

Regional native title claims and large infrastructure agreements - on the way to a regional treaty?

National Native Title Conference 2017

**'Our land is our birth right:
MABO 25 & beyond'**

Adam McLean

Barrister and former PLO of Cape York Land Council (CYLC)

Adam will provide an introduction to the Cape York Regional Claim and a background to the Peninsula Developmental Road Infrastructure Agreement

Dion Creek

A traditional owner from Coen in Cape York
Founder and Director Kalan Enterprises a non
–profit indigenous enterprise that works in
the construction, environment and cultural
heritage areas

Dion was part of the group that negotiated
the PDR Infrastructure agreement and he will
provide an outline of the ILUA and the ILUA in
action

Background
Single claim
for Cape York

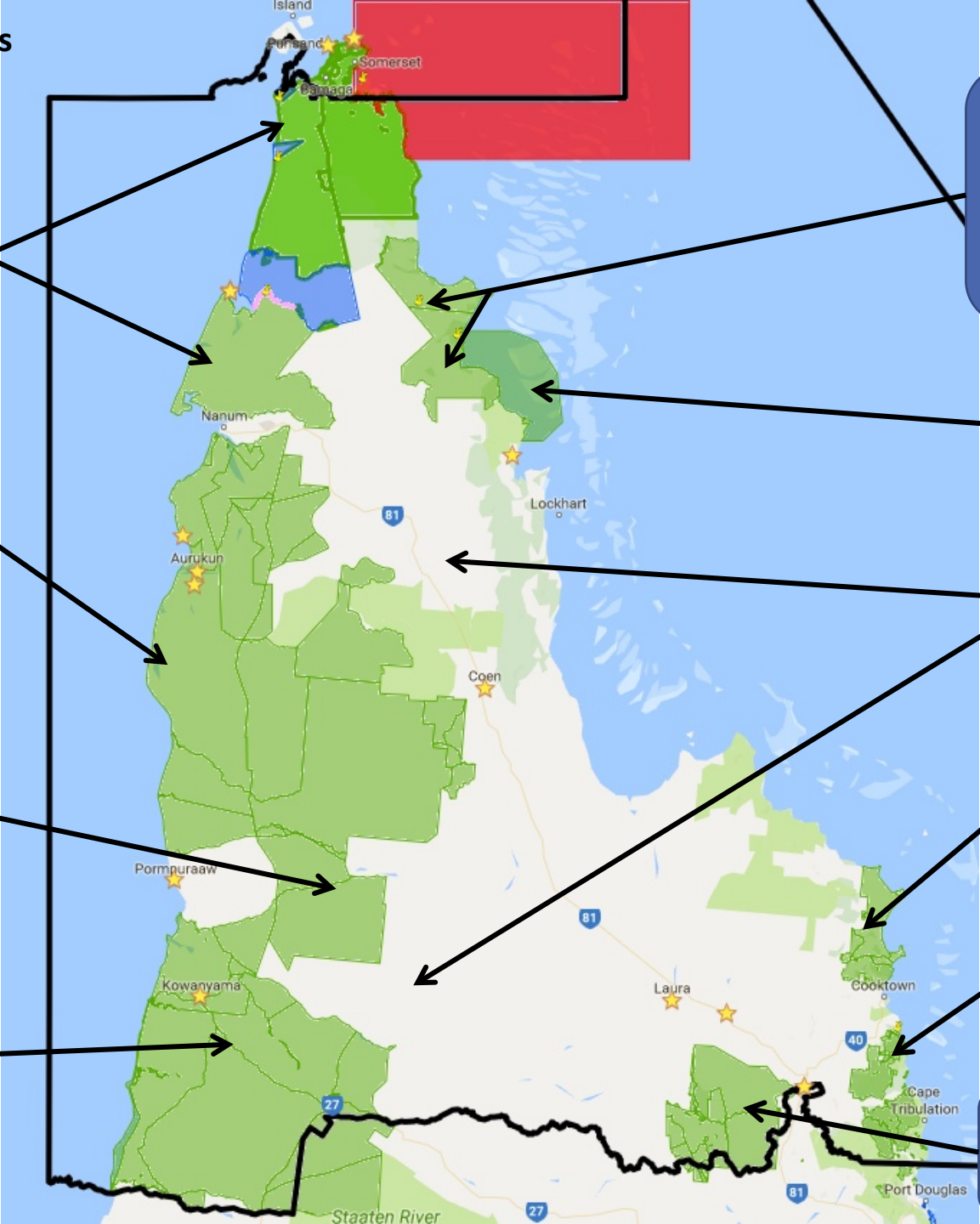
At 2014 after 23 years
45% - 5 years the remainder (55%)

NCY #1, #2
20/6/14
1/7/11
3 years

Wik and Wik
Way People
3/10/00,
13/10/04,
29/7/09,
11/10/12

Strathgordon
Mob
26/7/07

Kowanyama
People
22/10/09,
5/12/12



Wuthathi
People #2 23/5/02
Bromley
determined
May 2015

Kuuku Ya'u
25/6/09

Single claim
11/12/14

Hopevale
8/12/97

Eastern Kuku
Yalanji
People
19/12/07

Western Yalanji
people 24/9/13

11 December 2014 – One Claim- Lodged

6 February 2015 One Claim - Registered

**Cape York United Number 1 Claim FC No QUD673/2014
referred to as One Claim**

**Now One Claim is registered virtually all land and
inland waters will be within a native title
determination or a registered claim.**

**In addition, title to large parts of Cape York is in
Aboriginal Hands as Aboriginal Freehold.**

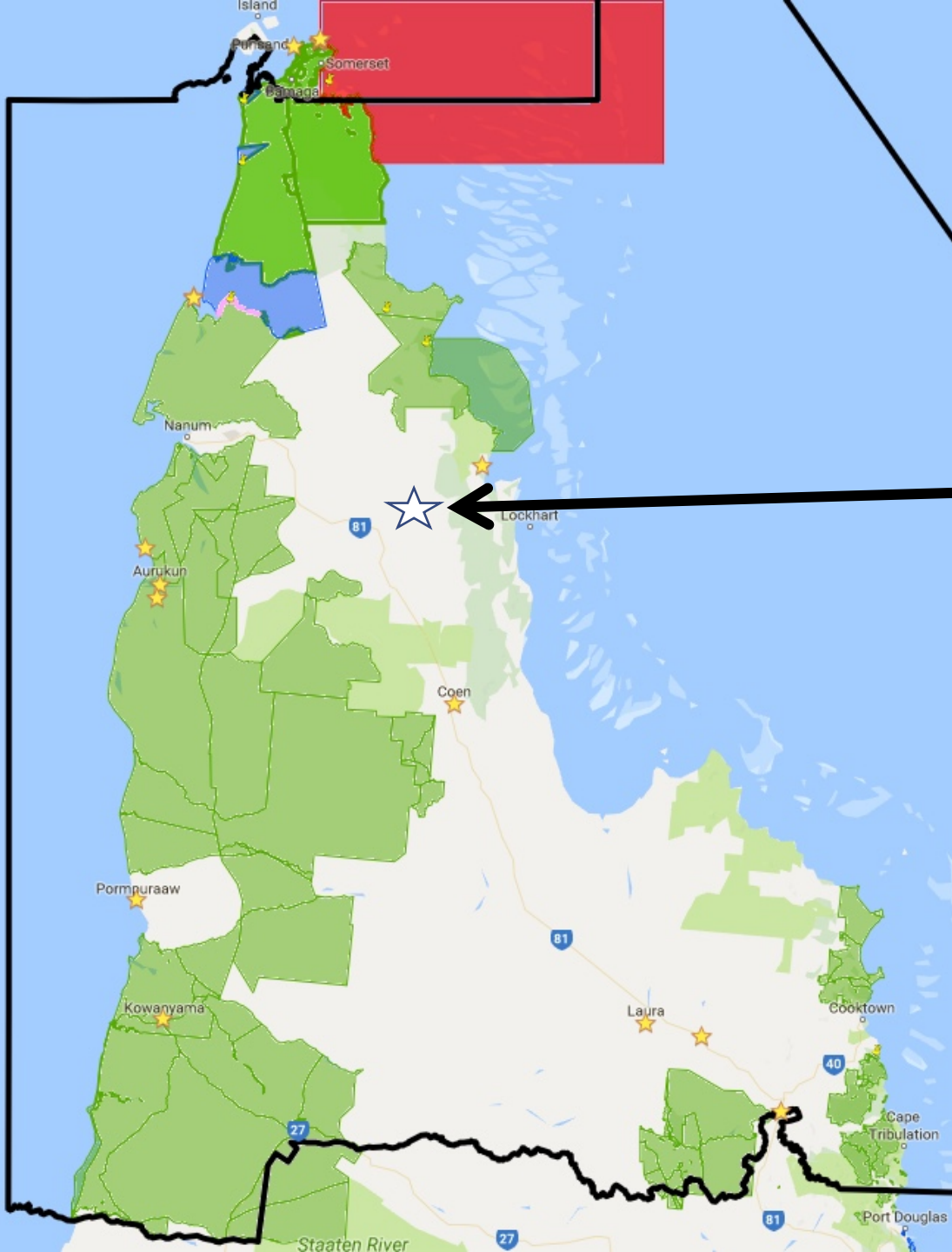
**Essentially, once you pass north across the Daintree
River you are on some form of Aboriginal Land**

Key Principle

Traditional owners for each area continue to speak for their traditional country according to their traditional laws and customs

[not the applicants which is important in discussions re McGlade decision]

- The One Claim gives Traditional Owners power/ leverage where none existed before.
- This is so for many activities proposed on the Cape including mining, tourism, cultural heritage and in this case the Peninsula Developmental Road



**Example
Proposed
development,
mine etc**

Prior to lodging the One Claim in 2014, the traditional owners and CYLC were aware of the QLD Government's intention to upgrade the Peninsula Developmental Road (PDR).
First Tranche of funding was \$260M



Peninsula
Developmental Road

- The upgrade will still leave 200km of unsealed road
- Including the road to the tip and all the feeder roads to towns such as Pormpuraaw the total bill will exceed \$1 Billion
- It is important to get it right now

PDR Agreement Area



Data SIO, NOAA, U.S. Navy, NGA, GEBCO
Image Landsat
Data LDEO-Columbia, NSF, NOAA

Google

Cape York Land Council's position:

1. In upgrading the PDR the State are taking out bends etc so they are creating new roads and they need to get permission from the traditional owners BEFORE they upgrade
2. Also need traditional owner Cultural and heritage permission
3. After a small fight the State agreed to negotiate a indigenous Land Use Agreement (ILUA)

Meetings were held of the relevant traditional owners and a steering committee formed and negotiations began.

Traditional Owner requests were fair and reasonable including:

- Contracts for Cape Indigenous Corporations employing Cape York Tos
- Cultural Heritage protection
- Jobs and training
- Traditional Owner say on Environmental protection,
- Protection of Indigenous rights and interests in land,
- compensation

Key Agreement elements

Agreement Elements

- Traditional Owners achieved key results in Cultural heritage and environmental protection, jobs, training etc
- Key element - sub-contracting opportunities

- **20% + to Indigenous subcontractors was locked in to the ILUA and all head contractors are contractually bound to comply**
- **50% + for all maintenance contracts**
- **It is reviewed each year but can only go UP**

Kalan Enterprises – About Us

Kalan Enterprises was the brainchild of the late Anne Creek; Coen and Cape York leader who helped forge land rights outcomes and social change for the people of Cape York.

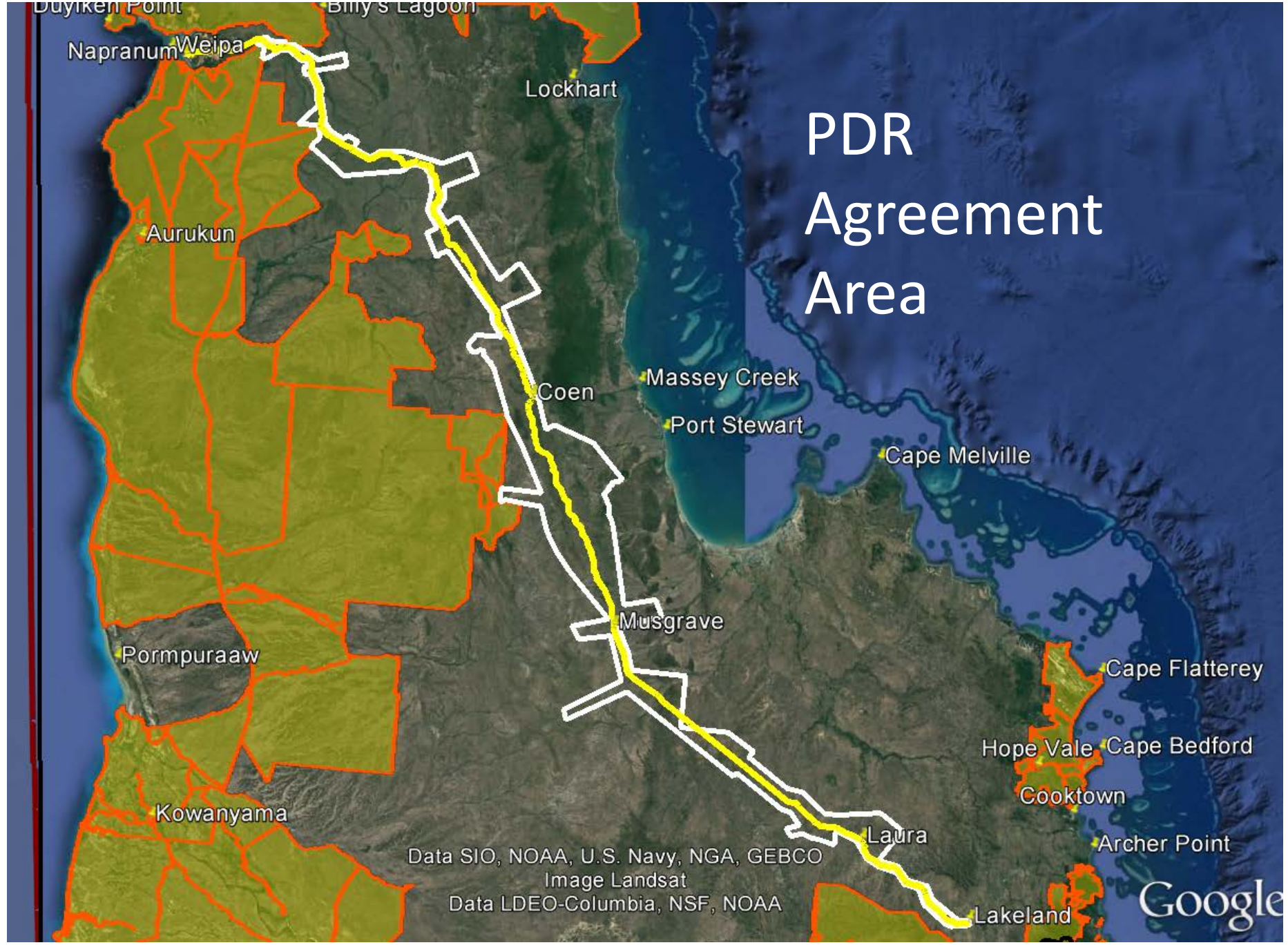
Anne worked to establish Kalan as a sub-regional organisation to create opportunities for Traditional Owners to look after their land.

Kalan is the Kaantju word for the Ghost Gum tree, and is also a water hole and Sacred Site on Kaantju lands where it is believed a specific Ghost Gum created a water hole and has stood vigil still today over that water to protect it.



Managing feral cattle off the country.

PDR Agreement Area



This is a major project for Cape York.

- Road closed - 5 months each year
- Towns and communities isolated
- Even when open as it is a dirt road it can take 18 hours to drive from one end to the other
- Requiring a 4 wheel drive

Business Opportunities

- **The PDR ILUA has resulted in over 20% of the contract direct costs being directed to indigenous businesses**
- **Outline below the Kalen Enterprise Story with respect to the PDR ILUA**

Some of Kalan's project include



Ghost Gum Forest



Tree Measurement Assessment, Mellwraith



Aerial pig count on country



A healthy lagoon excluded from feral animals



Western Slopes, Mellwraith Range



Green Python on the Mellwraith

 **Kalan Enterprises**
4 November 2015 · 🌐

Looking for an adventure in CULTURE.... You'll find it right here in Kaantju Land - www.kalan.org.au
#TraditionalOwner - Southern Kaantju



Mapping Survey, Blue Mountain Range



Mellwraith Cassowary



Carbon emission reduction, early burning



Geikie Heathland



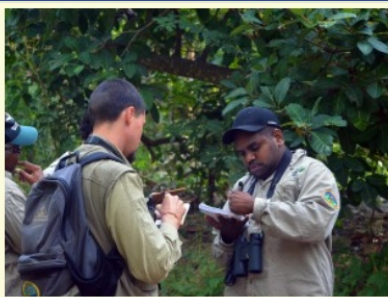
Kalan Junior Rangers participants



Cultural Mapping



Dion Creek, Operations Director working with stakeholders



Kalan Scientist and Land Management Officer confirming field work survey notes



Land management officers record story places in kaantju



Kalan Junior Ranger camp survey



Turtle Nesting Monitoring



Land Trust Planning Meeting



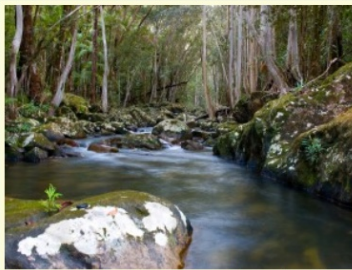
Mapping Country



Structured Pig Fence



Mapping weeds



Piimupinta (Top Leo) on the Melluraith



Kalan Land Management Officer managing weeds



Solitaire Palm Forest on Peach Creek

Peninsula Developmental Road

- In addition to the other programs, in 2014 Kalan began building its capacity to be able to bid on road building projects as part of the PDR project.
- In 2015, 2016 and 2017 Kalan has been successful in its bids and has completed Road building projects including seal, crushing gravel



Kalan Enterprises

18 October 2016 · 🌐

Kalan welcomes new employee Laine GIBSON from the community of Hopevale. Laine represents Kalan Enterprises on the Musgrave Road Building Team. As Kalan grows we will continue to fulfil our objective to give OUR MOBS JOBS!





Kalan Enterprises added 4 new photos.

14 September 2016 · 🌐

We are back on the road providing more indigenous real-job opportunities! Kalan won the contract to crush the gravel for the bitumen of 22km of new road from Coen south. Well done Team!



Kalan Enterprises added 2 new photos.

9 December 2015 · 🌐

Kalan Road Crew working at Souraya Hill (north of Coen) making final preparations before bitumen seal commences in a couple of days time. Coen PDR -- Coen People Delivering Roads. That's what it's all about!





Kalan Enterprises added 3 new photos.

2 November 2015 · 🌐

Louican a Southern Kaantju Traditional Owner was put in the hot seat this week and is delivering in spades. Here he is pushing a gravel pit for the Peninsula Development Road project. Awesome work Louican!







Kalan Enterprises added 3 new photos.

3 June 2016 · 🌐

Last year Kalan employed nearly 40 Cape York Traditional Owners in a variety of contracts associated with the Peninsula Road project. Last night, Dion - our Operations go-to man accepted the Queensland Government's Reconciliation Award in the category of Partnerships for this outstanding indigenous employment/contract outcomes with this huge program. Congratulations everyone, particularly the Cape York Land Council and Balkanu Cape York Development Corporation and of course the ready for work Traditional Owners from central Cape York families. Big Malkarri (shake-a-leg) coming up for this one. All will be welcome!



In 2016 the Department of Transport and Main Roads, and Cape York Land Council Aboriginal Corporation won the QLD Government Reconciliation Award – partnerships- for the Peninsula Developmental Road Agreement

Procurement process

The one of the key elements of the PDR ILUA is the opportunity for local Indigenous businesses to be able to tender for work.

The End