



Cape York Institute For Policy and Leadership

Submission in response to DERM Discussion Paper 'Aboriginal and Torres Strait 99-year Residential Leases: Valuation methodology Options'

28 February 2011

1 Overview

The Cape York Institute, in partnerships with other Cape York regional organisations, Cape York communities and government, is seeking to drive policy reforms for housing and land across Cape York Indigenous communities that will result in the creation of opportunity for individuals and families to take control of their housing and to be able to use land for home ownership and other purposes.

The Cape York Institute welcomes the Discussion Paper and the opportunity to make a submission. The main points of response to the Discussion paper are:

- The Cape York Institute supports DERM's proposal of setting a nominal value of \$4000 for serviced blocks up to 2000 square metres that are to be used by local people for residential purposes. However, the scope of the approach should be expanded so that this methodology can also apply to larger serviced residential blocks (ie. above 2000 square metres). One option would be to introduce a simple tapered scale for blocks up to 10 000 square metres with local caveats on subdivision (as may be identified in local planning schemes).
- The Cape York Institute urges the Queensland Government and the Land Program Office to commit to a policy goal of completing all necessary steps so that residential land in Queensland Indigenous communities is permanently registered as lots on the cadastre. This is a critical enabling investment for the success of home ownership on Indigenous land.
- Policy discussion is required about the security and transferability of 99 year residential leases available under the *Aboriginal Lands Act 1991*. An option that could be considered is that leases are available to any person or entity (open eligibility) and that a template set of trustee policies guiding leasing and transfers is developed and implemented to regulate transfers. Lease security and transferability should also be reviewed for commercial leasing.

2 Support for a nominal value approach including scope to value larger residential blocks

The Cape York Institute supports a nominal value approach with the price to be set at \$4000 for residential blocks up to 2000 square metres. This approach is a good compromise that supports home ownership but negates some of the risks created by either a zero value approach or the proposed modified market based approach.

The nominal value approach should be expanded so it can also apply to single residential lots above 2000 square metres. One option would be to introduce a simple tapered scale for lots up to 10 000 square metres with caveats on subdivision depending on the operation of local planning schemes. For example, for each 100 square metres above 2000 square metres an extra \$100 could be added to the nominal value. Therefore a 4200 square metres lot would cost \$6200 and a 10 000 square metre lot would cost \$12 000.

The Cape York Institute does not believe that there will be any issues with land banking, as raised in the Discussion Paper, if the proposed nominal value approach is adopted and lessors pay a normal rates schedule on residential lots. Land banking is however an issue where government is hoarding existing serviced land for future welfare housing construction through welfare housing leases. Given the scarcity of vacant serviced land, this action by government will directly crowd out local people interested in building new homes for home ownership. One option to address this would be for government to ensure that for every lot it acquires for future welfare housing it creates at least one additional residential lot that is available for home ownership.

3 Government effort and investment is needed to create permanent registered lots for all serviced residential land

A land administration approach must be implemented in Cape York Indigenous communities that delivers equivalent level of land administration services as provided to non-indigenous communities of a similar size and location. This means that land administration issues, including cadastral survey, reconfiguration, retrospective development approvals and native title, are resolved to the point that permanent registered lots are created for all serviced residential land in township areas and for serviced residential rural land in areas surrounding township areas. A similar principle should also be considered for commercial land as a primary enabler for business investment and economic development.

Town planning has a very important role to play in setting the foundation for home ownership and economic development. The necessity for town and development planning must not be misread as a green light to apply an ‘off the shelf’ planning scheme. Town plans must capture and articulate the vision that local people have for their communities. What is critical for the longevity and ultimate success of planning schemes and different types of land use is that there is ‘buy in from those who really care about the village, the residents who live, work and raise their families there’ (From Hand Out to Hand Up: vol.2, 2007, p. 168).

The implementation of a land administration system will also require development of a system of rates and charges that can be used by local councils to levy rates and charges for land that is used for home ownership or other purposes.

4 Transferability of leases and establishment of trustee policies to regulate leasing

The Cape York Institute is currently reviewing the efficiency, effectiveness and equity of lease provisions available to Queensland Indigenous communities and comparing them to legal and administrative arrangements that support similar mainstream tenures.

The Cape York Institute has identified that the current controls on eligibility and transferability of leases will cut off future options if communities and trustees want to increase the openness of their markets for leases. Although it is likely that most communities will choose to limit their residential markets in the short term to local people, it is also likely that as confidence builds and more leases are issued that there will interest for increasing the scope of markets to support residential and business

investment. The system of leasing and administration should be capable of facilitating this development.

One option would be to create a system of residential, commercial and rural leasing that is similar to the Australian Capital Territory where leases define the land use but are open any person or entity. In Indigenous communities, this would mean that eligibility and the transfer of standard leases is managed by the trustee but the lease instrument itself would no longer be used to define eligibility or transferability (other than standard terms of eligibility as operate in the ACT). This would open a range of future options for trustees and communities to consider and have available for their use.

It is critical that trustees have a well defined administrative function and policies to regulate leasing regardless of the relative scope of the market for transfers. This could be achieved through the development by trustees (with support from government) of a land and leasing regulation template that is administered by trustees or some local entity endorsed by trustees.