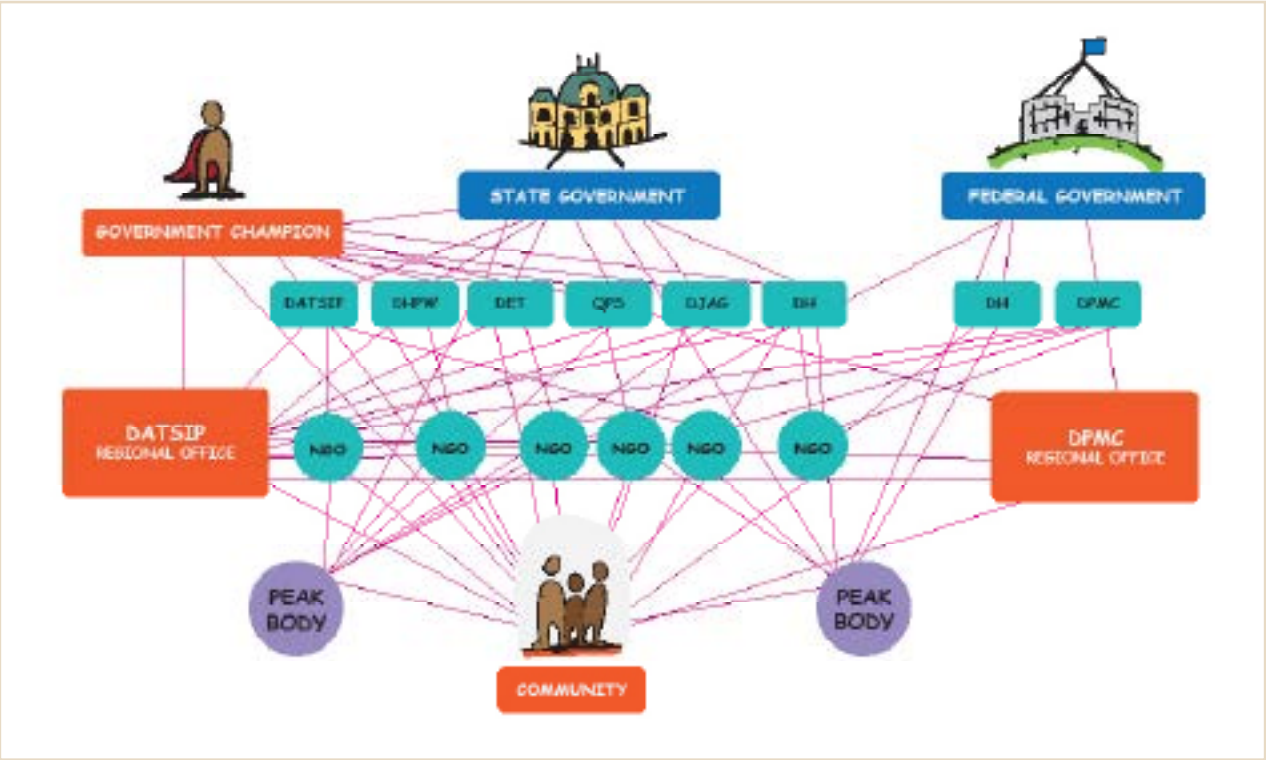
12. p. xviii

13. Empowered Communities Report. See also Australian Government, 2017 Discussion Paper: Remote Employment and Participation, Department of Prime Minister and Cabinet, Canberra.

14. QPC 2017 Draft Report, p. xx; Empowered Communities: Empowered Peoples: Design Report, Wunan Foundation, p. 33.

service delivery. This bureaucratic maze serves just over 40,000 people or less than 1 per cent of the state's population.[12] Services report back to government as the funder and decision-maker, and there is no relationship between supply and demand. First Nations people, as the intended beneficiaries of services, have no decision-making power at any point. Service provision is dominated by large external NGOs, including not-for-profits as well as for-profits. Indigenous leadership and organisations have been progressively crowded-out.[13]

FIGURE 3 THE BUREAUCRATIC POLICY AND FUNDING 'MAZE': A STYLISED MAP



Source: Adapted from QPC, 2017 **Draft Report**, *p. xix*

Thirdly, ongoing failures drive a frenetic pace of policy churn (or policy pulsing) through the top-down system.[14] Achieving progress, and learning over time, is almost impossible with a lack of stability or cohesive leadership. During the ten years of the Closing the Gap, there have been five changes of Prime Minister, two Indigenous Affairs Ministers and five Health Ministers overseeing delivery at the Australian Government level. In Queensland, there have been four Premiers and seven Ministers of Indigenous affairs. In the constant cycle of top-down policy reviews, government-led consultations, and submission processes, First Nations cannot exert the influence they need to pursue a cohesive strategy over the long-term for their own places.

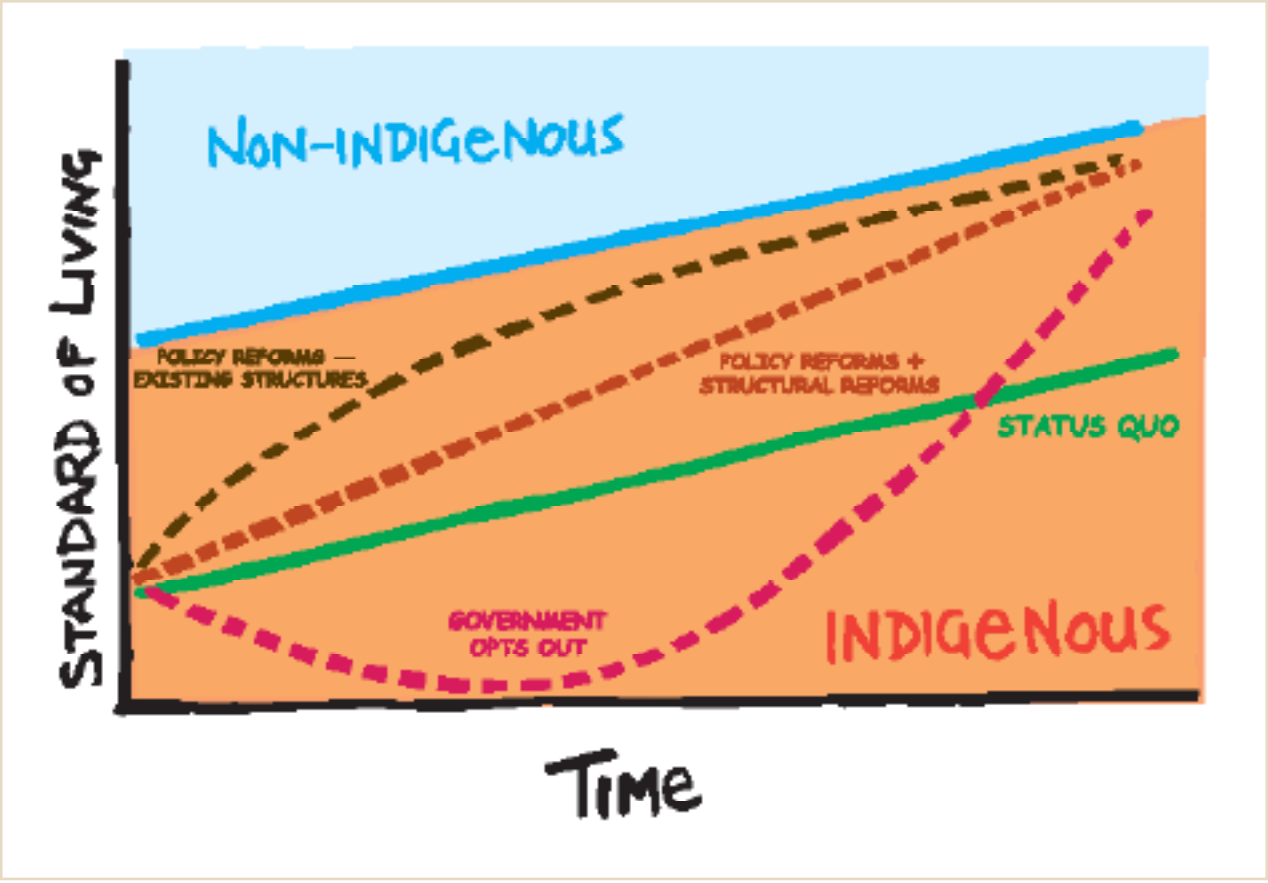
Consider the number of recent and current reviews at the Australian Government level, for example:

- The **Remote Housing Review** reported in October 2017 on the massive expenditure under the national $5.5 billion Indigenous remote housing scheme from 2008-2018. The review itself notes the program was hampered by constantly changing policies, and sheets home the blame to all governments in what it states is "a sign of the times"

- Reviews on Indigenous **education** and **incarceration** concluded in December 2017
- The approach to participation and employment services for remote areas through the **Community Development Programme** (CDP) is **under review**. CDP is the sixth Australian Government version of the program in ten year
- There is a call for input on **improvements to the evaluation of the Indigenous Advancement Strategy** (IAS) (after a review by the National Audit Office was **critical** that results achieved under the strategy could not be determined)
- There is a **review of the overarching Closing the Gap framework** currently underway.

After its comprehensive inquiry, the QPC—just like the 2015 Empowered Communities Design Report before it—concluded that improvements in Indigenous communities will not be achieved through the current system of policy, funding and service delivery. As shown in Figure 4, the QPC considered trajectories of change and found that the status quo is unlikely to close the gap. Far-reaching policy and structural reforms are required to transform the system and its outcomes.

FIGURE 4 A COMPREHENSIVE REFORM AGENDA IS MOST LIKELY TO IMPROVE OUTCOMES



Source: Adapted from QPC, 2017 Draft Report, p. 103

The underlying systemic failures must be confronted. Business as usual will never get us there. Two core changes to deliver better outcomes more efficiently are identified both in the QPC Draft Report and the Empowered Communities Design Report:

1. Development must be the goal
2. Empowerment is the means to achieve development.

Development is the goal

First Nations want to move towards sustainability and development.[15] In fact we have a Right to Development that

> …is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.
>
> (Article 1.1, Declaration on the Right to Development, UN General Assembly 1986)

When development is the goal, the solutions are fundamentally different to those that currently dominate. Central to a development approach is the understanding that services alone cannot close the gap. A far more holistic approach is needed.

There is a universal formula of healthy childhood development that allows individuals and families to develop and flourish—at its core it involves parenting and a home that provides love and support for safe and healthy development, and it involves a good education. Good services are needed to help to build education and health capabilities, for example, but they are not sufficient.

A development approach prioritises the transition of Indigenous communities from public economies to market economies that are plugged into and part of the mainstream.[16] The right enabling environment must be created—such as property markets, labour markets, and necessary infrastructure—so development can ensue. Private sector activity must expand, and this means governments must divest themselves of roles and responsibilities that have the potential to displace or crowd-out individual or local initiative and investment opportunities.[17] Increasingly, the need for such reforms to transition remote Indigenous communities from welfare economies into real economies has been acknowledged.

- The review of CDP states that a new approach must put job seekers on a pathway to employment, including by growing the remote labour market and incentivising people to move from welfare to work.
- The need for Indigenous land reforms to enable economic development on Indigenous land has been the focus in recent years of the

15. QPC 2017 Draft Report, p. xvii.

16. QPC 2017 Draft Report p. 142.

17. QPC 2017 Draft Report, draft recommendation 7, at p. xxxii.

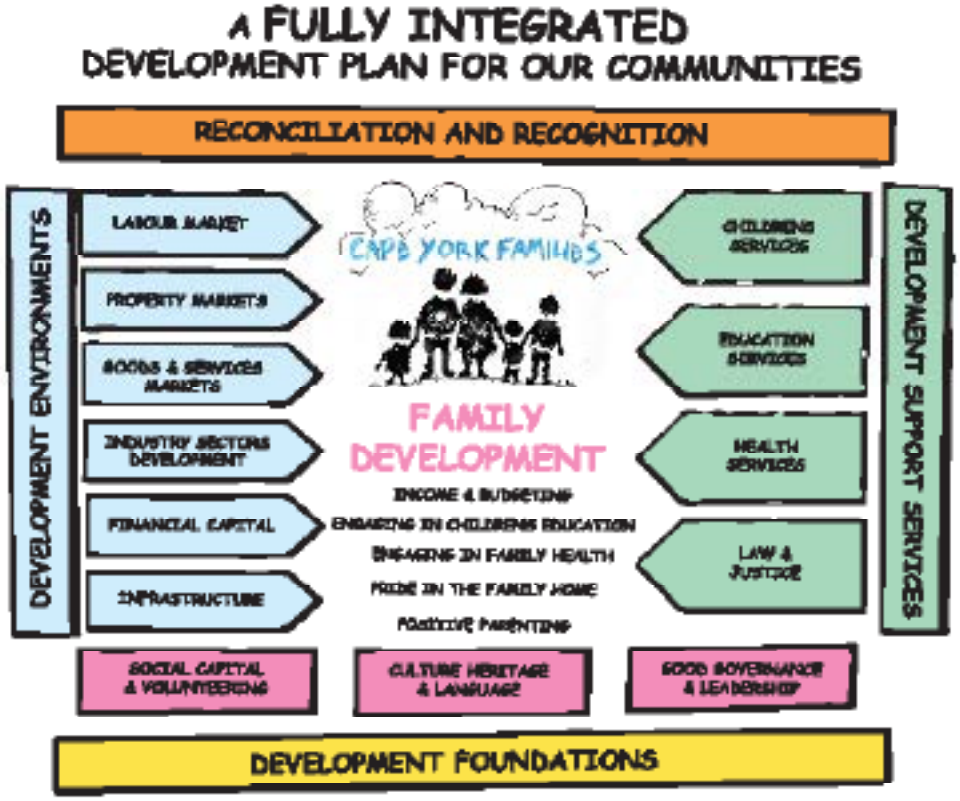
Australian Human Rights Commission and the COAG Investigation into Indigenous Land Administration and Use.

- The Australian Government has a general focus on growing remote economies across Northern Australia in the implementation of the Our North, Our Future White Paper[18] which ostensibly adopts a 20-year framework, and is backed by investment of more than $6 billion, with a further $5 billion made available in subsidised loans through the Northern Australia Infrastructure Facility (NAIF). Disappointingly this initiative has a relatively small focus on Indigenous economic development given the fact that Indigenous people are a major population base and are major landholders in the north, although some pilot Indigenous land reform projects are being supported.

18. See also other recent Australian Government reviews including the 2015 Australian Law Reform Commission review of the Native Title Act 1993 (Cth), and COAG's 2015 Review of Indigenous Land Administration and Use.

The Cape York Institute illustrates the elements of a development approach in Figure 5, showing that services are needed to support individuals and families to develop capabilities and promote child development, but services alone are not enough. The right environment is also required in terms of having labour markets, property markets, goods and services markets, industry sector development, financial capital and infrastructure. Figure 5 also shows other elements in a holistic development framework, including the strong foundations of good governance and leadership; cultural heritage and language; and social capital and volunteering.

FIGURE 5 A HOLISTIC DEVELOPMENT APPROACH



Source: Cape York Institute, 2017.

The objective of development is to enhance all individuals' ability to shape their lives, meaning that any successful development approach must foreground the role of individual, family and collective agency and responsibility—that is, the role of Empowerment. Empowerment is not just an important end in its own right. It is the means to achieve development.

The way to get there is Empowerment

Nearly every serious consideration of any problem afflicting contemporary Aboriginal and Torres Strait Islander society highlights the same ultimate conclusion—solutions depend on Indigenous empowerment, self-determination, control, power, autonomy, engagement, and responsibility for decision-making.[19] The ultimate cause of our problems is the oppression of our people by our structural condition. It is not that the Australian majority and the country's governments intend this oppression. Indeed they wish for us to be free and prosperous. However the structural predicament we are in is a state of oppression.

Structural solutions are required if we are to become free of oppression. This oppression is rooted in our histories of dispossession and trauma, but continues today with governments setting our priorities, making the laws, policies and funding decisions that govern our futures. Disempowerment is the status quo and has been for too long.

Structural, institutional and policy changes are needed to confront this ultimate cause of the problems faced in First Nations communities. Further government-led attempts to repair the system are not what is needed. A new system must be put in place, and First Nations people must play a leading role.

Internationally and within Australia too, government and non-governmental agencies have come to realise that development does not occur where there is a lack of active, effective and lasting participation of the intended beneficiaries. Development must be by First Nations people, not merely for them. The **review of Closing the Gap**, endorsed by all governments through COAG in 2017, states:

> Australian governments acknowledge they need to work differently with Aboriginal and Torres Strait Islander Australians. To that end, Australian governments have committed to work in genuine partnership with Indigenous leaders, organisations and communities, to identify the priorities that will inform how governments can better design and deliver programs and services, to close the gap.

19. See e.g. Johnston E 1991 Royal Commission into Aboriginal Deaths in Custody: National Report Volume 1 at paras 1.7.8, 1.7.9, 1.7.14, 1.7.18 and 1.7.19, Keating P 1992 Redfern Speech, Redfern; Perkins C et al. 1994 Recognition, Rights and Reform: A Report to Government on Native Title Social Justice Measures, ATSIC; Dodson M 1996 Assimilation versus self-determination: No contest, at the HC (Nugget) Coombs Northern Australia Inaugural Lecture; Scott E 2000 Reconciliation: a culture of peace-making, Speech at Cultures of Peace, Perth; Hunt J and Smith D 2007 Indigenous Community Governance Project; Two year research findings, CAEPR, Canberra; Yunupingu G 2008 'Tradition, Truth & Tomorrow', The Monthly; Rudd K 2008 Presenting the Sydney Peace Prize to Patrick Dodson University of Sydney, Sydney; Walker B, Porter D and Marsh I 2012 Fixing the hole in Australia's Heartland: How Government needs to work in remote Australia, Desert Knowledge Australia, Alice Springs; Gooda M 2013 Social Justice and Native Title Report 2013 Aboriginal and Torres Strait Islander Social Justice Commissioner, Australian Human Rights Commission, Canberra; Abbott T 2013 Speech to the Garma Festival, Gulkula; Mundine W 2013 Shooting an Elephant: Four Giant Steps, Gulkula; Yunupingu D 2013 Speech to the Garma Festival, Gulkula; Chaney F 2015 A road to real reconciliation with Aboriginal Australia, John Button Oration, Melbourne. Wild R and Anderson P 2007 Little Children are Sacred: Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, Northern Territory Government, Darwin; Royal Commission into the Protection and Detention of Children in the Northern Territory 2017, Darwin.

At the ten-year anniversary of Closing the Gap in 2018, the Prime Minister said:

> We're doing more to use local expertise to design solutions to local problems and our best example of that is Empowered Communities. We are hopeful that through the Closing the Gap refresh process, this model can be expanded beyond the existing eight sites to more communities seeking to work in a place-based regional governance approach and one that meets the needs criteria set by the Empowered Communities leaders.

There is a shift to Empowerment occurring in Australia, albeit belatedly. Governments now acknowledge that Indigenous empowerment is needed. But real change needs structural reform, to ensure the words become the practical, operational reality.

The method for Empowerment

While there has been much talk about the need for a better partnership between governments and First Nations people, there have been few serious attempts to set out the structural, institutional and policy changes required for empowerment. The **Empowered Communities Design Report** of 2015 and the recent QPC **Draft Report** are exceptions. These two reports completely concur in identifying the method by which government can move from top-down, centralised control and operation of Indigenous communities, to an empowerment approach that ensures Indigenous people themselves can drive gains at a place-based level. The method for Empowerment requires:

- Place-based plans, developed through inclusive participation, in which the people of a place set out their needs and priorities
- Agreement making between governments and Indigenous people of a place about how investment is to be used and setting expectations about what will be achieved
- A new interface/structure (such as Partnership Tables) to enable the grassroots to influence negotiations between governments and the people of a place
- Funding reforms so budgets are controlled closer to those affected, including:
    - Governments to provide place-based transparency of funding flow
    - Place-based pooled funding arrangements
    - Indigenous people acting as decision-makers about funding grants to services (as purchasers, or co-purchasers)
    - Increasing Indigenous organisations' participation in service delivery and reducing the dominance of external NGOs

- Monitoring and evaluation that facilitates adaptive practice, and accountability
- Independent oversight of the reforms.

The method to achieve empowerment has been set out. What is yet to occur is a strong commitment and effort across all levels of government to put in place the reforms that are needed

Pama Futures comes at a critical juncture

Cape York's Indigenous communities are at a crossroads in terms of the QPC's report on service delivery and Empowered Communities, both of which recommend a major shift to empowerment. The Cape York Welfare Reform trial is also at an impasse, and a clear way forward is overdue. Pama Futures sets out a compelling pathway forward.

THE QUEENSLAND PRODUCTIVITY COMMISSION'S RECOMMENDATIONS

The QPC report is arguably the most important Indigenous affairs policy document produced in the State of Queensland since the Protection Act was legislated in 1897 and while the Queensland Government's response will be critical, the Australian Government is also a vital partner for any new approach.

The QPC's blueprint to empower First Nations people, is entirely consistent with Pama Futures. In fact, Pama Futures begins a great deal of work that must be done to implement the QPC's recommendations in Cape York, and is strongly supported by the Australian Government. Most importantly, Pama Futures has demonstrated that there is broad support and many capable First Nations people across every sub-region prepared to help lead and drive the reforms.

EMPOWERED COMMUNITIES

The pace that the Empowered Communities reforms have progressed has been slow. The Australian Government has supported a regional approach to implementation, while the Queensland Government has been awaiting the outcome of the QPC inquiry before committing to any reforms. Implementation in Cape York over the past two years has supported local reform leaders to promote broad-based, inclusive local participation in Coen, Hope Vale and Mossman Gorge to design local Development Agendas, and has enabled collective action to be taken locally on some issues.

While some progress has been made, the larger structural reforms have not been activated. There has not yet been a Partnership Table convened or any agreements reached with government to settle place-based budgets, pooled funding mechanisms have not been established, and purchasing or co-purchasing arrangements for services have not yet been put in place in Cape York. In the Inner Sydney Empowered Communities region co-purchasing arrangements have been put in

place to influence service delivery decisions.

Under Pama Futures, an empowerment approach can be implemented at scale across all of Cape York. This will allow greater momentum for the changes to be marshalled within government, particularly to implement the larger structural reforms required.

CAPE YORK WELFARE REFORM TRIAL

The Cape York Welfare Reform trial—which has run from 2008 in the four communities of Aurukun, Coen, Hope Vale and Mossman Gorge—is an important precursor to Pama Futures. It attempted to strike a new partnership between the Australian Government, Queensland Government and Indigenous people. It also sought to implement a targeted development approach, including educational engagement, activating local economic opportunities (through a 'lighthouse' economic development project in each community), enabling home ownership, and restoring social responsibility by vesting local authority in local leaders on the Family Responsibilities Commission.[20]

Progress has been variable. A 2013 independent evaluation concluded that after only three years there was "**a level of progress that has rarely been evident in previous reform programs in Queensland's remote Indigenous communities**". However, momentum for further change stalled over time. Despite some standout achievements and some serious failings, Cape York Welfare Reform has now become another static 'program'—stuck in trial mode—rather than continuing its promising initial trajectory of shifting to a comprehensive development approach.

Under Pama Futures, First Nations people in trial communities, and governments as partners, have the opportunity to reinvigorate change through participatory planning of place-based development. Current funding should be segued into the new Empowerment agenda so that the positive programs under Cape York Welfare Reform can be maintained and programs targeting new areas developed.

Over 800 Cape York people involved in Pama Futures

No shift to empowerment and development can occur without the First Nations themselves driving the change. Over the past six months, over 800 people[21] from Cape York's First Nations have participated in an extensive and rigorous planning process to develop Pama Futures. Figure 6 illustrates the process to date.

DJARRAGUN WILDERNESS CENTRE SUMMIT

An initial three-day Summit was attended by 200 people from across the Cape, at Djarragun Wilderness Centre on 29-31 August 2017. Minister Scullion attended and said if people wanted to take it up, this was a real opportunity to drive and accelerate social, cultural and

20. Cape York Institute 2007 Hand Out to Hand Up Design Report, CYI.

21. If the number of attendees at each Pama Futures event described below are added, this total participation figure is far larger. However, many individuals attended more than one of Pama Futures events, so this total participation figure is intended to provide a very conservative estimate of the total number of unique individuals that attended Pama Futures events.

economic development. He stated he was willing to empower people by giving each sub-region a 75% weighting in decision-making for expiring grants under the Indigenous Advancement Strategy (IAS), and to transition the Community Development Programme (CDP) from external providers to greater Indigenous ownership and control.

It was a universal message that there was a need for the grassroots to be empowered, and there was a high level of support for the Land Council to be restructured. It was recognised that sub-regional planning was needed to progress Land Rights, Empowerment and Economic Development reforms. Delegates authorised follow-up correspondence to Minister Scullion outlining the next steps, and proposing that the Commonwealth's commitment to our plan going forward be formalised in a procedural Indigenous Land Use Agreement (ILUA) committing the parties in a binding agreement under the Native Title Act 1993 (Cth).

SUB-REGIONAL FACILITATORS

Following Summit 1, two people from each of sub-regions were appointed to be Sub-Regional Facilitators (Facilitator). Each Facilitator is an important leader of reform thinking in their family and community, and they played a vital role in facilitating participation, and providing ongoing communication between the sub-regions and the regional organisations.

SUB-REGIONAL DESIGN LABS

Three Design Labs in Cairns involved around 10-20 people from each of four sub-regions. The Labs were held over two days, with time for each sub-region to separately progress its plans.

- **Design Lab 1:** approximately 60 people attended from Aurukun, Napranum and Weipa, Mapoon, and Lockhart
- **Design Lab 2:** approximately 80 people attended from Kowanyama, Starke/Lakefield/Kalpowar, Pormpuraaw, and Hope Vale/Cook tow
- **Design Lab 3:** approximately 100 people attended from Coen, Laura, Yalanji/Mossman/Mossman Gorge and Wujal Wujal, and Northern Peninsula Area.

The Facilitators played a critical role in preparing for the Labs, and they facilitated their own sub-region's planning sessions at the Lab.

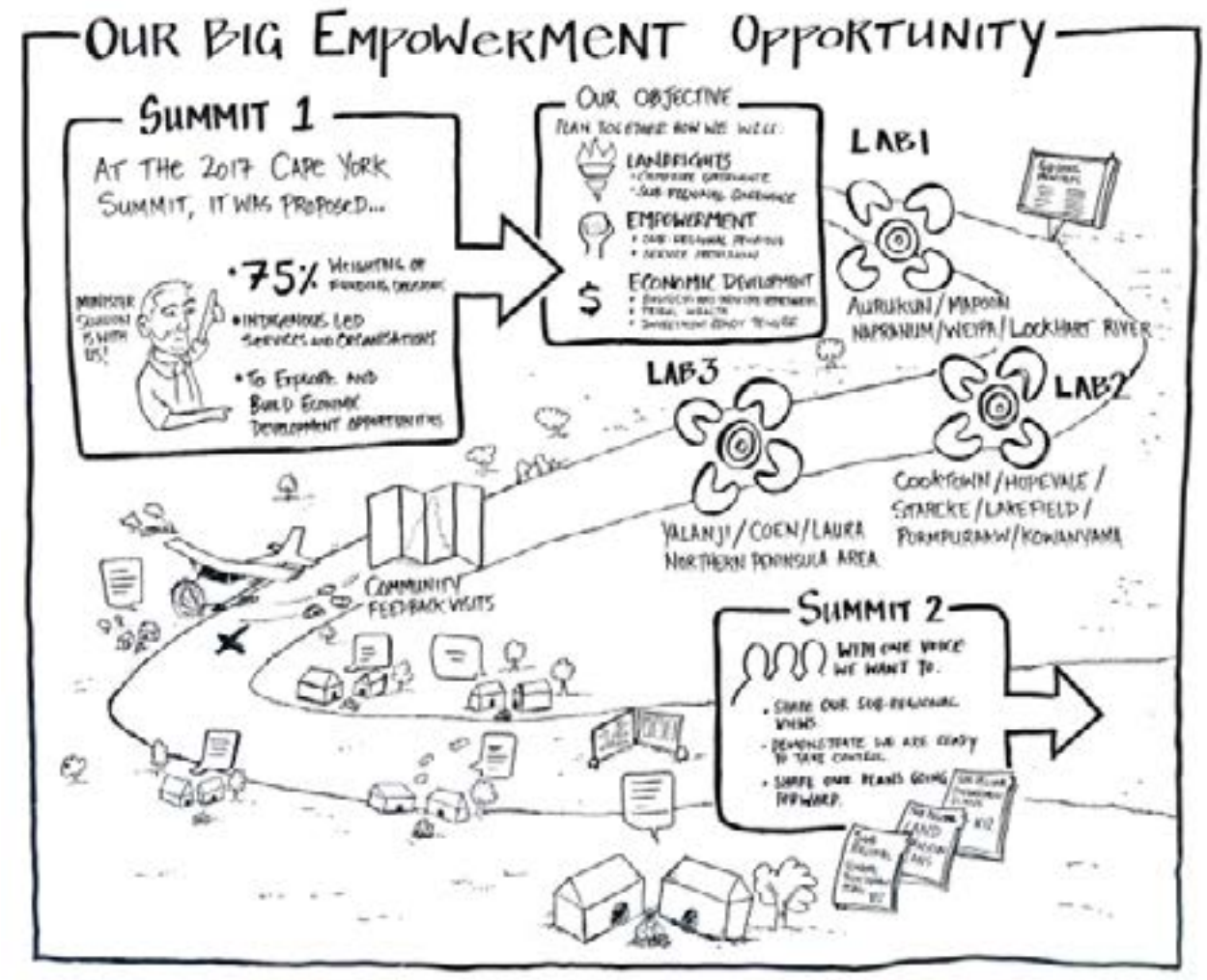
COMMUNITY WORKSHOPS

Further workshops of two to three days were convened in communities which enabled reporting back from the Labs, building community awareness, and provided a further opportunity for input. More than 400 people participated across 12 communities. The Facilitators encouraged participation and co-facilitated with content leads from the Land Council and Cape York Partnership (CYP).

PALM COVE SUMMIT

On 11 and 12 December 2017 a second two-day summit was held at Palm Cove attended by more than 400 people from across Cape York's sub-regions. Facilitators played a key role in presenting on progress in their sub-region, and facilitating further planning sessions. Minister Scullion sent an audio-visual presentation, which emphasised his commitment to this opportunity. Propositions or commitments were agreed by delegates, and an artwork was signed to symbolise the historic shift occurring, and the commitment of those present to realising the new way forward.

FIGURE 6 PAMA FUTURES CO-DESIGN PROCESS TO DATE



GENEROUS CORPORATE SUPPORT

Pama Futures has received very substantial pro-bono corporate support, which made a great deal of progress possible. The equivalent of a $1.5 million contribution was provided from management consultant companies, Boston Consulting Group (BCG) and Two Collaborate. A BCG team was seconded for three months, and Two Collaborate teams assisted with the Labs and Summit 2. The Two Collaborate teams included independent facilitators, and graphic artists to illustrate the key concepts and discussions as they took place (figures in this report provide examples).

WORK IS ONGOING

Every sub-region will move into implementation in 2018 but this does not mean that the co-design and planning phase is over. Indeed, grassroots planning will be an ongoing focus to iterate sub-regional and regional plans. Ongoing participation and planning must be owned at that local level. Willingness of local leaders and participants to drive the process forward—as the Facilitators have done—will be crucial. Enabling support must be provided from the regional organisations and from government.

Pama Futures

We want to plan and decide development agendas for our people and communities, and sub-regions.

We want to empower the grassroots. We want to enable local decision-making.

We are many communities and sub-regions, but we speak with one voice on this.

We want to use our land to pursue social and economic development for our people.

We want to enable members of our community to use our land, with proper controls to ensure that it is done in the right way.

The CYLC will help us to use our land, and to do this it will need to change how it is structured and governed.

We will build our decision-making up from families and tribes sitting around campfires up to sub-regions and then for Cape York.

We want to determine priorities for empowerment in our sub-region.

We commit to focusing on the development of our families and children, as well as our clan and tribal groups and our communities.

We want to deliver services ourselves, with a staged transition of control, understanding that service delivery alone will not empower our people – that we must build our economic, social and cultural capital.

We would like to start by taking ownership of the CDP program with a staged hand-over plan.

We will make our land ready for investment, in ways that are in keeping with out culture.

Agreed aspirations of Cape York First Nations people at the Palm Cove Summit, December 2017

We have a breakthrough opportunity that holds genuine potential to close the gap in cape york peninsula. Pama Futures is about implementing empowerment to transform our communities from islands of disadvantage that sit outside the mainstream economy, into vibrant places that are the anchor point for first nations people to stay close to their homelands whilst orbiting to opportunities wherever they are.

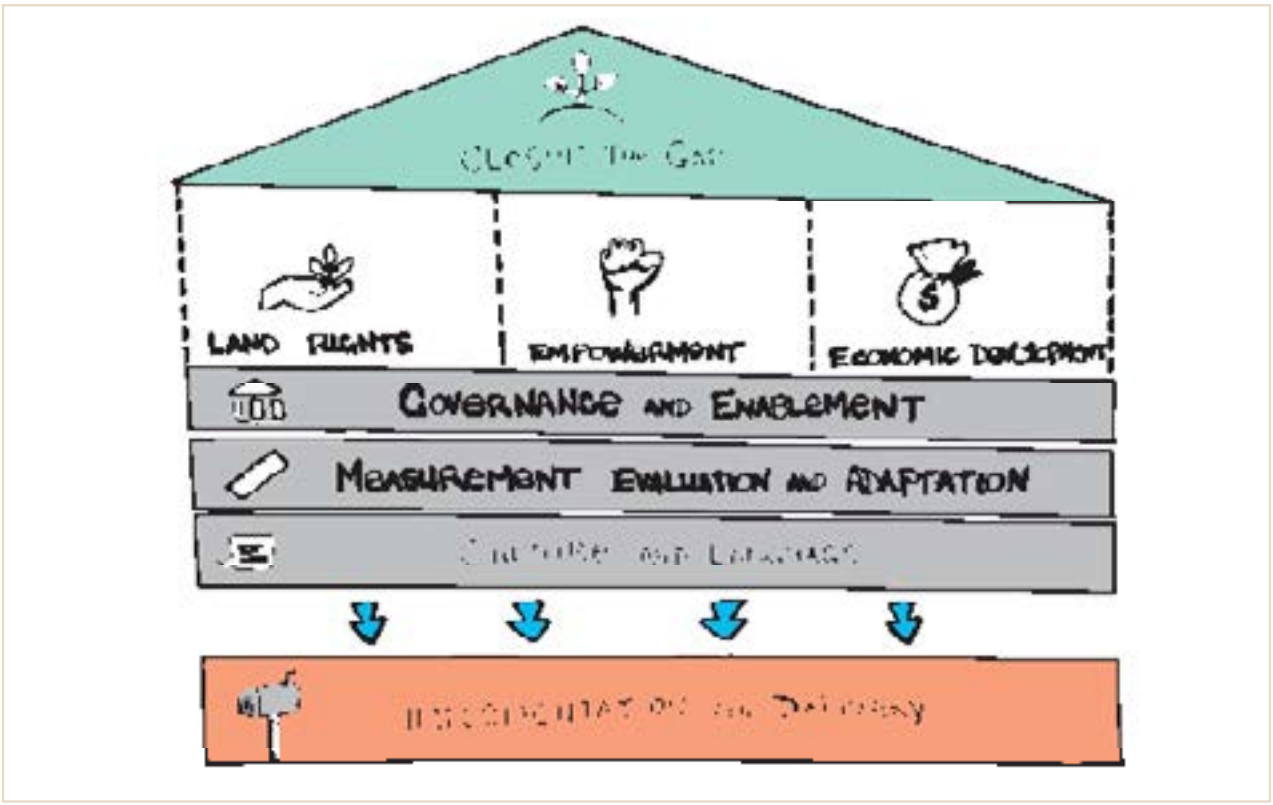
Pama Futures is the product of a broad co-design process, where first nations of Cape York are leading the development of details through which the new and empowering partnership with government can be achieved.

Part 2 sets out what has been achieved so far through the strategic efforts of cape york's first nations people under Pama Futures, and what next steps are proposed as a result.

Overview of Pama Futures

Pama Futures provides the planning and organisation required to create an intelligent and dynamic system across Cape York, connecting with state and federal government, through which First Nations can drive vital reforms in three streams: Land Rights, Empowerment and Economic Development. These reforms will strengthen the foundational areas of Governance and Enablement; Culture and Language; and Monitoring and Evaluation. Work to strengthen these foundations is interwoven throughout the three streams. Figure 7 illustrates the three reform streams and the strong foundational elements needed to close the gap.

FIGURE 7 PAMA FUTURES: THREE REFORM STREAMS SUPPORTED BY STRONG FOUNDATIONS



The three streams

Under Pama Futures planning has confirmed the content of each of the three streams and the leading major focus in each area:

1. Land Rights reforms are needed so First Nations people can increasingly sustain themselves—socially, culturally and economically—from their ancestral lands. Land Rights reforms have a major focus on the restructure of the Land Council so Indigenous landowners can realise their aspirations for caring for country, culture and people, and for economic and commercial business development.
2. Empowerment realigns the relationship between the First Nations and governments—so that Indigenous people of a place are taking responsibility for themselves, rather than governments having all the responsibility. Empowerment reforms have a major focus on ensuring all areas of Cape York are taking control of the budget for their sub-region.
3. Economic Development is needed to Close the Gap on employment and to enable the long term social and economic viability of Cape York by reducing reliance on government. Economic Development reforms have a major focus on the creation of Investment Ready Tenures so Indigenous people can choose to have their land plugged into the mainstream economy.

Strong foundations

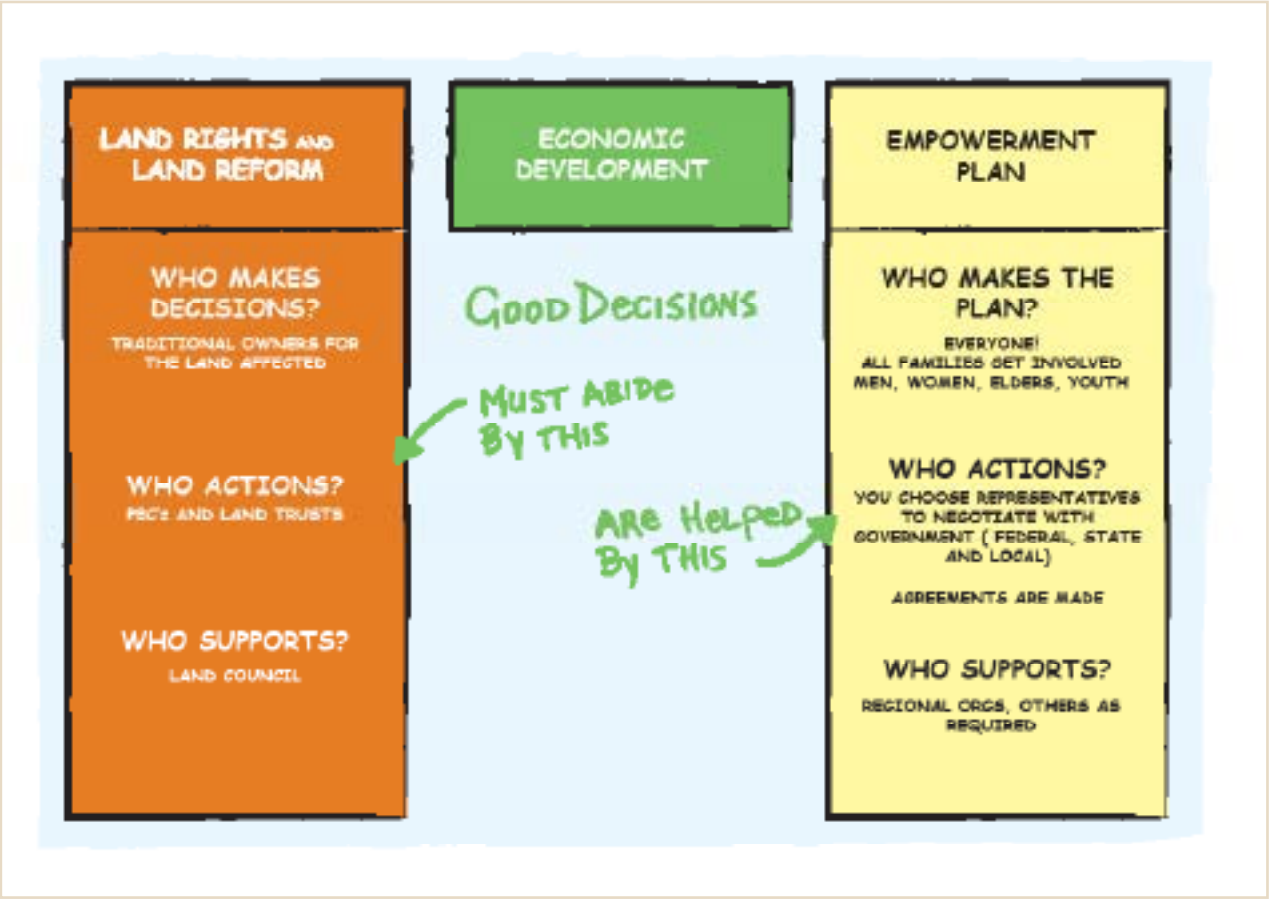
GOVERNANCE

First Nations universally desire to replace the current top-down system of control and dependence, with processes and structures that empower decision-making at the grassroots level. Conflict and tension across multiple Indigenous interests is often structurally embedded and reinforced, rather than being effectively reconciled and harnessed for collective impact. Fragmented governance and decision-making currently disempowers the grassroots.

Pama Futures builds clearer, more cohesive decision-making across the three streams.

Empowerment co-design and decision-making must be broad and participatory. Land Rights decisions must continue to respect that traditional owners have the full say. Good decision-making in both the Land Rights and Empowerment streams is required to support Economic Development decision-making. Figure 8 illustrates that decision-making within each of the three streams is interconnected, although it may involve different actors in different streams.

FIGURE 8 DECISION-MAKING IN LAND RIGHTS, EMPOWERMENT AND ECONOMIC DEVELOPMENT



The first priority of Pama Futures is empowering the grassroots. This means accommodating multiple, overlapping and intersecting Indigenous interests—including the interests of individuals, families, clans and First Nations, and Indigenous organisations—in a way that builds responsibility, capability and empowerment, abides by the principle of subsidiarity, is as inclusive as possible, and respects cultural authority.

For example, when it comes to participating in and making decisions about the community and its future, including in terms of services and budgets, everyone residing in the community should be able to participate and have a voice. Cape York's 17 Indigenous communities are artefacts of the mission-era and residents include traditional owners and those who have multigenerational historical and residential association with the community. There are also a diaspora of people living in places such as Cairns that continue to have an interest in their home community and their ancestral lands. Those living elsewhere may also wish to participate in some decision-making about their community and/or ancestral lands from time-to-time, and they should be included or involved via family discussions and arrangements.

Further, Pama Futures has introduced a new focus on planning and organisation at the level of the 12 sub-regions of Cape York. The sub-regional focus contrasts with the usual approach which focuses almost exclusively on Indigenous communities. A new focus on the broader sub-region is needed so that the land surrounding communities is better

included in planning processes. Areas of land surrounding communities where Land Rights are recognised must form a significant part of the development story if people are going to reduce their dependence on government and sustain themselves from their land. Communities remain important, indeed, they are key focal points within each sub-region (see Figure 9).

FIGURE 9 A NEW FOCUS ON 12 SUB-REGIONS ACROSS CAPE YORK PENINSULA

STRENGTHENING CULTURES AND LANGUAGES

Strong cultures and languages must underscore progress across the three streams to close the gap. Unless we keep our cultures and languages strong, closing the gap simply means assimilation. Conversely, without socioeconomic development, our cultures and languages will continue to decline. Most Cape York people will readily agree that, as one person put it during discussions on this topic, "even if your only interest is in keeping culture strong, it can't be done without economic development."

Some Economic Development opportunities are easily aligned with keeping our cultures and languages strong. The Dreaming Track initiative in Part 4 of this report, for example, can provide an anchor economic development project that generates jobs and enterprise opportunities—while leveraging our competitive advantage and reinforcing incentives for strengthening our cultures and languages.

Other Economic Development opportunities, such as mining may appear more difficult to reconcile with the connectedness of First Nation's land and cultures. The reality is, however, that Cape York's Indigenous people cannot build a future based only on eco-tourism. We can lift our children from disadvantage and create wealth from mining where it is appropriate. We need to build our economic strength at the same time as we keep our culture strong, like the Jews, Indians and Chinese have done successfully in Australia. It is First Nations themselves that must decide how we will nurture our culture, while we also face the reality that business is business in Cape York, as is the case in China or Sydney.

MONITORING AND EVALUATION FOR ADAPTIVE LEARNING

Monitoring and evaluation for adaptive learning is critical. An adaptive approach avoids the assumption that development is a linear process. It aims to be flexible and responsive to changing circumstances. It is the First Nations of Cape York who are in it for the long haul—and it is their learning as individuals, leaders and organisations that must be central. A new monitoring and evaluation approach is a focus of Part 5 of this report.

1. Land Rights reforms

Recognition of our Land Rights provides cause for great optimism but there are challenges standing in the way of development. We have work to do to ensure that statutory land rights, native title and other property rights are held through a properly supported system of local and regional governance, so that land assets can be used and managed well by the grassroots, and in turn by their landholding entities.

The Pama Futures participation process has built capability and understanding about the legal and administrative complexities associated with the current patchwork of land titles, and the potential to simplify arrangements through inter and intra-group agreements. There has also been a focus on developing the first iteration of sub-regional Land Rights plans, including by each sub-region conducting a 'stocktake' of its various land tenures and native title, and of its various land holding organisations, and by beginning to consider plans that can help to strengthen grassroots governance.

RESTRUCTURE OF THE LAND COUNCIL

Land Rights planning has focused on changes to empower the grassroots, including through the restructure of the Land Council.

While there is an ongoing need for NTRB (Native Title Representative Body) services, increasingly there is a need for more focus on brokering solutions for land reforms to enable economic development. There is also a need to ensure more financially viable PBCs that can reliably and rigorously perform their functions, including the large volume of administrative work required.

CAMPFIRE GOVERNANCE

Each sub-region supports building grassroots governance and capability to use and manage land, and that this must begin at the level of the family and the clan. A family/clan 'campfire model' means that family groups have regular, voluntary and self-organising get togethers, at which aspirations and plans for ancestral lands are discussed and developed. These campfires provide the foundations that strengthen the direction and input of traditional owners to their PBCs and Land Trusts.

Each sub-region's Land Rights plan will provide details of its campfire model. While the campfire governance model is vital for effectively managing land, it will also strengthen the input of the grassroots into decision-making across other streams of Empowerment and Economic Development.

CAPE YORK LAND COUNCIL PBC

The proliferation of under-resourced PBCs with limited capacity to properly perform their functions and respond to the considerable demands made of them must be resolved. Greater regionalisation can allow landowners to maintain full autonomy of land management and decision-making, but also ensure economies of scale, cost efficiency, and regional political representation and commercialisation.

Restructure and rationalisation of PBCs can only occur in accordance with the wishes of traditional owners. It has already begun to occur with One Claim, and as other PBCs in Cape York see the advantages of the One Claim PBC model, and come to trust that the model does not interfere or impact on the rights of traditional owners to make decisions for their country, they may wish to also formally amalgamate into this larger PBC. Alternatively they could decide to nominate this larger PBC as an agent pursuant to the Native Title Act 1993 (Cth).

A Cape York Land Council PBC will be established to be the PBC for One Claim, for any new native title determinations, and by agreement to also support existing PBCs. The Governing Board will provide broad and fair representation. Whereas the Land Council currently has a 17-person Board of Directors who are elected for a four-year term, the Cape York Land Council PBC will have a Governing Board of 24 people, two nominated from each of Cape York's 12 sub-regions, with equal representation of men and women (i.e. 12 male and 12 female) (see Figure 10). Its rules would provide for four year terms, but will include an annual review of membership based upon whether:

- Representation is satisfactory to the relevant sub-region
- The board member has attended meetings as required
- The board member has abided by the policies and rules of the PBC

- The board member shared information and reported back to the sub-region.

CAPE YORK LAND COUNCIL ADVISORY SERVICE

A Cape York Land Council Advisory Service will continue to provide NTRB services to progress native title matters. The Advisory Service will play a new role in supporting landholders and organisations to use and manage land more effectively to generate income, and a broader range of professional services will be made available to landowners.

The Advisory Service will be incorporated into the Cape York Partnership Group of organisations under the aegis of the new Pama Futures Trust. This incorporation allows for a number of existing Land Council and CYP functions to be combined. In particular, the integration of the Advisory Service with Cape York Enterprises within the Cape York Partnership Group will mean expanded support services can efficiently be made available far more widely to the sub-regions, including solutions brokering to simplify transactions in land; business support (e.g. legal and accounting services); support to start, run, and grow businesses; ongoing business mentorship; leadership training; succession planning support; corporate services support; and business-related literacy, numeracy and financial literacy. This incorporation into CYP will ensure that 'back-end' corporate services such as human resources and finance can be provided through the larger CYP organisational structure for improved efficiency (see Figure 10).

The Cape York Land Council PBC will put in place a service agreement with the Cape York Land Council Advisory Service for support services which will ensure that all PBC functions can be performed rigorously including regarding the legal requirements of future acts, Indigenous Land Use Agreements (ILUAs), native title decisions, group consultation and decision-making processes.

The incorporation of the Advisory Service into the Cape York Partnership Group will be supported by changes at the highest level of governance, including the creation of the Cape York Futures Forum to provide strong sub-regional oversight for the entire Pama Futures agenda. It will also be supported by changes to extend the membership of the Board of Trustees of the Cape York Partnership Group to form the new Pama Futures Trust with 13 members, including a number of foundation members but ensuring that all sub-regions are represented.

CAPE YORK FUTURES FORUM

To increase the voice of the grassroots and the sub-regions, a Cape York Futures Forum will be established with 48 sub-regional representatives, four from each of Cape York's 12 sub-regions. Each sub-region will nominate two Land representatives, one Empowerment representative, and one Economic Development representative.

The Cape York Futures Forum will meet twice a year, with government partners invited to participate in part of the meeting. One of these meetings will provide the basis of the annual Cape York Summit open to all (see Figure 11).

FIGURE 10 A CAPE YORK LAND COUNCIL PBC AND A CAPE YORK LAND COUNCIL ADVISORY SERVICE

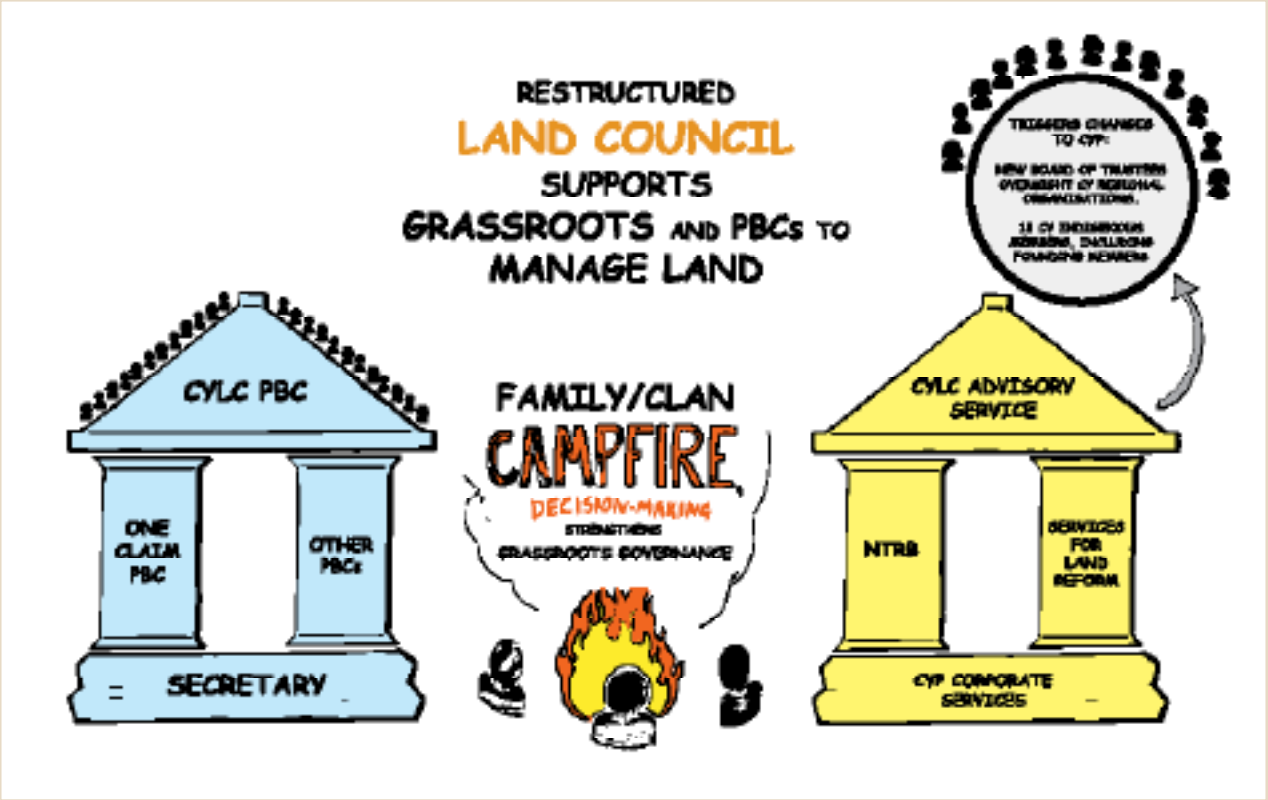
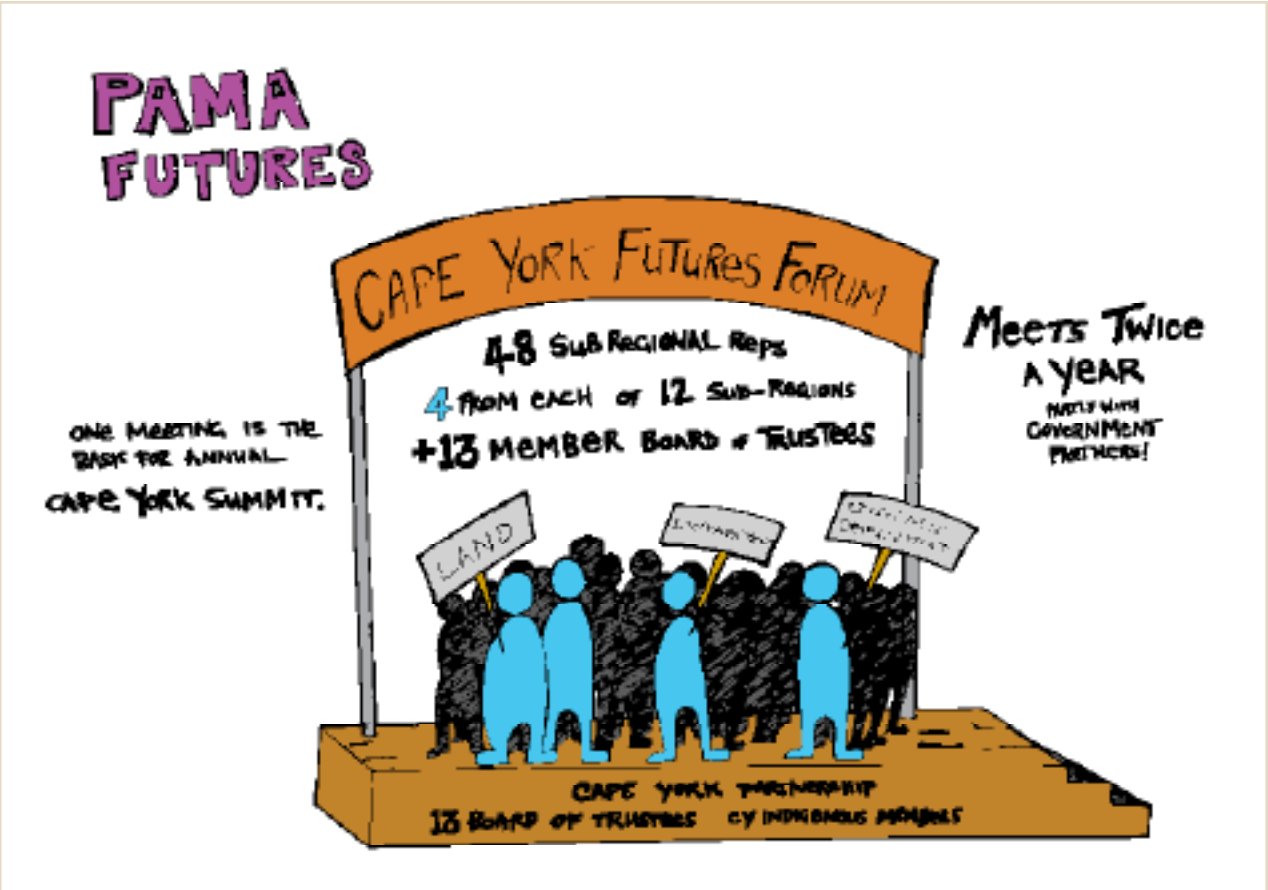


FIGURE 11 PAMA FUTURES EMPOWERS THE GRASSROOTS AND CHANGES THE CAPE YORK REGIONAL ORGANISATIONS



HUBS AND CO-LOCATION

The restructure also responds to feedback about the need for direct local access to personnel and enabling support through an on-the-ground network of community-based Hubs. The Hubs will employ a local person with skills similar to those of Sub-Regional Facilitators.

One of the key roles of local Hub staff will be continuing to facilitate the planning processes initiated under Pama Futures. Hub staff will facilitate the connection of local people with a broad network of external expertise, including with the Advisory Service.

Also, to respond to feedback about the need for more direct access, it is proposed that the Cape York Land Council PBC and Advisory Service are co-located in Cairns to ensure that there is close integration of the support services and PBC functions.

NEXT STEPS FOR LAND RIGHTS REFORMS

1. Restructure the Land Council to become the CYLC PBC with a nominated Board of 24 representing all of Cape York's sub-regions and providing equal representation for men and for women, and a CYLC Advisory Service within the CYP Group.
2. Establish a Campfire Governance model co-designed with sub-region landholders.
3. Further development of sub-region land plans. Land Rights planning will continue in the first half of 2018 which will finalise the initial iteration of the plans.

2. Empowerment reforms

Empowerment is our right to take responsibility. It has two key aspects. First, people must take up their responsibilities for themselves, their own families, communities and peoples. For example, we must ensure our children fully attend school, our families must commit to not buy sugary drinks to have in the fridge at home, we must make regular exercise part of our lives, and participation in language activities must become—once again—a ritual. Second, Empowerment means taking responsibility for service delivery and having control of the budget.

The Empowerment stream encouraged broad participation from younger generations and Elders; men and women; traditional owners and all citizens residing in, or with any other interest in, the communities and surrounding areas of the sub-regions; and natural, cultural and organisational leaders. It has been emphasised that everyone who wants to be involved are heard in the Empowerment process, not just structural leaders.

There has been a focus on developing the first iteration of sub-regional Empowerment plans which will form the basis of negotiations and agreement-making about budgets and service delivery with governments. Some sub-regional plans are more advanced than others, but all sub-regions are now in a position to begin to shift to an Empowerment model. Each plan begins to set out priorities, and ideas of participants about how service delivery can be improved, including mainstream

services and other service delivery. The plans will be living documents made available online, so they are open and accessible, and encourage broad ongoing participation.

More focus is needed to build the responsibilities people must take up at the individual, family and community level. An early focus will be on language learning and use, as participants clearly indicated this is vitally important. For example, people may decide to establish local ancestral languages music groups or adopt protocols and commitments about how language may be used in intercultural settings (such as by adopting a practice of ancestral language openings and closings at meetings, or using language greetings and salutations in all formal correspondence). Such actions are for people in the sub-region to decide, but Empowerment planning processes can be used to facilitate decision-making and shared commitments.

Regional Empowerment planning to ensure that the right enabling support is available to the sub-regions again includes the proposal for a network of community-based Hubs (the same hubs described above for Land Rights) that can help facilitate ongoing on-the-ground co-design, implementation and connecting local people to supports, including those available in the regional organisations.

BUDGET NEGOTIATION

The major Empowerment focus has been to introduce changes so the budget is controlled closer to those affected by service delivery success or failure (see Figure 12). The Australian Government has agreed that:

- Place-based transparency will be provided over the current allocation of funding to Cape York Peninsula and its sub-regions
- The existing level of funding in these areas will be maintained
- The sub-regions will be given 75% weighting in the decision-making on expiring grants under the Indigenous Advancement Strategy (IAS) and for the Community Development Programme (CDP)
- The sub-regions can begin to transition service providers from external providers to ensure greater Indigenous ownership and control of the CDP where possible.

Implementation in 2018 will centre on the IAS and CDP funding and services, but over time the Empowerment process will replace the current system and include all investment and services, across the full range of departments.

The devolution of control of the budget must be appropriately planned, including to ensure that Indigenous capabilities are developed. Given the short timeframes until some current IAS contracts, and the CDP contracts expire on 30 June 2018, some short extensions of existing contracts may be required to put in place the co-purchasing/panel arrangements for the 75% decision-making at the local level, and for CDP to allow time to build local Indigenous offerings or joint ventures.

FIGURE 12 EMPOWERMENT DELIVERS CONTROL OF THE BUDGET TO EACH SUB-REGION

Beyond CDP, there are other opportunities to negotiate better control over the existing government service delivery by moving to Indigenous and local organisations as the service providers. These include the rollout of the NDIS, health and education services. Care must be taken, however, to ensure that a concurrent expansion of the market economy occurs, or increased control of the existing service delivery industry will simply mean that Indigenous organisations become service providers within a passive welfare system. This will not provide the fundamental change that is required for broader uplift. The aim must be to increase control whilst reducing the industry down to its core essentials.

NEXT STEPS FOR EMPOWERMENT

1. Services are increasingly decided and/or delivered by local Indigenous people and organisations with agreed joint decision-making and co-purchasing arrangements between government and sub-regions, starting with Commonwealth IAS funding, and CDP.
2. Take ownership of CDP with an agreed staged handover plan, so that Cape York Indigenous organisations become the co-purchasers and primary providers of CDP in Cape York.
3. Further development of sub-region Empowerment Plans so priorities are determined in the sub-region by Indigenous people. Empowerment planning will continue in the first half of 2018 to finalise the initial version of sub-regional Empowerment plans. More will be done to facilitate actions and commitments of First Nations people to take up their responsibilities for themselves, their own families and communities.
4. Community-based Hubs in each sub-region will support grassroots people and enable them to more easily access business, land and empowerment information and assistance.

3. Economic Development reforms

In all modern economies wealth creation is closely tied to the ability to use, transfer and borrow against land assets. Yet for Australia's First Nations, for two centuries the doctrine of terra nullius reigned. Australia was the last country to acknowledge the native title of its First Nations people and being re-possessed of our lands so late in history means we have been largely locked out of an extensive period of growth and wealth creation experienced in Australia more generally. We are getting our land back, and we must now make real progress on realising economic opportunities on our land.

Mostly where economic activity occurs, land tenure arrangements are relatively straightforward—freehold and leasehold Crown land provides defined individual property rights and allows these rights to be freely traded in an open market. Property boundaries have usually been gazetted and ownership is clear. These arrangements establish secure individual property rights that enable economic activities such as grazing, cropping and tourism ventures, and encourage home ownership

and private rental markets. For First Nations, however, despite our Land Rights victories, the situation is far less straightforward.

Hernando de Soto's views on the importance of liberating the "dead capital" imprisoned in informal land tenure in Third World and the former communist states are instructive. In his book The Mystery of Capital, the Peruvian development activist identified the most profound difference between the West where capitalism thrives, and those societies where the world's poor live: the poor lack the legal infrastructure that captured transferable property rights and enabled capitalism. He wrote: "The poor do have things, but they lack the process to represent their property and create capital. They have houses but not titles; crops but not deeds; businesses but not statutes of incorporation." De Soto observed that people in the West took what lawyers call "fungible property" for granted:

> It is an implicit legal infrastructure hidden deep within their property systems, of which ownership is but the tip of the iceberg. The rest of the iceberg is an intricate man-made process that can transform assets and labour into capital.

The unique challenges we face can be overcome if we create what De Soto referred to as implicit legal infrastructure—if we put in place Investment Ready Tenures to catch us up to the starting line for economic development (see Figure 13).

Unless Indigenous people are supported to resolve these issues they will continue to hold back aspirations and investment for land and enterprise for decades to come. Conversely, when First Nations people agree and create Investment Ready Tenures where they see fit, investment and entrepreneurial activity can readily occur and individual interests in land can be created without the current uncertainty, complexity, conflict and extra-ordinary transaction. Such reforms must be led by Indigenous peoples themselves or change will be perceived to be a threat, and as undermining our hard-won Land Rights.

The Economic Development stream has involved sub-regions identifying existing aspirations and opportunities for economic development. In some cases, sub-regional Economic Development plans have been initiated, and the Lockhart sub-region has completed its first iteration which provides an example. Work has also occurred to develop a regional Economic Development plan to ensure that the right enabling support is available to the sub-regions—creating islands of economic development in a sea of welfare dependence will always be very difficult, if not impossible, so a strategy for the region as a whole is essential.

INVESTMENT READY TENURES

The major Economic Development focus has been on the need to create Investment Ready Tenures to enable entrepreneurial activity and investment. Potential steps to Investment Ready Tenure have been identified as including, for example:

- Simplification of existing tenures (including DOGIT, LHA lease, Aboriginal reserve, State reserve and USL) to Aboriginal freehold to provide a greater level of understanding and certainty, and increased development options, through the provisions of the Aboriginal Land Act 1991 (Qld).
- Where two organisations are involved in holding and managing different sets of rights and interest in the same piece of land, development can be assisted by both sets of rights and interests in the land being held and managed by one Indigenous organisation.
- Rather than deal with every future act on a case by case basis, native title holders can agree to simplified, fair and reasonable processes to facilitate development via an Alternative Procedure ILUA. For example, One Claim is seeking to determine native title across unclaimed areas and simplify consent processes by identifying who speaks for where so that much quicker, cheaper and easier Body Corporate ILUAs will then be possible. Town ILUAs are being negotiated to provide simplified processes and formulaic compensation for native title consent for development.
- Cultural heritage and environmental clearances are obtained.

FIGURE 13 INVESTMENT READY TENURES GET US TO THE STARTING LINE FOR ECONOMIC DEVELOPMENT

NEXT STEPS FOR ECONOMIC DEVELOPMENT

1. Establish Investment Ready Tenure in each sub-region, ensuring tenure is widely ready for future economic investment (i.e. private and/or commercial investment). A small task-force will commence working with grassroots traditional owners and their landholding organisations to create Investment Ready Tenures in the sub-regions targeted at best prospective development opportunities.
2. Further development of sub-region Economic Development plans will continue in the first half of 2018 and each sub-region in addition to Lockhart River will develop the initial iteration of its sub-regional plan. This will include ongoing capability building about the legal, administrative and technical complexities, the different options that are available, and their likely impact on development of the people and places concerned. This planning will identify priority areas for the creation of Investment Ready Tenures.
3. Validate identified Economic Development opportunities and begin implementation of early priorities identified by sub-regions.

Structural Reforms

We want to sit at the table and directly negotiate with government to agree the budgets supporting our sub-regional plans.

Councils will continue to play the role of local government.

The Cape York regional organisations will play a supporting and an enabling role.

The state and federal governments will play a partnership role with us.

We have a wealth of opportunities in our communities for economic development, and we will work together to pursue what is unique in each sub-region and what is common across Cape York.

We will focus on creating jobs for our people in community.

We will focus on what is financially sustainable.

Agreed aspirations of Cape York First Nations people at the Palm Cove Summit, December 2017

The large-scale transformation to an empowerment approach will take time to achieve and will advance through stages that build on each other—it is not a single event. As agreed by both the QPC and Empowered Communities, such a change cannot be achieved without institutionalising the major changes.

Part 3 sets out the structural reforms needed, including those that are principally for Empowerment: Legislation, Partnership Tables, Pooled Funding, and a Productivity Dividend; and those that are principally for Land Rights and Economic Development: Development Zones and Projects of Indigenous Development Significance. In addition, we propose a procedural Indigenous Land Use Agreement (ILUA), be agreed to commit all of the parties to Pama Futures going forward.

The need for legislation

Australian governments should enact legislation to ensure that the shift to empowerment occurs. The history of major reforms in Australia, shows that when deep and lasting transformations are required, legislation is vital to embed and steer the reform agenda, and ensure that it takes precedence for all parties, across the whole administrative and bureaucratic system, and beyond the life of the initiating government.

The Queensland Government is urged to introduce a First Nations Empowerment and Closing the Gap Partnership Bill 2018 to establish the proposed reform framework. Such legislation would foremost be practical, but also symbolic, signalling in the strongest terms the historic shift finally being made.

The overarching goal of Closing the Gap on Indigenous disparity should be the purpose of the new legislation. Currently only governments are accountable for the ongoing failures to Close the Gap, but a shift to empowerment means that this truly becomes a shared responsibility for failure and success. The Act will clarify roles and responsibilities in this respect, for example, by giving a clear commitment from the state to provide meaningful and timely data at a place-based level to inform Indigenous people as they drive change, monitor progress, and adapt and learn (see Part 5 for further details).

The Act would formally adopt an empowerment approach to Indigenous affairs, would define empowerment and set out the principles underpinning the new partnership between government and First Nations including the devolution of power and responsibility according to the principle of subsidiarity, and the importance of enablement on the government side.

A chapter of the legislation would set out the other key structural mechanisms proposed for empowerment and the delivery of this agenda, including the elements of a new Regional Partnership Authority which include Partnership Tables (Part 3), a Regional Partnership Board and Partnership Delivery Unit (Part 5), as well as Pooled Funds (Part 3) and a Productivity Dividend (Part 3).

In keeping with the empowerment approach, but also recognising that welfare dependency is a challenge that must be addressed by our people, the Act should also include a chapter setting out provisions to

permanently establish a streamlined Family Responsibilities Commission (FRC)—one that can be 'switched on' when First Nations people in a sub-region seek to have Conditional Income Management available as a mechanism to help those who need it the most, to ensure there is food on the table for children and that other basic financial responsibilities of the household are met. There is no doubt that Conditional Income Management can help prevent the foreclosing of the opportunity for development and choice that too often occurs for First Nations children as a result of cognitive and other early development issues as a result of alcohol, including because of FASD.[22] (See further in Part 4).

The Act needs to be developed in close partnership between government and First Nations representatives.

NEXT STEPS

1. Design a First Nations Empowerment and Closing the Gap Partnership Bill in a process involving government and Cape York representatives.
2. Queensland Parliament enacts agreed Bill.

Partnership Tables and Agreements

Under Pama Futures it is proposed that a network of Partnership Tables be established to provide the core partnership structure/interface between First Nations people and governments, as recommended by the Empowered Communities Design Report and the QPC Draft Report.

The Partnership Table is a vital mechanism to empower the grassroots. This puts the First Nations in a position to steer the priorities for development, rather than responding to siloed government-led consultations, one issue at a time.[23]

A range of matters may be agreed at the Partnership Table, including the way in which mainstream services will be provided, and the outcomes expected to be achieved. The QPC states agreements made at the Partnership Table should specify:

- **Principles**—these might include the way in which the agreement will operate and the manner in which the parties will interact
- **Roles**—what role each party will play in future interactions and what decision-making powers and authority each will have
- **Objectives**–the purpose of the agreement
- **Outcomes**—these should specify the agreed changes that are to be achieved under the agreement, without specifying how they will be achieved
- **Timelines**—when the various stages of the agreement will be implemented and when outcomes are expected to be achieved
- **Resourcing**—what funding will be made available to support the agreement
- **Incentives**—these might include payments for the achievement of outcomes or agreements to move to a subsequent stage of reform after certain milestones are reached

22. Recent evidence reveals astonishing rates of cognitive impairment and impact of Foetal Alcohol Spectrum Disorder on Indigenous young people, clearly contributing to negative outcomes later in life such as incarceration. Similarly, in Cape York there is evidence of very high levels of serious cognitive impairment likely to be related to alcohol misuse.

23. See QPC 2017 Draft Report, p. xxvii.

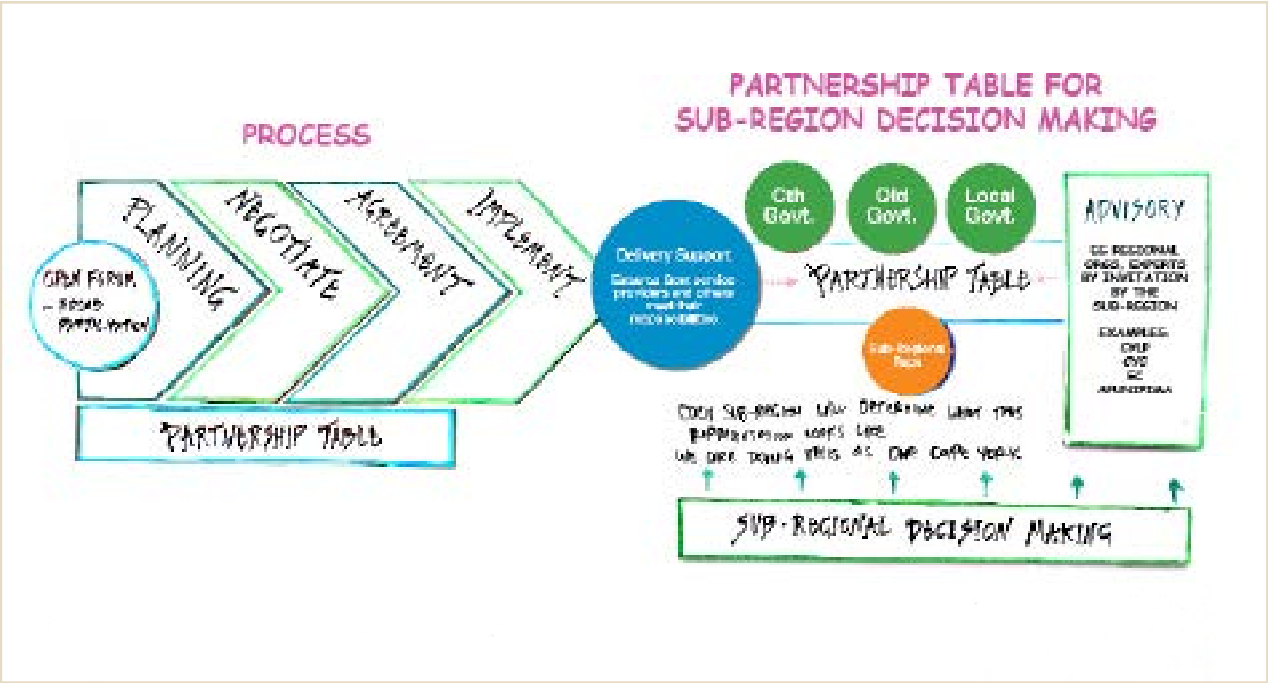
• **Duration** of the agreement and methods for amending the agreement.[24]

Partnership Tables are jointly 'owned' by First Nations people of the sub-region and governments. It is not a government convened and coordinated mechanism—although it is obviously dependent on government cooperation, participation and enabling support. Both parties own the process and both are responsible for making it work. It is a partnership. Local government councils will join with the state and federal governments as parties to the Partnership Table.

The sub-region decides who will represent them at the grassroots Partnership Table to negotiate with government. In the first instance it is likely that six sub-regional representatives would be selected as the principal negotiators: two each for Land Rights, Empowerment and Economic Development. Service providers, regional organisations or other experts (such as legal advisors, or corporates) can be invited by the sub-region to attend and participate in the Partnership Table. Such partners would provide advice and input but would not have any decision-making status (see Figure 14).

At the December Summit, a Partnership Table was role-played so that people could observe community representatives negotiating with the three levels of government. Each community and sub-region across Cape York has expressed enthusiasm for the Partnership Tables.

FIGURE 14 EACH SUB-REGION WILL CONVENE A GRASSROOTS PARTNERSHIP TABLE



NEXT STEPS

1. Design and establish Partnership Tables.

Pooled Funds

The QPC and Empowered Communities both recommend that structural reforms to funding and resourcing include Pooled Funding mechanisms. Pooled Funding provides a mechanism for decisions about resource trade-offs between alternative uses to be made at the local level so that resources are directed to highest value uses. They better support holistic place-based approaches as resources and program design are not constrained within agency 'silos' and both state and federal funding can be allocated in a more integrated way. Pooling funds enables flexibility and promotes more long-term investments in skills and infrastructure, for example.[25]

The QPC's recommendation is that the delivery of mainstream services would be negotiated with communities via agreement-making with government at Partnership Tables, but that existing grant funding could be pooled and provided for a longer time, to reduce uncertainty and promote better outcomes.[26] Over time, as success is demonstrated, even mainstream service funding may also be transferred to the funding pool.[27]

Minister Scullion has effectively started to create a pooled funding mechanism by beginning to devolve 75% responsibility for decision-making for expiring grants under the IAS and allowing this local decision-making to reallocate the money to a different purpose where necessary, and also through his commitment to transition CDP to local Indigenous organisations wherever possible. This cuts out the middle-men and starts to build toward a Productivity Dividend (see below).

The transition of other service delivery funding into the pool will need to be staged so that capacity can be developed within government and on the ground. Appropriate accountability and reporting frameworks must be put in place so that all parties can be held to account for the decisions made and the outcomes achieved. This must be done in a way that allows learning to occur and that encourages adaptive practice.

NEXT STEPS

1. Design how a Pooled Funding mechanism will work.

Productivity Dividend

While there will be transitional costs, the structural mechanisms proposed aim to institutionalise the changes to roles and responsibilities, rather than create further layers of new architecture that demands new expenditure.[28] Once implemented the reforms should result in a

24. QPC 2017 Draft Report, p. xxxi

25. QPC 2017 Draft Report, at p. xxvi

26. QPC 2017 Draft Report, at p. xxv

27. QPC 2017 Draft Report, at p. xxv

28. QPC 2017 Draft Report, at p. 102.

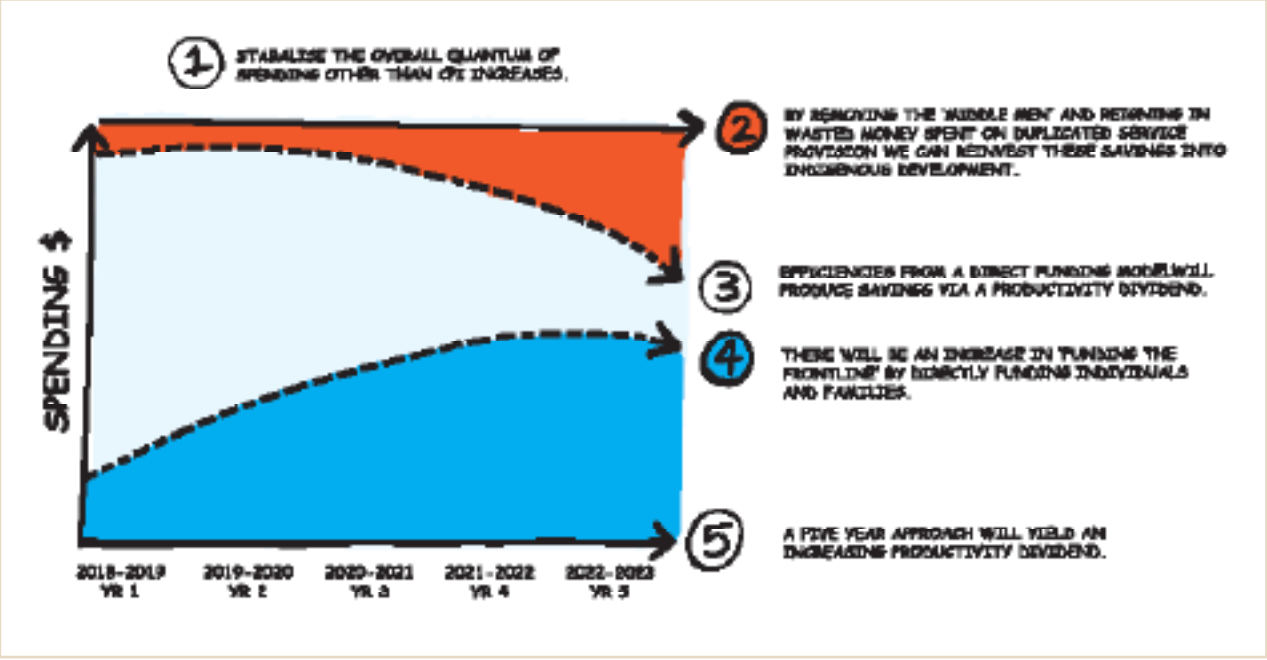
simplification of Indigenous affairs and a reduction in bureaucracy. The current problem is captured in the Torres Strait Island Regional Council's (TSIRC) submission to the QPC inquiry:

> Currently DATSIP have a formal role within government to lead engagement into the TSIRC region. However, we can capably engage direct with departments on project-delivery in our region. The current arrangement produces yet another layer of bureaucracy and time lag. Funds can be better spent by directly funding TSIRC to resource this work. It would be best to simply engage directly and fund us adequately to support this work. (sub. 12, p. 31)

Under Pama Futures, every sub-region across Cape York will be able to make the same claim as TSIRC regarding the benefits of providing funding more directly. By shifting to a demand-driven, more direct funding model, middle-men in the bureaucratic maze can be removed to improve efficiency and effectiveness.

Better budget decisions over time will produce savings within existing levels of funding, which can be reinvested in the development of the sub-region. Efficiency is incentivised as sub-regions retain control of savings in the Pooled Fund. In this way funding reforms to locate decision-making and accountability closer to those affected by service delivery success or failure, can also deliver a Productivity Dividend that can ultimately be reinvested in a sub-region's development priorities. Figure 15 shows Cape York Institute's framework for producing a Productivity Dividend to increase the funding available on the frontline to individuals and families.

FIGURE 15 PRODUCTIVITY DIVIDEND FRAMEWORK



Source: Cape York Institute, 2017.

1. With a commitment to place-based funding transparency and decision-making, the quantum of spending in a place stabilises (excluding CPI).
2. 'Middle-men' will be removed from the system, duplication of services will reduce, and inefficient or ineffective services will improve. Efficiencies from increasingly adopting a direct funding model will produce savings.
3. Savings can be reinvested in the place.
4. There will be a commensurate increase in 'funding the front line', closest to families and individuals.
5. A 5-10-year approach will yield an increasing productivity dividend.

NEXT STEPS

1. Establish the Productivity Dividend framework to support the new partnership between First Nations people and government.

Development Zones and Projects of Indigenous Development Significance

NO FAIR DEALS HAVE BEEN STRUCK

First Nations have been re-possessed of their land not only very late in history, but also at the very time that environmental concerns are front-of-mind. We were dispossessed of our land over generations when many Australian families and towns exploited land to build the foundations of their wealth today. In remote regions such as Cape York, where disadvantage is most extreme, but where natural values of land remain relatively intact—First Nations are now repeatedly and unfairly expected to shoulder the burden of the nation's environmental responsibility, including to meet international commitments made under the Kyoto protocol—at the cost of our Right to Development and ability to close the gap.

Just as we are getting our Land Rights back, our property rights are being stripped away without even the chance for us to assess and plan across the landscape for a balance of development and environmental outcomes. Our Land Rights have been besieged by those who want to impose environmental and conservation protections without our consent and without any compensation.

The Wild Rivers declarations made by Premier Anna Bligh's Queensland Government provide an example. Martha Koowarta and other traditional owners from Cape York were ultimately **victorious** against the Queensland Government and the Wild Rivers declarations on the Archer, Stewart and Lockhart rivers were rescinded by the Federal Court in 2014.[29] This victory vindicates the principle that governments, industry and environmental groups cannot ignore and override the wishes of traditional owners, who should not have to spend years of their lives in court, fighting to have their basic legal rights respected.

29. Koowarta v State of Queensland [2014] FCA 627

Not only has it been expected that we would gift property rights vested in our land so that environmental values can be resumed for nothing in the name of the public good, but governments have also expected that we should shoulder the liability of managing those environmental values, without providing fair resourcing to support conservation and land management. Economic use of Aboriginal land in Cape York is almost entirely limited to a small number of environment-focused ranger jobs, funded through uncertain and short-term government grants.

Land is our only asset, and it has only recently been re-acquired. We cannot be expected to give away the future opportunity for our children to live without inequality. Government must strike a fair deal with Indigenous landowners. It is vital that Cape York's economy, as with all other economies, does not depend on a single or small number of economic activities. Diversified outcomes should include properly-resourced environmental and conservation outcomes, but also where appropriate agriculture, horticulture, aquaculture, tourism, and mining.

WE WANT SKIN IN THE GAME

Far too often, economic development is seen as something that happens to Indigenous people or land—benefits that flow to our people are in the form of passive royalty payments. Agreements to provide Indigenous people with real skin in the game and commercial incentives, such as through shareholding, joint venture or other participatory arrangements, are very rare. Too often we have been denied the opportunity to be the active proponents in economic development on our own land.

In terms of mining, for example, it is absurd that Cape York's First Nations people have not been able to capitalise on the mining opportunities on their doorstep to build wealth and jobs. The lost opportunities for our development of the RA315 mining lease for Aurukun bauxite mining, and the Wongai coal coking mine at Bathurst Heads, carry serious consequences that have a direct and ongoing impact on the lives of local people and children.

AURUKUN BAUXITE

For the people of Aurukun, who are one of the country's most disadvantaged populations, to be denied the opportunity to be an active proponent in the development of RA315—is manifestly unjust. The history of the development of the enormous fields of bauxite in western Cape York has been one of social and cultural trauma to the Wik people, wreaked in the shadow of vast wealth production since the 1950s.

In terms of RA315, in 1975 the Queensland Government legislated to grant vast swathes of land, this time parts of the Aurukun Aboriginal Reserve to a French aluminium company, Pechiney. As with previous miners, the people of Aurukun were ignored as their land was given away.[30] After 30 years of the mining leaseholder failing to develop the mine, in 2004 then Queensland Premier Peter Beattie compulsorily took the lease back. His intention was the Wik people would benefit as much as the people of Queensland when the lease was offered to new

developers under a tender process.

Indeed, local leaders have continued to see RA315 as an opportunity to turn the situation in their community around, and to truly support the economic viability of Aurukun. In 2008, Aurukun leaders, with the agreement of the Australian and the Queensland Government, nominated the development of the bauxite resource as a 'lighthouse' economic development project under the Cape York Welfare Reform trial.

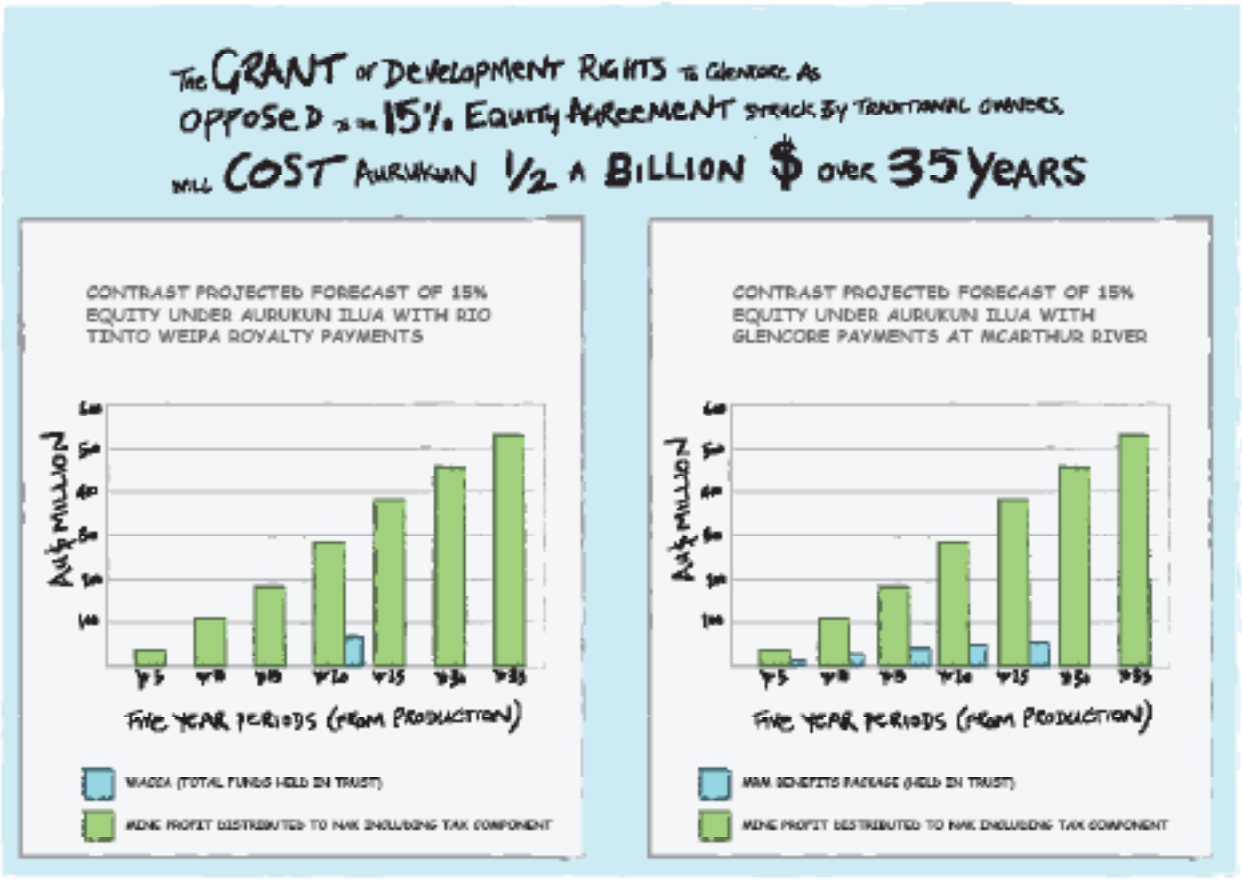
However, in the latest tender process for RA315, then Premier Campbell Newman's government granted the development rights to mining giant Glencore—just before it fell into a debt crisis affecting its operations globally. The government used extraordinary executive power to do as they pleased in awarding the lease to Glencore, and to disregard the bid backed by the traditional owners.

Ngan Aak-Kunch Aboriginal Corporation (NAK), is the representative agent for the Wik people and registered native title body corporate. In 2015, NAK signed a joint venture with Aurukun Bauxite Development (ABD) with the sole purpose of exploring, developing and rehabilitating the RA315 deposit. This was supported by an ILUA previously signed and lodged with the National Native Title Tribunal. Other proponents, including Glencore, did not have the support of the traditional owners. The NAK – ABD joint venture would have been Australia's first equity deal for local people and would have seen NAK hold a 15% stake in the mine and have meaningful decision-making authority in partnership with the mining entity. Figure 16 shows the real difference that a 15% equity agreement would have made in Aurukun.

30. The mission organised lawyers to represent the Wik elders in a challenge to the Queensland government that went all the way through to the Privy Council in London. The church's actions raised the ire of Joh Bjelke-Petersen, who then moved to take over the mission from the Uniting Church and ran the community itself as a government settlement.

31. The Queensland Government relied on special provisions to do this. In 2006 the Queensland government amended the Mineral Resources Act 1989 ('MRA') through the Mineral Resources and Other Legislation Amendment Act 2006 and introduced a number of special measures only applicable to Aurukun bauxite and commonly referred to as the 'Aurukun provisions'. Critically these provisions suspend notification and objection processes available under both the MRA and the Aboriginal Land Act 1991. Under these special measures the Newman Government was able to both unilaterally reopen the tender process for twenty-four hours to allow Glencore's bid and further to accept this bid without any of the standard processes or protections that would otherwise be afforded to landholders.

FIGURE 16 DECISION FOR GLENCORE RATHER THAN THE 15% EQUITY AGREEMENT STRUCK BY TRADITIONAL OWNERS, WILL COST AURUKUN HALF A BILLION DOLLARS OVER 35 YEARS



It seems now highly unlikely that Glencore will develop the mine, although the state government has indicated Glencore will have some further five-six years to begin. In Glencore's global empire these Aurukun bauxite fields are just a speck. For the Wik this mine represents their future, and a critical aspect of their pathway from a socioeconomic crisis of utmost urgency.

It is now 14 years since Beattie tried to turn history around.[32] Instead of realising Beattie's promise the mine has not yet been developed because of poor decision-making that failed to heed the wishes of the First Nation on whose land the mine will sit.

THE WONGAI MINE

The Wongai Coking Coal Project appears to be another opportunity to achieve genuine economic empowerment of First Nations, which is under threat. This proposal for an underground high quality hard coking coal mine for steel manufacture is associated with less environmental impact and risk than other Queensland mines. The proposed site is on Aboriginal freehold land owned by the Kalpowar traditional owners, who were to be joint venture partners in the mine. Again, the proposed Wongai Mine has been supported by an ILUA from 2013.

To get their land back, the Kalpowar traditional owners have already agreed to the majority being subject to national park and other conservation protections, in exchange for the unencumbered Aboriginal

freehold area which they thought would allow them to develop. Such negotiations were underpinned by the Cape York Heads of Agreement, signed by representatives of Indigenous, conservation and pastoral sectors and the Queensland Government, which sets out to achieve balanced environmental, economic and social outcomes in Cape York via negotiations. The deal was struck in 2005 over the Kalpowar lands. At the time **conservation groups**[33] **endorsed the agreement's** balanced outcome, as an "outstanding result for conservation and Aboriginal people", which included the creation of the Aboriginal freehold area and "a massive new 200,000 hectare national park" with further areas also covered by binding conservation agreements.

Some progress was then made toward realising the opportunity for the traditional owners to develop their freehold title by becoming joint venture partners in the Wongai mine. The project was declared a 'Significant Project' by the Queensland Coordinator-General in 2012, although this declaration was allowed to lapse in 2015, after a change of government and despite the agreement and support of traditional owners through the formal ILUA.

The Wongai opportunity for the Kalpowar people has been stymied by the imposition of a new layer of environmental protections as a result of a 2015 election commitment made by the current Queensland Government to prohibit trans-shipping operations within the Great Barrier Reef Marine Park. Indigenous people of course share the broad concern about the degradation of the Great Barrier Reef caused by generations of impacts, however, to foreclose on this particular opportunity as a result of a blanket application of a protection is not just. For conservation groups to lobby for the resource to be locked-up despite the earlier agreement to create other extensive adjacent areas of environmental protection, and without so much as referring to the **environmental concessions already made by the traditional owners or their Right to Development**, is nothing short of callous. The opportunity the Kalpowar landowners have long fought for, has been unjustly taken away, just as it might have become a reality.

SUPPORT OUR RIGHT TO DEVELOPMENT

Despite needing to vigorously defend our property rights from the imposition of unfair and discriminatory environmental and conservation protections regimes, of course the First Nations do have strong conservation-oriented values. The immemorial connection of the First Nations to our land is permanent and ongoing. Of all people, First Nations should be afforded the chance to plan properly for the future across our landscapes. As the Harvard Project on American Indian Economic Development found:

> ...When Native communities take control of their assets, programs and governments they obtain higher prices for their commodities, more efficient and sustainable uses of their forests, better programs for their health care, greater profitability for their enterprises and greater return migration.

32. After Beattie's action there was a further extensive history of mining companies obtaining leases to RA315 but failing to develop the resource, largely for business reasons associated with operations of the multi-national corporations that hold the leases, and not to do with the viability of the deposit itself.

33. The Wilderness Society, Australian Conservation Foundation, National Parks Association of Queensland, Queensland Conservation Council, and Cairns and Far North Environment Centre.

> The reasons are straight-forward. The decision makers are more likely to experience the consequences of good and bad decisions. They are closer to local conditions. And they are more likely to have the community's unique interests are heart.

We should be supported and enabled to find the right balance between environmental and developmental concerns to sustain our lands and people into the future. Such landscape planning must occur with the assistance of detailed, scientific land use assessment information available. This is how a fair deal can be struck, and the gap closed. Where land reforms and Investment Ready Tenures are put in place by traditional owners, our Right to Development should be supported. Government can do this by declaring areas to be Indigenous Development Zones or specific initiatives to be Projects of Indigenous Significance. Such declarations could help to prevent Indigenous people and lands from being left behind.

Many countries have designated geographic areas, called 'special economic zones', 'export-processing zones', 'tax and duty-free zones' or 'enterprise zones' that are used to create more job opportunities, increase economic growth and encourage investment. Generally, such zones offer tax concessions, infrastructure incentives, and reduced regulations to attract investment and private companies into the zones.

Currently, in Queensland major development projects are regularly declared projects of 'State Significance' by the Coordinator-General[34] and these projects attract special treatment by regulatory authorities, including streamlined environmental compliance, and certain economic and other government support. Environmental impact assessments are still required, but state significance allows greater weight to be placed on economic growth and jobs as a positive offset. Projects of state significance typically facilitate substantial economic growth, for example, by providing major infrastructure, industry development and having a significant capital investment.

Although other economic development projects are routinely assisted in such ways, there has never been an Indigenous project declared of state significance in Queensland. The only Queensland Government interventions that have received well-resourced and fast-tracked bureaucratic treatment on Cape York, have been the various efforts to impose unfair environmental regulations and declarations over Indigenous land and rights.

Declaring Development Zones and Projects of Indigenous Development Significance could ensure all Queenslanders benefit from the state's economic growth, and also provide a recognition of: the dire Indigenous socioeconomic circumstances in the Cape that must change; the environmental concessions already made; and the special and permanent relationship that First Nations people have with their land. Pama Futures provides the opportunity to declare projects such as the Dreaming Track (see Part 4) to be a Project of Indigenous Development Significance.

34. See State Development Act (State Development and Public Works Organisation Act) 1971 (Qld)

NEXT STEPS

1. Create Development Zones on Cape York to stimulate economic development including on Indigenous land and enable balanced development and environmental outcomes for Cape York.
2. Establish a mechanism to streamline regulatory and environmental requirements that can stifle major Indigenous economic development projects on Indigenous land by declaring them to be Projects of Indigenous Development Significance.

Procedural ILUA to set out commitment to Pama Futures

It is proposed that a procedural ILUA, be agreed with government to commit all of the parties to the Pama Futures process. This would mutually agree the framework and the outcomes sought, and would be binding under the Native Title Act 1993 (Cth).

This ILUA can help to provide First Nations people with the assurance needed that the deep and lasting transformations they want to drive forward over the long-term will be granted a firm foothold to get established, one that can outlast any particular state or federal government. The Implementation Plan at Attachment A provides the basis from which the proposed ILUA can be drafted and agreed.

NEXT STEPS

1. An ILUA to be agreed between Cape York Indigenous people and the Commonwealth and Queensland governments to commit all parties to Pama Futures for at least ten years.

Cape York Partnership & Cape York Land Council