**Guide for Economic Development Opportunities on Indigenous Land**

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# Introduction

## This Guide

Economic development on land is valued differently by different people. The underlying principle of this Guide is the need to recognise and protect the values of special natural and cultural places whilst facilitating the development and management of land in the long term.

Achieving sustainable economic development on land requires motivation, determination and a systematic approach. This Guide offers a process to assist in this task and can be used for regional planning through to individual land holdings. The core emphasis is proper planning prior to implementation and following these steps should assist to meet the needs of all stakeholders.

## Who is the Guide for?

This Guide can be used by any First Nations group with an interest in developing a land-based business.

## Guiding Principles

The guiding principles that have influenced the development of the Guide are:

* Inclusive and transparent decision-making with a commitment to stakeholder and community engagement.
* Indigenous ownership of developments based on Indigenous-led approaches and community values.
* Sustainable development that addresses cultural, economic, social and environmental issues.

## How can it be used?

This Guide can be used in many ways. It can help to:

* Align stakeholders to common values and a shared vision.
* Inform scoping projects, funding applications and preliminary assessments of economic development on Indigenous held land.
* Identify transactional issues, such as land tenure, that need to be considered prior to development starting.
* Evaluate options to foster more effective development.

# Land Development Framework

There are consistent phases for exploring economic development opportunities on Indigenous land. A high-level land development framework setting out these phases is presented below.

| Phases | Questions | Key Steps |
| --- | --- | --- |
| 1. Value Alignment.
 | Is a land-based business of interest?What could it look like? | It is important that the values are identified prior to any additional work as without Value Alignment across stakeholder groups the development is at risk throughout and scarce resources could be invested in projects that have little likelihood of proceeding. |
| 1. Vision and Direction Alignment.
 | What is possible within the value parameters set? | Technical, legislative and market assessment. |
| What is of interest now that we know what the options are? | Based on an understanding of what is possible on the subject land and the values of the landowners, determine a broad vision and direction for the land development. |
| 1. Strategy Alignment.
 | What land development strategies should we consider? | The strategies to develop the land are set with due regard to existing resources, external considerations, stakeholder interest and the overall direction. |
| 1. Transactional Aspects.
 | What platforms do we need in place to commence development? | These transactional aspects generally relate to appropriate land tenure, governance, statutory requirements and funding. |
| 1. Operational Aspects.
 | How do we make this work? | The operational aspects will vary depending upon the nature of the land development but will likely include business case development, capability development, capacity development, capital expenditure, business development, communications, technical competence and operations. |

The guide steps out these phases to assist with progressing economic development opportunities on Indigenous land.

***Useful tips to underpin development planning***

*A range of approaches can be used to identify options for economic development on land. In an overall sense, in order to maximise the benefits of future projects and to enhance the confidence of stakeholders, principles worthy of consideration throughout all phases of the development framework include:*

* *Embed sufficient timeframes and funding for the satisfactory exploration of ideas and options.*
* *Support strategic, integrated approaches to planning involving community and stakeholder engagement as appropriate – also being aware of the risk of consulting too broadly.*
* *Recognise the importance of research when exploring land asset-based opportunities that use a combination of Indigenous-led knowledge and technical scientific expertise. Such rich background research contributes to an improved knowledge base on potential tourism, agriculture and infrastructure-based developments on Indigenous lands.*
* *Provide capacity building and governance support for landholders including Prescribed Bodies Corporate and/or project development corporations, as required.*
* *Demonstrate linkages to potential investment and/or funding pathways and include community values and language in business cases and grants.*
* *Recognise that developments may be valued beyond their economic benefits with value also attributable to community, cultural and environmental outcomes.*

# Phase 1 Value Alignment

It is important that the values are identified prior to any additional work as without Value Alignment across stakeholder groups the development is at risk throughout and scarce resources could be invested in projects that have a low likelihood of proceeding.

Accordingly, the landowner and related community interests need to determine positions on the following “big picture” items:

* Identify the land we are interested in developing.
* Understand what type of development is acceptable with due regard to our values, native title or statutory land-related obligations, cultural restrictions and legislative aspects.
* Environmental values and restrictions. For example, are we willing to activate pristine land? What are the broader economic/community benefits? Are there any environmental restrictions on doing this?
* Active development versus passive development. For example, a cattle feed lot versus grazing cattle.

***Useful tips for value alignment***

*Upfront agreement on the subject land, principles and broad objectives is critical to set expectations and guidelines.*

*General benefits of exploring development opportunities include:*

* *Improved understanding of the asset base by participating entities/communities. This may avoid the costs and energy of pursuing developments that are not economically viable.*
* *Improved knowledge and capacity of businesses to understand about country.*
* *Broader sector-based understanding through review of demand.*
* *Information and learnings for tourism-based developments across Australia.*
* *Support to investigate financial aspects of projects.*
* *Broader community benefits including a sense of achievement from the exploration process.*

*Exploring development options needs to be founded on community aspirations and a holistic approach which often* ***goes beyond purely financial imperatives****.*

**Process**

| Key Step | To consider |
| --- | --- |
| 1. Agree on what land we are looking at for economic development.
 | Who are the Traditional Owners?Who are other Indigenous stakeholders with an interest in the potential development?What is current land tenure? Confirm legal ownership if necessary.Which level of Government has laws and regulations that applies to the subject land, e.g. Commonwealth, State, Territory and Local. |
| 1. Understand who can use the land, who controls the land and who owns land.
 | Who uses and controls the land now and on what basis?Who pays for the management of the land now?How can changes to land use be made?What restrictions exist?What legislative requirements apply to land management? |
| 1. What makes this land special?

*Could be natural features, cultural, economic returns (current or potential), community use, housing, recreational use, heritage.* | Explore land values – social, cultural, environmental.How well are the special values known and promoted?How could these special values be used for economic development? |
| 1. Assess cultural heritage.
 | Who knows about the cultural heritage of the land?How do we engage with them? |
| 1. Define interested stakeholders.
 | Who else has an interest in the land as a key stakeholder and what is the nature of their interest?How do we engage with them and when?*This will depend on the nature of their potential interest.* |
| 1. Create a Land Value Statement.

*This land is special because ……….* | The Land Value Statement should provide a common understanding of what is special about the land.Allow sufficient time to engage community and relevant stakeholders. |
| 1. Decide if you want to proceed with a land development and, if so, establish a set of Principles to guide future direction.
 | Understand what type of development is acceptable regarding value, cultural needs and restrictions, legislative aspects, environmental considerations, a position on activating pristine land, active versus passive development.Identify non-negotiables, e.g. sacred sites, natural features. |

Tools

Research on existing knowledge and material regarding the land.

Consultation and workshops with owners, community and key stakeholders.

Outcomes

Land Value Statement - This land is special because ……….

Principles to guide economic development of land.

**Supporting Notes**

*Identifying Key Stakeholders*

It is important that the Value Alignment is gained with **key stakeholders that can have valid input into the values and guiding principles for the land**.

The early identification of key stakeholders and the nature of their interest, or potential interest, is critical. Their importance to the development, and their level of interest, will determine who are the key stakeholders and which should be kept in mind for future steps. Stakeholder interest could be related to a variety of factors including cultural, economic, statutory or personal interests. Note that the input of too many secondary stakeholders at this early stage could de-rail the process.

*Stakeholder Management*

The project team need to systematically and strategically involve those who are decision makers and / or have a key stake in the land development to ensure the right people are involved at the right time in planning and future activities to make sure all the important issues are considered.

Due to the importance of the relationship between the land development and communities involved, considerable effort should be made to engage with community on local aspirations, communicate key aspects of the proposed development/project and provide decision points for the community and stakeholders.

Informing and involving people can be challenging and time consuming but it can be the difference between sound progress and a stalled project. There are a **suite of engagement methods** that can be used to support consideration of community aspirations in order to gain buy-in and motivation, including:

* Establishment of partnership governance committees to **oversee** the project.
* Establishment of Committees or Working Groups **at a task level** such as project business case development.
* Representation at respective Corporation Board and member meetings.
* Consultation meetings or workshops.
* Technical and/or investigation support to the project, inclusive of field trips.
* Written correspondence.

***Useful tips for stakeholder engagement***

*Matters to consider when engaging with communities include:*

* *The need for considerable time to engage with community and provide decision points for traditional owners and Indigenous stakeholders.*
* *There is a risk of raising the expectations and hopes of the communities, which may have adverse implications should project benefits not be fully realised.*
* *Take into account previous community engagements to minimise the risk of creating ‘consultation fatigue’ in the community.*
* *The likelihood of any changes to local community governance over a prolonged lead time and how project knowledge can be retained.*

# Phase 2 Vision and Direction Alignment

Once Value Alignment is achieved then it is important to agree on the Vision for the land development which hinges on what is possible within the Value Principles set. The Vision sets out what you would like to achieve with the land development and is a critical reference point for all communications as it will help others to clearly understand what you’re trying to achieve.

It is at this stage that broad technical and market assessments of opportunities suitable for the land bring some reality and context to bear as it sets out the most likely options for the land. Based on an understanding of what is possible on the subject land and the Value Statements and Principles the landowners can determine a broad vision for the land development, assuming they want to proceed.

**Process**

| Key Step | To consider |
| --- | --- |
| 1. What is known about the land in terms of economic potential and what is the region renowned for. What opportunities arise from this?
 | See supporting notes below. |
| 1. Identify specific options for the land based on opportunities identified and its fit against the Land Value Statement and Guiding Principles.
 | See supporting notes below. |
| 1. What are the issues associated with each option?
 | Through research and talking with people identify and understand the key issues affecting the subject property and the region. |
| 1. Decide on best fit option(s).
 | May need to undertake additional research on preferred options. |
| 1. Prepare a Summary of Vision, Direction and Broad Objectives.
 | Prepare a succinct summary of the Vision for the land, the direction of the proposed development and some early objectives (recognising that these will need to be adapted for new information as the project proceeds). Gain alignment with key stakeholders. |

Tools

Research – desktop and field (potentially soil and water testing to help determine the land’s potential productive capacity, etc).

Consultation through interviews and workshops to clearly identify issues and opportunities.

Outcomes

Sound data about the subject property and the broader region.

Summary of Vision, Direction and Broad Objectives.

**Supporting Notes**

*Step one - Gather base data.*

What economic development the land can support is driven by a range of factors. The starting point is to find out what we know now about the following features of the land and the region, which will help identify opportunities:

| Feature | Factors |
| --- | --- |
| Strategic location. | Proximity to markets; suitability for a particular purpose; regional projects of significance. |
| Environmental. | Water sources (ground, river systems, rainfall, dams); Soil; Climatic conditions; Pristine environment; Wildlife. |
| External influences. | Political, regional and policy-making environment that may impact on what might be done on the land in the future. |
| Infrastructure. | Access to the region and the land, road, rail and proximity to airports; trade logistics; water sources; energy sources (mains power vs self-generation); waste disposal for any waste generated; telecommunications. |
| Markets (big picture). | What is happening in the region now and what is it known for? What are the strategic directions for economic development in the region? What is known about the market for output of the area and what are the trends? |
| Technical options for the site. | Capacity for agriculture, horticulture, intense livestock, pastoral; tourism potential; carbon abatement and related opportunities; commercial development.Existing use – expand or diversify. |
| Demand for housing. | Is the land suitable for residential development and what is the demand and zoning for housing? |

*Steps two, three and four – Identify and assess options.*

In broad terms the process to identify and assess options should include:

**Develop ideas.** Ideas can be generated in a number of ways, e.g. brainstorming, focus groups, ideas that have emerged in early discussions, long standing thoughts or prior plans, undertake a SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis on the data gathered in Step One.

**Test initial list of ideas** with a suitable group with the aim of culling the list if unmanageable and gaining more insights on potential factors (e.g. positive and negative environmental impacts. This could include impacts on soil, water, native vegetation, wildlife, etc). It may even be useful to use subject matter experts at this early stage.

**Analyse and discuss** further with smaller group, including initial thoughts on the level and type of resources that may be needed.

Develop a set of **decision criteria** (which will include reference to the Guiding Principles) to judge each option against these criteria.

Assess and prioritise options against these criteria to find the **best fit option**.

Discuss with decision makers and key stakeholders to **seek agreement for the preferred option**.

*Step five – Prepare Vision, direction and objectives.*

The Vision for the economic development should answer questions such as “*What is possible within the value parameters set?”, “What is of interest now that we know what the options are?”* and *“What are we aiming to achieve in the short and the long term?”*

The Vision should have the makings of a “*Property Master Plan*” - being a long-term plan that provides a vision and framework for the development of the land. The aim is to provide certainty for community members and key stakeholders about what change is expected and across what timeframes.

The Vision will be underpinned by an initial set of objectives (recognising that these will need to be adapted for new information as the project proceeds).

The objectives can be a mixture of short and long term and will likely be a little loose at the early stage of the development. However, as the project develops, and more becomes known, the objectives should become “SMART” objectives, that is Specific, Measurable, Achievable, Realistic and Timely.

Ensure the Vision is aligned with key stakeholders priorities.

# Phase 3 Strategy

A strategy is a general direction set for a business to achieve a desired state in the future. For this Guide, strategy is about how to develop land in line with the Vision. The Strategy needs to have due regard to existing resources, external considerations, stakeholder interest and the overall direction.

**Process**

| Key Step | To consider |
| --- | --- |
| 1. Anchor the Strategy for the land development with a shared understanding of current position.
 | Outline existing resources (financial, human and systems), external considerations, stakeholder interest.Overlay the Vision and direction from above work. |
| 1. Overlay the best fit from above to determine the most realistic option to pursue in the short term and the long term.
 | To achieve a long-term Vision may require a number of smaller stages. |
| 1. Understand the transactions and resources needed in the future for the land development to occur as visualised in the short term and the long term.
 | Consider what transactions are required to move from existing position to desired future (e.g. change in land tenure).Consider what resources are required to move from existing position to desired future (e.g. trained local workforce). |
| 1. The Strategy should set out how to move from an existing position to the required future positions as the project develops.
 | How are we going to do this across human resources, financial resources, technical input into land development, construction phase, operational aspects once developed, business development / marketing. |
| 1. Prepare a “*Land Development Plan*” that outlines all of the above.
 | The Land Development Plan can be used to inform the transactional aspects and to build the operational pillars.The Land Development Plan can be used as part of a business case to promote the project with financiers and other stakeholders. |

Tools

Research – desktop and field (potentially soil test etc). Workshops with key stakeholders.

Outcomes

The Land Development Plan to include a Property Master Plan, Value Statement and Guiding Principles, Vision Statement, Directions and Objectives along with the Strategy to bring to fruition.

**Supporting Notes**

*How to develop a strategy*

| Aspect | Moving from current situation to desired future |
| --- | --- |
| Human resources. | What specific skills and expertise are needed to develop and maintain the land – undertake a needs analysis.Assessment of current capability and capacity to deliver management and labour – undertake skills audit.Develop a workforce strategy to close the gap between current position and future needs, e.g. recruitment and training. |
| Land based needs and equipment requirements. | Understand what is needed in terms of: water source (e.g. bore) and irrigation systems (e.g. pipes and sprinklers); soil improvement; items that deal with climatic conditions (e.g. windbreaks); protection for pristine environment and wildlife (e.g. fencing); livestock handling and control (e.g. yards, fencing); tourism infrastructure (e.g. access, accommodation, shelters & kitchen facilities, signage, telecommunications). |
| Financial resources. | Assessment of current financial resources available for capital expenditure and to meet working capital needs until self-sustaining.Develop initial budget for capital expenditure and operations – noting that this will need to be updated as further information becomes available.Develop a financing strategy to close the gap between current position and future needs e.g. grants, bank funding, private investment. |
| Technical resources. | Technical input into land development and operation (e.g. agronomy, water infrastructure development, development of a tourism product, development of carbon abatement product).Partner with universities/research bodies for technical assessments. |
| Stakeholder engagement. | List all potential stakeholders and assess who is, needs to be or could be involved and how and when they should be engaged. Stakeholders can come from numerous sources, e.g. community, business, research and government. |
| Construction phase. | Considerations for the construction phase will include site planning, building design, building permits, how do you source a builder (particularly if in a remote location), pricing, availability, potential length of construction, seasonal impacts on building (e.g. wet season). |
| Business development. | Considerations will be determined by the nature of the business and its operational needs, some of which may require years to establish. For example; business licences and registration, there may be long lead times for items such as capacity building (e.g. if developing a tourism business could potential future staff members work with another local tourism operator to gain skills), growing nursery stock to provide local plants for landscaping once construction is complete, building up inventory levels prior to opening and the development of promotional material. |
| Operational aspects once developed. | Operational considerations will vary depending upon the nature of the business being developed and these are addressed more fully in Phase 5 Operational Aspects below. |

# Phase 4 Transaction Aspects – Land Tenure, Governance, Statutory Requirements and Funding

The next stage is to put in place the platforms needed to commence the land development. These transactional aspects generally relate to appropriate land tenure, governance, meeting statutory requirements and funding.

**Process**

| Key Step | To consider |
| --- | --- |
| 1. Understand land tenure arrangements and whether suitable for the development.

Understand what statutory requirements affect the underlying tenure (e.g. freehold, leasehold, statutory land rights and native title), how they may impact on the development and how to address compliance. | Land tenure varies for each jurisdiction across northern Australia and requires consultation and liaison with regional bodies (land management corporations) and government at State and Commonwealth levels along with legal advice into tenure options to support proposed developments.Whether legal advice is necessary to assess and address compliance with the various laws and planning aspects associated with the land development. |
| 1. Undertake a self-assessment of the governance capacity of the entity that is seeking to drive the development and put in place actions to ensure the governance structure is sound, has some independence, is engaged in the development and has legitimacy amongst the subject community.
 | Self-assessment to address aspirations, capacities, needs and opportunities for the project which provides a wider context to the capacity development that will be needed to support economic development. |
| 1. Explore and understand funding options and develop a ‘business case’ (this may be a grant application) to explain and promote the land development to potential funders.
 | Undertake a web search to identify grants and investment programs that may assist in the planning or development process and approach the appropriate Government agencies in the first instances to discuss options and what process is involved to apply.The business case should outline the opportunity and be used to promote interest, guide development and monitor progress. |

Tools

Resources available from various agencies.

Professional services providers, e.g. lawyers, consultants and accountants.

Business case to outline the approach and scope to development, including community aspirations and show if economically viable to garner support for the next steps.

Outcomes

Understanding of land tenure requirements and how to address.

Assessment of the governance capacity of the development entity and how to address any shortfalls.

Understanding of statutory requirements and how to address.

Business case on the land development opportunity sufficient to attract financial support.

**Supporting Notes**

**Corporate Governance**

Corporate governance describes how an organisation is led and run and includes the rules, practices, and processes used to direct and manage the organisation.

For a land-owning organisation which wishes to explore the development of land, stable and sustainable governance and extensive capacity and skills is required.

Once established, land tenure or management agreements can be complex. For organisations which operate within varying land tenure contexts, local knowledge, community-led approaches, and technical skills (science, legal and financial) are also key.

Choosing a suitable corporate structure to develop the land is a critical starting point. Careful consideration should be given to the many factors that determine the most appropriate structure, including who controls and owns the land, who controls and owns the business, what are the board and ownership structures, what asset protection is in place and what contracts are required.

Options may include the use of:

* an Aboriginal and Torres Strait Islander corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act). The CATSI Act is administered by the Office of the Registrar of Indigenous Corporations (ORIC), an independent statutory office holder. Note that when a native title determination is made, native titleholders must establish a Prescribed Bodies Corporate (PBC) under the CATSI Act to manage their native title rights and interests.
* A company registered under the *Corporations Act 2001* (Corporations Act).
* A trust structure whereby a trustee holds the business (or asset) for the benefit of others (the beneficiaries).

**The complexity of choosing the correct corporate structure is such that legal and accounting advice is strongly recommended.** In the first instance Prescribed Bodies Corporates and native title groups should discuss with their local representative body – refer to map at <https://www.niaa.gov.au/indigenous-affairs/land-and-housing/native-title-representative-bodies-and-service-providers>.

The importance of sound corporate governance is well recognised and there are a number of initiatives available to land development entities that can be pursued to improve governance – refer <https://www.oric.gov.au/run-corporation/corporate-governance> for an overview of corporate governance specific to Indigenous owned entities.

**Statutory requirements**

There are a range of Statutory considerations that can arise from all levels of Government that must be met for a project to proceed. For example, State land administration obligations place burdens on all land users and local governments have a role in land management through activities such as zoning and environmental regulation.

It can be challenging to understand which statutory requirements apply, how they may impact on the development and how they should be addressed to ensure compliance. Direct enquiry with Federal, State and Local Government representatives is the best starting point to find out, for example:

* What planning guidelines need to be followed and what are the costs and timeframes associated with this?
* Are there any accreditation issues related to the industry? For example, food safety standards if offering food in a tourism venture.

# Phase 5 Operational Aspects

The final stage is to put in place the action plans required make the development work. These need to be tailored to each land development and for the requirements of any application form specific to a particular Grant program.

**Process**

| Key Step | To consider |
| --- | --- |
| 1. Using the Outcomes from above develop a Land Development Action (Business) Plan that shows the actions required to develop the project over its duration – say 3 to 5 years. *Update as required*
 | Develop short, mid and long-term actions – see supporting note below for suggested format.*Staging the project is one way that development can be managed within existing resources.* |
| 1. Prepare detailed funding applications (grant and / or bank).
 | Tailoring the proposal to the target audience for the application. |
| 1. Develop a community engagement framework.
 | How, what, and how often to communicate with the community. Consider educational aspects e.g. education on home ownership. |
| 1. Develop a reporting framework to advise stakeholders of progress.
 | How, what, and how often to communicate with stakeholders. |

Tools

Resources available from various agencies.

Professional services providers e.g. lawyers, consultants and accountants.

Outcomes

Land Development Action (Business) Plan.

Funding applications (grant and/or bank).

**Supporting Notes**

Land Development Action (Business) Plan should include the following to support the planned activity:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| What - Action Required. | Who – Person Responsible. | By When – Timing. | What Else - Other Resources. | How Are We Going – Monitoring. |

# Where to from here?

The National Indigenous Australians Agency (NIAA) funds projects aimed at helping Indigenous Australians. NIAA has a regional network of offices around Australia. You can contact NIAA regional offices on 1800 079 098 (free call).

You can also access further general information from:

NIAA Regional office locations: <https://www.niaa.gov.au/contact-us/regional-office-addresses>

Native Title and PBC’s: <https://nativetitle.org.au/>

Land Tenure: <https://www.austrade.gov.au/land-tenure/land-tenure/about-land-tenure>

**Grant Funding**

There are numerous avenues for Grants. A useful starting point when seeking funding include the following websites:

NIAA Grants and funding opportunities: [https://www.niaa.gov.au/indigenous-affairs/grants-and-funding](https://www.niaa.gov.au/indigenous-affairs/grants-and-fundingg)

NIAA Jobs, Land and Economy: [https://www.indigenous.gov.au/jobs-land-and-economy](https://www.indigenous.gov.au/jobs-land-and-economyy)

Indigenous Land and Sea Corporation: <https://www.ilsc.gov.au/wp-content/uploads/2021/07/ILSC-Corporate-Brochure-A4-Version.pdf>

Indigenous Business Australia: <https://iba.gov.au>

If the proponent is seeking funding then the potential funding body will have its own application forms that will need to be factored into preparing the Land Development and Operational Plan.