



NORTHERN
LAND COUNCIL

Keynote Address

Our Land, Our Sea, Our Life

Northern Australian Development Conference

Keynote Speech: Joe Morrison, CEO Northern Land Council

Cairns Queensland Australia

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Acknowledge Traditional Owners – Henrietta Marrie

Acknowledge other Indigenous people – Peter Yu and Mr Mundraby

Acknowledge Ministers and other dignitaries

Introduction

I want to say at the outset that when I talk about northern Australia I am talking about the mega landscape of the river systems across the top of Australia.

This was the area under study by the Northern Australia Land and Water Taskforce established by John Howard in 2007 and continued under a modified composition by the Rudd Government.

It is also the region covered by the North Australian Indigenous Land and Sea Management Alliance (NAILSMA) where I was CEO for 13 years. So just to make sure there is no confusion about what I refer to as the North, if you drew a line from Townsville to Karratha I am talking about all the land north of that line.

I would like to open up in a positive tone by welcoming the decision made at the recent COAG meeting to establish a ministerial forum to focus on key priority matters concerning Australia's northern region.

The joint media statement announcing the forum said, "given the significant land holdings of Indigenous people in Northern Australia, the first meeting of the Forum will also bring together Ministers with responsibility for Indigenous affairs and senior Indigenous representatives from northern Australia."

This is an important initiative that I feel Indigenous leaders in northern Australia will strongly support. I would particularly like to acknowledge Northern Territory Chief Minister Michael Gunner for his role in establishing this proposed forum, something previous Chief Ministers of the NT have neglected.

However, I should also say that this decision to include Indigenous interests in the national commitment to develop northern Australia has been a long time coming.

"The significant landholdings" that the joint media release refers to is not just those held by Indigenous landowners who directly own or control 40% of northern Australia — either through statutory land rights laws, native title exclusive possession, pastoral lease ownership, Aboriginal reserves or management of national parks.

It also extends to coexisting native title rights to pastoral leases. This means that various traditional owner groups across northern Australia have rights to over 90% of northern Australia including its coastline.

It is not just land ownership that highlights the essential importance of Indigenous inclusion; it is also demography. The Indigenous population of the North constitutes the majority of the region's permanent population. The vast majority of non-Indigenous settlers do not live out their lives in the North.

Indigenous people in northern Australia by virtue of land ownership and demography must be seen as primary stakeholders and not special interest groups.

Indigenous interests do not come to this forthcoming engagement with governments about our region's future development with the status of advisors or marginal participants.

We come as genuinely equity stakeholders with a commitment to inclusive and sustainable development of northern Australia.

Transcending the Old Politics of Conflict

We do not intend to engage government on the basis of securing benefit for our communities from the Northern Development White Paper.

We come to this engagement with the intention of working with governments to change the existing policy framework for the North's development.

This must be changed because it is fundamentally unsound. The White Paper does not address in any form, the substance of an Indigenous position.

Long-held Indigenous northern Australian policy agenda positions were largely ignored or simply paid lip service to in the White Paper and the Federal Government's policy response.

Those positions are well known because they have been the basis of contested politics in northern Australia for more than six decades.

From the Yolgnu Bark petition in 1963, to the Gurindji walk off in 1966, to Aurukun and Mornington Island self-government claims in 1978, to Noonkanbah assertion of self-determination in 1980, to the Burunga Statement of 1988, Mabo in 1992 and Wik four years later, Indigenous people have consistently and courageously asserted our inherent rights.

In the negotiations with governments following the Mabo and Wik High Court decisions and the 2010 Northern Australia Land and Water Taskforce Report the Indigenous political positions relating to northern Australia are embedded in universal principles.

Firstly, all Traditional Owners view the protection of their country and continuation of their culture and languages as paramount.

Secondly, the capacity for Indigenous people to participate in their regional and local economies and to be independent from government welfare is critically important to all northern Indigenous groups.

Thirdly, every Indigenous group aspires to transcend the legacy of domination and exclusion from the authoritarian colonial era and live decent lives in good houses supported by services of a First World nation.

Fourthly, Indigenous people have sought recognition of their customary governance structures within the governance and land planning system that administers the North.

Many Royal Commissions, parliamentary enquiries, official reviews and judicial hearings have heard the evidence of countless Indigenous and other people about these matters.

In a number of notable reports and determinations, bold and visionary recommendations have been put to governments so that Indigenous peoples' rights can be embraced and people's economic and social potential realised.

With the exception of the Woodward Royal Commission into Aboriginal Land Rights in the Northern Territory, where the recommendations were accepted by the Whitlam Government and translated into law with the unanimous support of every member of Federal Parliament in 1976, State, Territory and national governments have generally responded negatively to Indigenous assertions concerning the principles I have just outlined.

The White Paper on Developing Northern Australia continues government practice of ignoring the legitimate and reasonable Indigenous claims for recognition and inclusion.

We come to this engagement process not as naysayers and grandstanders but as representatives of people who want to make northern development work for the many who live here, not the power elites who are motivated to extract wealth from the North with little or no return for those who have and will always live here.

The Current Development Paradigm - Risk and Uncertainty

Last year at this conference held in Darwin, Peter Yu, Chairman of NAILSMA and CEO of the Yawuru Native Title Corporate Group, described the White Paper and the federal government's response to it as flawed because it is based on the false logic of trickledown economics.

There is an inherent assumption that government support for investment in mines and large scale irrigation works supported by transport, dam and port infrastructure development will create opportunities for Indigenous employment and transform the North's underdeveloped status.

As Peter Yu argued in his keynote lecture last year, this targeted support for big project development won't work because it is not accompanied by a range of structural reforms to support Indigenous economic inclusion and traditional owner's informed consent for development.

In a situation where Indigenous people are fundamentally excluded from the economy, our people continue to live in structural impoverishment and treated as mendicants waiting for the crumbs in the form of limited employment in specific resource rich locations to fall from the development table, a pervasive culture of anguish and resentment festers.

This is the social and economic reality of northern Australia, and in this environment, proposals for development will always involve some level of community opposition on the grounds of environmental, social and cultural impact. This situation therefore presents a huge investment risk for northern development.

How many examples do government and industry need to understand this fundamental point about the risk of investing in the north? – James Price Point, Coronation Hill, Jabiluka, Muckaty, Century mine, McArthur River, Daintree, Carmichael ... the list goes on.

Peter Yu's central point that the White Paper is defective because it fails to recognise and address this fundamental reason for northern Australia's continuing underdevelopment is supported by the broad spectrum of Indigenous leaders, and I have made this point repeatedly over the past decade.

Whatever political spin one wants to describe competing interests and political conflict surrounding resource development in the North, there is no hiding from the fact that entrenched distrust on the part of traditional owners to development proposals by government and industry is a critical factor concerning uncertainty and risk.

The national government's current approach to northern development entrenches that risk.

Ideological Driven Opposition to Indigenous Rights

Since the passing of the Northern Territory Land Rights Act in 1976, the North has been engulfed in political conflict about the rights and capacity of Indigenous people to own, manage and live on their traditional country.

It has been a grim history of opposition to Indigenous rights by the mining and pastoral industries and southern Australian political power committed to continuing the structures of northern Australian settler colonialism.

It has been an ideological war waged against Indigenous society to maintain the power structures of colonial subjugation so that wealth can be extracted from the North in a manner blindly entrenched since the nineteenth century. The simple truth is, "you reap what you sow."

Whilst Indigenous people have consistently won court battles concerning the recognition of our common law rights and determinations through statutory land claim processes, those victories have not translated into public policy and institutional reform required to decolonise northern Australia and to ensure that development is inclusive of the majority permanent population.

For the sake of sustainable development and reliable prosperity for those who live in the North there comes a time when this ideological war must end.

I hope that time is now.

Since the release of the Finkel Report on Australian energy policy a couple of weeks ago, many of you would have heard the Prime Minister talk about ending the 10 year partisan political standoff over climate change policy.

He has asked for a bipartisan approach without ideology and with economic imperatives to be at the heart of future energy policy development – although it would appear that his biggest political hurdle may be his own party room.

Indigenous leaders are asking that the same principles apply to northern Australia's future development. Indigenous leaders will come to the formal engagement process about northern development without partisan politics, without ideology.

Our interest is to make northern development work for the benefit of the people who 'live' in the North and for the nation as a whole.

This is no longer an argument about Indigenous rights. That has well and truly been won and established in Australian law.

The *Native Title Act* and the *Northern Territory Aboriginal Land Rights Act* have enabled the determination of traditional ownership and connection to lands throughout the North.

This provides a fundamental basis for investment certainty in the North. But what is missing is a policy framework of economic and social inclusion that can unlock the North's development potential.

Politicians, industry leaders and economists often refer to the underlying fundamentals when describing the health of an economy.

Indigenous leaders say that the underlying economic fundamentals concerning northern Australia's development must be addressed or this region will remain in structural underdevelopment.

The Indigenous argument is that the White Paper did not deal with underlying fundamentals and because of this its development objectives are unrealistic. In truth they are fantasy.

Northern Australian Indigenous Policy Agenda

I would like to now outline what Indigenous leaders identify as the underlying economic fundamentals requiring policy development and reform as a necessary pre-condition for northern development.

In a sense they could be described as development pillars for a new northern Australian development paradigm – an interwoven framework for sustainable development comprising Land reform, access to finance, fiscal policy incentives for social development and Indigenous governance capacity building.

Firstly the land title system in northern Australia needs to be comprehensively overhauled.

Across the North's three jurisdictions pastoral leases dominate the region's land tenure. It is a fragmented mess of nineteenth century titles which needs urgent modernisation.

The High Court Wik decision in 1996 revealed the truth of the pastoral lease in Australian law. It is not a lease in the English common law but simply a licence to graze livestock which coexists with traditional owners' rights to use the land.

The Wik decision also revealed a political truth. The loudest and most virulent cries of opposition to Wik and demands for the Commonwealth to wind back native title holders rights to negotiate came from the mining industry.

Northern Australia's pastoral rangelands have been viewed by the mining industry as their domain, and any restrictions on their access have been fiercely resisted by the miners and their political supporters.

Because the mining industry and pastoralists, who for the most part are absentee landlords, enjoy their privileged control over this huge northern Australian landscape at the exclusion or marginalisation of traditional owners, reform of this land tenure system has hardly been on the government's policy agenda.

Yet if we are to seriously look at the potential of transformational development of the North and the potential for other economic uses of the pastoral rangelands such as horticulture, carbon farming and sequestration, conservation and tourism we have to address the pastoral land tenure system.

And we have to think creatively and radically.

One idea is for governments to transfer the ownership of pastoral leases from the Crown to native title holders who can then lease them with clear conditions for use.

This would be a major transformational change which could guarantee income for many traditional owner groups as well as structurally embed Aboriginal people into the economic and political institutional fabric of the North.

The statutory land title system recognising Aboriginal ownership is also fragmented and inconsistent across the North. The Northern Territory is the high water mark for statutory land rights in Australia.

Queensland Aboriginal land rights law passed in 1990 is a far more limited form of Indigenous land tenure, whilst Western Australia has no statutory land title recognising traditional ownership whatsoever.

Aboriginal communities in Western Australia live on Aboriginal reserves owned by the State which leases reserve land to Aboriginal corporations. In Western Australia and Queensland native title determinations often cover existing Indigenous landholding arrangements that governments' entered into in during the pre-Mabo terra nullius era.

Governments preside over confusion and uncertainty regarding Indigenous land holding status in many instances, particularly in Western Australia and Queensland, which contributes hugely to the North's continuing underdevelopment.

A critical issue for northern Australia's future development is that much of the Indigenous land estate is not fungible and therefore is dead capital in a classic economic sense. Indigenous owners can't go to the banks to get loan finance to develop their lands like other property owners. This impacts negatively not just on indigenous land owners but the whole region.

The White Paper highlighted the importance of Indigenous land title reform but little has come of it. There is a critical need to create a fungible land title which does not extinguish Indigenous rights such as what the NT Land Rights Act provides.

This would have an impact on Indigenous landowner's capacity to generate income and importantly embrace Indigenous people as key equity partners in the north's economic future.

Secondly, Indigenous agencies have got to be in the planning wheelhouse; they've got to be able to plot the course of their own development, rather than having to negotiate with third parties which want access to Indigenous land.

Why, I ask, should the CSIRO be given money from the Indigenous budget to work up prospectuses for enterprises on Indigenous lands?

Right now, the CSIRO is planning three case studies in the north – one each in Queensland, the Northern Territory and Western Australia.

And the Department of the Prime Minister and Cabinet which administers Indigenous Affairs is bankrolling the exercise.

Why couldn't that project have gone to an Indigenous agency like NAILSMA, which has already accumulated a wealth of research experience which could underpin an exercise like that?

And we at the Northern Land Council are already developing a prospectus for development on Aboriginal lands in our region.

Further, in partnership with the Central Land Council we've established an agency called the Aboriginal Land and Sea Economic Development Agency to develop horticulture ventures on Aboriginal land in the NT. You'll be hearing more about that at this forum later from my colleague Vin Lange.

Then there's the NLC's new Community Planning and Development unit, which is supporting Aboriginal groups to plan and achieve their own development objectives, using their own royalty incomes.

Indigenous people can and are doing it for themselves, but to develop their lands more broadly, they must also have access to concessional finance.

The fact that Indigenous people have been colonised and fundamentally excluded from the regional economy which has dispossessed them and usurped their traditional authority means that we do not operate from a level playing field.

Strategic concessional finance should be made available to traditional owners and native title holders under a loan facility possibly modeled on the Northern Australian Infrastructure Facility.

Thirdly, the Commonwealth should be looking at exploring a fiscal policy framework to encourage development investment on Indigenous properties in the North involving rebates, subsidies and tax incentives.

I appreciate that proposals for a special economic zone for northern Australia ran into constitutional problems but I believe that there could be avenues open to explore fiscal incentives for development on Indigenous land in a similar fashion to the way government have supported Australian industries in the past such as car manufacturing or the wine industry.

Fourthly, governments – Commonwealth and States and the Territory, in partnership with Indigenous people, local shires and industry – should develop a comprehensive social advancement strategy based on a place-based development model that incorporates housing and social services. The current fragmented model of social and community investment across the three northern jurisdictions is a disaster and needs to be totally revamped.

Fifthly, there needs to be a comprehensive investment in Indigenous governance development in terms of decision making concerning Indigenous land management and investment and community social development.

The White Paper also highlighted this as an important issue for northern development but little action has followed.

Traditional owner management of significant land estates in the North means that Indigenous governance capacity must be prioritised as a critical dimension of Northern Australia's future development.

But we must look not just at improving the capacity of Indigenous corporate governance but at the development of North Australia's governance systems. In this regard the relationship between Indigenous landowning entities and local government is critical to future local and regional governance including harmony with existing Indigenous structures.

The Emerging Economy of Northern Australia

There is an emerging northern economy based on traditional owners' connection and knowledge of their country. The management and conservation of these lands are of strategic importance to this

nation. Conservation is becoming a critical part of the northern economy in terms of employment, tourism, and income generation from carbon farming and sequestration.

About 25% of the North is already recognised as formal conservation reserves, of which half – about 154,000 km² - are Indigenous Protected Areas.

In the last two decades there has been significant growth in the northern conservation economy. There are more than 650 Indigenous rangers employed, some of whom work on 33 Indigenous Protected Areas across the region. There are also many other Indigenous conservation workers employed in national parks or other aspects of land and sea management.

A large proportion of the North is already under formally registered savanna burning projects, reflecting a huge development since 2012.

There are 79 savanna burning projects in the 600 mm rainfall zone and above earning millions of dollars per year. In the Northern Territory alone there are 13 Traditional owner fire projects with a total value of \$40M.

There are 32 Indigenous carbon projects delivering 1.9 million carbon credits from savanna burning alone. The burgeoning savanna burning industry shows that promotion of an ecosystem services-based economy will have big benefits for remote indigenous communities across the North.

For example, savanna burning projects in Arnhem Land last year earned approximately \$10M.

Tourism, the native fruits industry and sustainable horticulture are growing economic uses of northern Australia's lands, a potential that unfortunately is currently retarded.

These are not mega economies but nonetheless are important where orthodox economies don't exist.

Conclusion

I would like to conclude with a broad idea about how best to implement the structural reform that is required to ensure that northern development is sustainable and inclusive.

We are talking about transformational change which will require serious engagement and negotiation and the informed consent of traditional owners across northern Australia.

The key to reform and its implementation is through regional and local agreements that have cultural, geographic and societal integrity and validity.

There should be consideration to establishing a comprehensive settlements process to negotiate local and regional agreements so that matters such as land tenure, economic investment strategies, and social development, governance and compensation matters can be negotiated and formalised within a relevant cultural framework.

The Yawuru and Mirriwung Gajerrong Indigenous Land Use Agreements in the Kimberley region, and the Noongar Agreement in the southwest of Western Australia, give some indication of what is possible in terms of regional agreement making.

It could be argued that these ILUAS are akin to a 'domestic treaty' which are well known in North America within the Native Title Act. It has often been said that the Noongar ILUA is a form of, and the closest example we have, of the type of settlement found in North America.

I note that this idea has been advocated by some groups in their submission to the Senate concerning the proposed Native Title Act Amendment Bill which recently passed through Parliament.

Given the strong commitment of Indigenous people for agreement making expressed in the Uluru Statement concerning Indigenous recognition in Australia's Constitution, the potential for engaging Indigenous people about a comprehensive settlement process appears a very sensible and logical approach for transformational development of northern Australia.

Thank you,

Joe Morrison, CEO

Northern Land Council

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