Housing policy reform:
improving tenancy and home ownership
outcomes for
Cape York’s First Nations people

CYI Discussion Paper

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THE PURPOSE OF THIS DISCUSSION PAPER

For more than a decade, Cape York Institute (CYI) has pursued a housing and home ownership reform agenda for Cape York's First Nations people. This includes under the Cape York Welfare Reform trial that began in 2008. In more recent years, CYI has focused on practical on-the-ground action through working closely with First Nations people in the Hope Vale and Mossman Gorge communities, to help people build capability and understanding for the planning and decision-making that is required to work through the issues, and to help inform and develop a clear model for reform of the housing system.

This discussion paper considers three key questions to assist to formulate a better housing policy approach:

1. What progress has been made over the past decade in terms of housing reforms to move Cape York communities from dependency to responsibility?

   The paper outlines and assesses progress made and considers the key challenges that remain.

2. What can we learn from models elsewhere that could help housing markets to emerge in Cape York?

   The paper provides a brief literature review that investigates different structures that could be utilised to support the emergence of private rental and home ownership markets for communities in Cape York.

3. What has CYI learnt from its intensive on-the-ground efforts in Hope Vale and Mossman Gorge over the past few years?

   The paper briefly outlines the work that has been occurring over number of years at Hope Vale and Mossman Gorge which can inform the development of a model that can be applied elsewhere. The key takeaways are discussed and some examples of tools used are provided.

1. MOVING FROM DEPENDENCY TO RESPONSIBILITY

Housing policy reform is essential for Cape York's First Nations people. Cape York's First Nations people share the same hopes and aspirations for their families and communities as people elsewhere in Australia. The family home has a central role to play—it is a key to building a better life for children, being able to pass down happy memories, good health, wealth and all else that is required for a family to set up future generations for success in the modern world.

Adequate and stable shelter and housing plays a major role in health and wellbeing for all families, in particular for children, by providing a safe environment, the security that allows participation in the social, educational, economic, and community aspects of life and the privacy to foster autonomy as an individual and a family unit. Conversely, poor housing conditions,

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¹ See e.g. Australian Institute of Health and Welfare 2010 Shelter: development of a Children's Headline Indicator.
overcrowding, and homelessness adversely impacts on children’s health, safety, and learning, as well as having negative longer term effects on economic wellbeing and behaviour. Home ownership can have a profound impact on the trajectory of families living in poverty. It provides a key pathway to wealth creation and the family home is usually the key asset that allows for the intergenerational transfer of financial wealth. Home ownership is also associated with a range of other benefits including increased wellbeing, life satisfaction and self-efficacy, more positive expectations for the future, reduced depression and alcohol abuse, and increased educational attainment. Research shows that home owners are more likely to volunteer, and to be active and engaged citizens.²

Despite the importance of housing for social and economic development outcomes, First Nations people in Cape York communities remain locked in a housing system that impedes, rather than promotes, positive family and community development. First Nations people in Cape York continue to be almost completely reliant on government-funded social housing that entrenches dependency, passivity and dysfunction. Residents of Cape York communities today remain locked out of private home ownership, or are at the mercy of a system that is at risk of creating a second ‘Indigenous-specific’ class of land and asset ownership that is peripheral to the real economy. In some areas there is a real risk that Queensland is heading down a path that will trap a small number of First Nations people into private home ownership that becomes a dead asset.

Despite the fact that long term social housing tenancies may leave families feeling like they own their homes, they do not. First Nations people for too long have missed out on the economic and social benefits that being a good tenant or a home owner can bring.

Calls for reform

The Cape York reform agenda outlined in CYI’s 2007 From Hand Out to Hand Up highlighted that as a matter of priority, Cape York communities needed a shift away from the social housing welfare system. A transition was proposed to a system based on private property markets and home ownership, with social housing to continue to cater for those in the most exceptional circumstances, as in mainstream society. CYI identified the need for change to the dysfunctional social housing tenancy arrangements which—along with abuse and neglect of children; alcohol abuse; drug abuse; petrol sniffing; problem gambling; and poor school attendance—were identified as a key dysfunction contributing to the breakdown of First Nations communities in Cape York Peninsula.³ For example, CYI identified that the social housing system creates incentives for people to stay in remote communities where there is limited work available as opposed to moving to where the work is, as they may face losing housing they have waited years to attain, or being worse-off if they move to take up work but face higher private rental costs.

The Cape York Welfare Reform trial from 2008 demanded an end to the passive welfare approach to housing and for people to have real ‘skin in the game’ through tenancy reform and home ownership. The trial proposed a number of measures to reset personal responsibility in the family home, primarily:

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² Sherraden, M., 2013, Wealth Creation and Rural America, November 20
³ Cape York Institute 2007, p. 18.
- Development of a private property market – through developing affordable and economically rational choices in housing.

- Tenancy reform – normalised rents, tenancy agreements and tenancy management.

- Pride of Place – a program to establish a neat, clean home environment of which people are proud.

The responsibility to undertake the majority of the housing reforms rested with the Queensland and Australian Governments. By 2011, however, it became clear that there was only a limited commitment and scope to achieve these objectives in the Cape York Welfare Reform communities, particularly as these Cape York Welfare Reform proposals for housing reform were swamped and subsumed from 2008 by the Australian and Queensland-wide policy and program changes under the juggernaut of the National Partnership Agreement on Remote Indigenous Housing (NPARIH).

**Extraordinary investment under NPARIH**

NPARIH has provided the single biggest infrastructure investment into remote Indigenous communities across Australia—$5.5 billion over 10 years from 1 January 2009 via state and territory governments to improve housing, primarily through the construction and maintenance of social housing. This extraordinary level of funding for remote housing was the grand practical gesture intended to bolster the symbolism of Prime Minister Kevin Rudd’s apology.

Under NPARIH, most social housing was moved from community control to state control through the creation and signing of 40-year leases (plus 40) over social housing land. In Cape York, Indigenous shire councils (as the legal trustee of the land tenure underpinning communities) became lessors, and the state the lessee and manager of new and existing social housing. The intention of this policy change was to secure government-funded assets, and to improve and normalise property and tenancy management in Indigenous communities. Following the introduction of NPARIH, all aspects of tenancy management including rent setting, arrears management, allocations and eligibility came under state control with rules following standardised public housing policy.

As a result of NPARIH not only are a large majority of houses in Indigenous townships now under a 40 year (plus 40) social housing lease held by government under the system of centralised control, but areas of vacant land have also been subject to the same social housing lease arrangements to allow for future development for social housing. Government is land banking in Indigenous communities so it can meet the demand for future social housing, but in so doing it is crowding out opportunities for local people who may be interested in obtaining the right to build on vacant land.

Rather than devolving greater control over housing to communities, the NPARIH process has effectively extended state government control in Cape York communities. Under NPARIH both the Queensland Government and local Indigenous shire councils are perversely incentivised to keep, maintain and increase the pool of social housing. They have been cast as ‘rent seekers’, absentee landlords and agents who would financially stand to lose should remote Indigenous communities move away from the current model of social housing. The financial incentives to maintain the status quo are considerable. For example, Indigenous shire councils, as trustees of
the underlying 'DOGIT' tenures on which the houses sit, are paid a lease fee per year each social housing lease to the state and an annual service fee as a rates equivalent, which Indigenous shire councils with no rates base are heavily reliant on. After several years of NPARIH such payments have become a critical component of funding and create a deep structural disincentive for the transfer and settlement of DOGIT tenures to land-holding organisations such as Land Trusts that are independent of councils. Councils also have preferential procurement contracts for refurbishments and maintenance contracts for social housing.

NPARIH did also set out to achieve 'the progressive resolution of land tenure on remote community-titled land in order to secure government and commercial investment, economic development opportunities and home ownership possibilities in economically sustainable communities'. Remarkably, however, NPARIH did not include a single performance benchmark or reporting requirement to give life or accountability to this objective. Instead, NPARIH performance measures are completely focused on the rates of occupancy and overcrowding, the construction and repair of social houses—and this is where the NPARIH investment and effort was vastly concentrated.

Despite the problematic consequences of NPARIH, the investments in basic land administration (e.g. lot and plan survey and description) made through NPARIH have removed one potential barrier to the broader reforms of the housing system that are required. The Queensland Productivity Commission (QPC) in its recent consideration of the evidence regarding NPARIH concludes that the NPARIH reforms have achieved an increase in housing stock, going some way to address the chronic levels of overcrowding in Queensland's remote Indigenous communities (although it remain to be seen if these gains can be maintained over the medium and long term without more fundamental changes), and has made some progress in achieving a normalisation of tenancy arrangements. Despite these positives, the QPC concludes NPARIH ‘has come at a cost, both in financial terms and in terms of the lost opportunity to develop community capability. Arguably, a better outcome may have been achieved if some degree of effort had been put into developing the capacity and capability of communities, rather than subsuming tenancy and property management into state control.’

The need for reform remains

Despite the extraordinary level of investment made over the past ten years under NPARIH, the need for housing reforms remains clear.

The QPC's important report on remote service delivery in Indigenous communities, in its draft recommendations of 6 October 2017, highlights the ongoing need for housing reform. The QPC states that the current housing system is expensive. For example, in 2012–13, the Queensland Government spent just under $5,500 per person in remote and discrete Aboriginal and Torres Strait Islander communities on services related to the home environment, predominantly on social housing. This compares to just under $2,000 per capita across Queensland, generally. It also finds that:

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4 QPC report at p. 249.
5 QPC report at p. 43.
• in recent years under NPARIH more than half of the substantial flow of Queensland Government expenditure into Cape York communities such as Aurukun and Hope was spent on social housing

• the social housing system is inefficient and the state's administration costs of tenancy and management are high

• rental arrears are high

• social housing continues to embed perverse incentives that create inefficiencies, erode positive social norms, create disincentives to work, and crowd out private sector activity.6

Home ownership too remains, if not impossible, highly problematic—practically, legally and financially. Fewer than 3 per cent—132 of 4525 homes—in Queensland’s Aboriginal and Torres Strait Islander communities are Indigenous-owned.7

The need for housing reforms, and the need to build the associated capabilities of First Nations people, remains as critical now as when CYI first began its advocacy and action in this area. Progress has been too slow. We must accelerate the transition of Indigenous communities from public economies to market economies that are plugged into and part of the mainstream. A more deliberate and comprehensive housing policy is required to support the emergence of housing markets, and to grow the private housing sector outside of the vastly dominant public/welfare housing sector.

Developing nations such as Singapore show an astonishing scale of home ownership success can be achieved relatively rapidly. Indeed, this transformation helped to move Singapore from a Third World nation to a First World economic powerhouse. Such examples show that with the right policies and the right supports, housing and home ownership outcomes for First Nation people in Cape York could indeed be transformed over a relatively short period of time.

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6 QPC Report at Chapter 12.
7 Elks, S. 2017 Cape York, Torres Strait communities take up 'Katter leases. The Australian, 12 June.
First Nations people must be empowered to improve housing

Housing policy continues to be highly centralised—with policy determined in Brisbane and Canberra that is seemingly blind to the needs and aspirations of Cape York’s First Nations people when it comes to our particular needs regarding housing reforms needed in land administration, governance, housing tenancy and home ownership. Government policies have been poorly aligned to achieve self-reliance, rebuilding social norms and creating an environment of wealth and wellbeing. Despite a proud history of self-sufficiency, housing policy continues to entrench, rather than relieve the disadvantage and dependency of First Nations people in Cape York.

Government cannot lead the reforms that are required, although they have an important enabling role to play. First Nations people themselves must be empowered to control and improve development outcomes associated with housing. After the hard won battles to reach this point, decision-making to simplify land arrangements to enable the creation of secure private interests in land—whether freehold, Aboriginal freehold or leasehold—must lie in the hands of the people themselves.

This discussion paper aims to inform the development of a housing strategy by which Cape York people can take control and shape a First Nations-led housing sector, with the support of government. The goal is to move Indigenous homes from a welfare economy into a system where responsibility, opportunity and capability drive outcomes. Benefits will flow to wider society when the burden of social housing and other welfare is relieved because First Nations people are enabled to provide for themselves.
A vision for housing policy in Cape York

By 2070, in Cape York Peninsula the vision is:

1. We live in economically and culturally vibrant communities, and have a long and proud history of orbiting into the wider world and returning home when we wish.

2. We lead the political and economic life of our settlements.

3. There is balance between government investment, private investment and voluntary effort.

4. The housing and land market will be demand-driven.

5. Our social housing system supports our citizens who need this support as tenants and never as passive service recipients.

Unique challenges remain

Land is fundamental to First Nations culturally, but it is also fundamental to First Nations people (and all other societies) economically. In all modern economies wealth creation is closely tied to one’s ability to use, transfer and borrow against land assets, and very often the key assets is the family home. Land provides the foundations on which housing markets can emerge. Although land is now a very significant asset for Cape York’s First Nations people, its potential to create wealth, and support the emergence of housing markets, remains largely unrealised. Communal ownership of land presents unique challenges for ensuring that development can proceed with the same ease and certainty that is the case elsewhere.
In most land where housing markets exist and 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 facilitate home ownership and private rental markets even in remote areas. The particular history and circumstances of our First Nations people and communities, however, means that despite our Land Rights victories, the situation is far less straightforward.

Hernando de Soto’s influential views on the importance of liberating the ‘dead capital’ imprisoned in informal land tenure in Third World and the former communist states is instructive. In his book *The Mystery of Capital*, the Peruvian development activist identified what he considered to be the most profound difference between the West, where capitalism thrives, and those societies where the world’s poor live: the poor lacked 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.’ [emphasis added] Despite our Land Rights success, in many ways what is still lacking for Cape York’s First Nations people is the invisible infrastructure, support and capability building needed to allow us to transform our land assets into wealth, including through housing markets.

The unique challenges, particular to our circumstances as First Nations people must be dealt with through the creation of what De Soto refers to as implicit legal infrastructure. This will mean that individual interests in land can be created without the uncertainty, complexity, conflict and extra-ordinary transaction costs that are currently associated with transactions on land belonging to First Nations people.

**The lack of the implicit legal infrastructure required to enable housing markets**

For Cape York’s First Nations people the main problem is not, and has never been, a lack of local aspiration for having viable and sustainable housing markets, home ownership or economic development. The main problem is that Indigenous land on Cape York does not have a high-quality, complete land administration system on-par with non-Indigenous land—meaning that the system is dysfunctional and static in its operation. Our land assets simply cannot be used effectively to create wealth and support emerging housing markets.

Land Rights successes have afforded First Nations people in Cape York with a complex patchwork of property rights through 1) statutory land rights schemes, and under 2) the *Native Title Act 1993* (Cth). As a result there is now an array of various communally held land tenures, and native title, over our ancestral lands and in communities. For example, in each of the nine Aboriginal Local Government Areas across Cape York, particularly in the town areas, there is a different mix of tenure types which may include DOGIT, perpetual leases over DOGIT land granted under the *Aborigines and Torres Strait Islanders (Land Holding Act) 1985* (Qld) (known as ‘Katter leases’), State reserve, Aboriginal reserve, Unallocated State Land and Aboriginal...
Freehold. Native title also continues to exist in many of these areas, creating an additional layer of complexity.

Mainstream finance cannot be obtained for Indigenous land as the land tenures are held communally and are inalienable, and therefore this form of ownership cannot be used to provide security as collateral for a loan as in the mainstream. Thus the value of the land itself and the millions of dollars that have been invested by government to develop and maintain assets in Indigenous communities (houses, infrastructure, buildings and enterprises) are lost as dead capital and cannot be leveraged to create more capital. Indigenous Business Australia (IBA) loans are currently the only option for lending to support home ownership on Indigenous land in Cape York. Under the conditions of an IBA loan, however, access to equity in a home and other wealth creation mechanisms that are available in the mainstream are not available, so wealth creation founded on property ownership under this model remains limited.

### Indigenous assets amount to nothing without secure title: a case example

In the mid-1980s, Hope Vale resident, Mr Eddie Woibo applied to the local Council to take up a block of land within the reserve in order to build a house and start a farming enterprise. The Queensland Government had recently passed enabling legislation to issue such leases, called 'Katter Leases'. Despite being empowered by legislation, the Queensland Government did not undertake the necessary land administration required to support such leases. On a number of occasions, informal acceptance of Mr Woibo’s right to this parcel of land was confirmed, but no official lease was issued.

The Woibo family developed the land as their own. They built a house, established pasture, irrigation, fencing, cattle and a passionfruit plantation. This investment of hundreds of thousands of dollars was necessarily self-funded as no financial institution would provide capital without a secure title to the land. Their first crop of passionfruit was commercially successful and they expanded the plantation as a result.

Soon after, however, a bushfire severely damaged the fencing and irrigation infrastructure as well as much of the plantation. Hundreds of thousands of dollars was lost, as it was not possible for Mr Woibo to obtain insurance on a property for which he did not have a lease. The Woibo family's struggles painfully illustrate the fundamental importance of secure tenure to underpin asset and wealth accumulation.


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Efforts to improve poor land administration

There have been some efforts to address the historical lack of public investment in the land administration system. A number of positive changes made by the Queensland Government have been made in recent years, including:

- Investment has been made through the Queensland Government’s Remote Indigenous Land and Infrastructure Program Office (RILIPO) as housing and other buildings have been built in Cape York communities over the last thirty years in the absence of any registered lots on the cadastre and without any clear local planning or consent.

  RILIPO have invested in the order of $300M over the last 10 years to complete the vast majority of lot surveys for registering on the cadastre and work continues to cover the remaining lots and commence local planning schemes for the first time in the history of these communities. (Although, as noted above, much of this activity has been aimed at making the provision of government services easier in line with the social housing focused objectives of NPARIH, rather than necessarily focused on enabling housing markets, private ownership and investment).

- The Queensland Government has taken steps to improve the land administration system for First Nations people through new and amended legislation to improve leasing and allow for the creation of fee simple freehold title in town areas.

  Until 2015, the Aboriginal Land Act 1991 (Qld) (‘ALA’) prohibited the potential to create interests from Aboriginal Land that could be mortgaged and sold. All leases required ministerial consent and commercial leases required an additional ministerial consent with concern for the applicant’s ‘...financial and managerial capabilities’. These requirements were not only paternalistic and bureaucratic, but they prohibited any form of effective individual ownership. Significant legal reforms have since been introduced, including by Premier Campbell Newman’s Queensland Government in 2014 to enable communal land title to be transformed into ordinary freehold to facilitate home ownership outcomes within the town areas of Indigenous communities—where the appropriate consents are in place.

  There is now greater legislative freedom to create individual parcels of land that are tradeable and bankable on Aboriginal freehold tenure under the ALA, allowing for individual investment and wealth generation.

- The Queensland Government has also taken steps to resolve the issue of ‘Katter leases’. In the mid to late 1980s, Bob Katter Jr attempted to give Queensland Indigenous people bankable property rights by allowing indigenous people to apply for perpetual ‘Katter’ leases through the Land Holding Act 1985 (Qld). A ‘Katter Lease’ offers a secure title with some limited transferability. Despite its potential, this innovation was effectively stymied due to a lack of institutional, administrative and legal resource to implement the property rights that were intended (the difficulties associated with Katter leases are describes in the

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A law change in 1991 left hundreds of people in a limbo, without the benefit of the houses and land they had been promised.

Steps have since been taken to rectify the situation for the 344 household in Cape York and the Torres Strait that are affected. The Queensland Government in June 2017 announced that up to $75 million would be committed to honouring and settling these historical Katter leases with the Housing Minister Mick de Brenni stating it was a step towards resolving ‘past injustices and continuing barriers to economic participation’ to ensure the families who have an existing entitlement to a social housing property have the opportunity to secure private ownership of their home’. It should be noted that, any open-market sales (to a non-local) still require approval from the trustee, so even once resolved, these leases are not yet an interest in land that can be compared with Canberra leases or fee simple freehold.

While some progress is being made a great deal of further land administration work is needed to create the implicit legal infrastructure needed for First Nations people to be able to transform their assets and labour into capital. For example, one core operational tool of land administration is local government planning schemes. Across most of Australia at present, planning schemes are designed to constrain development to protect liveability and sustainability. Cape York locations, however, need the opposite—they need planning schemes that help accelerate development as there is at least thirty years of catching up to do. The current local planning schemes created through NPARIH by RILIPo are a start but there are clear examples already emerging, such we have seen in the Indigenous-led home ownership project CYI is assisting in Hope Vale, where these fledgling schemes are unable to facilitate private development and will require significant amendment.

Despite the improvements, the ‘system’ remains exceedingly complex. There are extra-ordinary transaction costs associated with creating an individual interest on communally held Indigenous land that are prohibitively high and uncertain for most people and investors. These transaction costs are preventing the emergence of markets and mean that investment channels, both internal and external, cannot exist. Simplified land arrangements that enable the creation of secure private interests in land (whether freehold, Aboriginal freehold or leasehold) without greater costs or difficulty than the mainstream are needed. It is First Nations people in the places involved that must be empowered to lead the changes required.

**Good governance is needed to facilitate housing reforms**

A coordinated and cohesive approach is needed to affectively activate the housing reforms required to transform our communities from islands of disadvantage that sit outside the mainstream economy where residents are the passive and dependent citizens living in social housing estates, into vibrant towns that provide the hubs for activity occurring both in town and on the surrounding land.

In 2014, Martha Koowarta was victorious in the Federal Court against the Queensland Government and the Wild Rivers declarations on the Archer, Stewart and Lockhart rivers were rescinded. This case provides legal vindication of the principle that traditional owners should provide consent to whatever happens on their land, whether it be development or conservation.

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There is a great deal of work that must be done to support First Nations people through broad community education and engagement processes to ensure that people understand the housing and development options that are available, including the pros and cons associated with each, and so that as a group they can undertake the planning and decision making that is required to reform the system in their places. Broad engagement is needed—it will not be sufficient to only engage with council or other organisational leaders in order to obtain the informed consent required to simplify the potential shift from communal to individual title where traditional owners see fit to do so.

Current Indigenous governance and organisational arrangements across Cape York, including in relation to land, have arisen in an ad hoc manner as a result of our particular histories of colonisation, dispossession, dislocation and disruption, as well as our attempts to regain control and influence through the long period of almost complete dependence on the governments of the day to make the laws, policies and programmatic decisions that govern our fates and futures. There is now a confusion of Indigenous organisations and responsibilities involved at every level. Fragmented governance often means that First Nations people and Indigenous organisations are placed in a situation of inherent structural conflict that can have unintended and often damaging consequences for First Nations people identity and development prospects—these issues clearly arisen in the context of housing reforms.

Councils play an important role as local government in Indigenous communities, but having each council also act as a land holding body, as the state appointed trustee of Indigenous land underpinning the town area, is problematic. Having this land trusteeship responsibility on top of the usual local government responsibility complicates the relationship of the councils with other levels of government, and with the citizens and beneficiaries of the trust. Nowhere else does a local council hold the underlying tenure of a town. These governance arrangements are further complicated where native title continues to exist over the same land. This means that in addition to the underlying land tenure being held by the council as trustee, there is also commonly a Prescribed Body Corporate (PBC) or Registered Native Title Body Corporate (RNTBC) organisation that has been established to hold native title rights that has a role over some or all of the same area. Decision making on Indigenous land regarding potential shift from communal to individual title requires consent processes be undertaken regarding each set of rights in the land. Under the Native Title Act 1993 (Cth), any move by trustees of Indigenous land in Queensland to create individual private titles will require the consent of native title holders to be a valid ‘future act’.11

One solution to simplify the existing situation, reduce conflict, and create more certainty is to reconcile or settle land rights granted under Queensland law together with the native title rights—is for land rights and native title rights to be held by a single land holding organisation to better facilitate decisions over land. For example, the native title holding organisations could hold both sets of rights over the same piece of land, leading to more cohesive and effective internal processes regarding the use and management of land. This has already occurred in

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11 It is important to note that the Australian Government in 2009 amended the Native title Act (s. 24JAA) to allow trustees to issue leases for public purposes, including for NPARIH social housing (40 year) leases, without consent (but with compensation). This amendment was designed to be a measure of last resort where fair and reasonable agreement with native title holders could not be reached, but in practice it has been used by government and local government (in their role as trustees) to simply bypass the need for an ILUA.
several sub-regions including for DOGIT land transferred as Indigenous freehold to the Hope Vale Congress of Clans RTNBC in 2011. Also, Mura Badulgul RNTBC accepted transfer of the DOGIT land on Badu Island in February 2014 from the Torres Strait Indigenous Regional Council.

Of course a unified structure does not necessarily mean that governance will be effective as there are also a broad range of capabilities that are also required. Capabilities are generally low to very low across all Cape York land holding entities, which are often under-resourced. This is a critical area for increased support from regional bodies and all levels of government.

**There are real risks that must be carefully managed**

As steps are taken to enable housing markets to emerge in Cape York there are real risks that need to be avoided, including First Nations people being trapped in a sub-prime time scenario where they have taken up home ownership opportunities.

As land administration issues are being resolved in Cape York’s Indigenous communities, the opportunity for trustees to create private interests in land and sell existing social housing stock to tenants is becoming a real possibility. The Queensland Government recently issued a proposed sale price guide to trustees that suggested a three bedroom house in good condition is worth $120,000. However, this price bears no resemblance to any current or future market reality in the majority of communities and it assumes that communities will opt for residential titles that are openly transferable (i.e. transferable to any person including non-Indigenous external people). There would appear to be a very real risk in many places that this will establish a sub-prime scenario where mortgages are guaranteed to exceed market resale value, which in some locations is likely to be zero even if trustees opt for openly transferable titles. There is considerable uncertainty that secondary markets will form on Cape York, and these risks must be understood and taken into account in developing appropriate housing reform policy.

**Building capability and human capital**

In addition to the need to build governance and organisational capabilities to support housing reforms, individuals will also need support to build capability and human capital so that housing reforms can be effective.

In the mission era, families were frequently engaged in activities that actively supported the provision of their own shelter. It was only 30-40 years ago where people were still building their own homes in missions on Cape York. People then had a true sense of pride and a genuine reason to look after their house given the strong sense of investment and ownership that they had. Since government has taken on more and more responsibility for service provision, widespread social housing has created a culture of passivity and externalising of responsibility.12

Social housing tenancy reform to normalise tenancy arrangements, of the kind CYI has been calling for more than 10 years, remains an urgent priority to start building the capability for people to transition from a welfare housing system as markets begin to emerge. Current social

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12 Pearson, N. 2010, *Social housing model rips the heart out of Indigenous communities*, The Australian, 6 February
housing policy continues to undermine meaningful tenancy management with high rates of rental arrears, poor building maintenance and virtually no consequences for being a poor tenant, including no eviction or financial responsibility enforced for wilful damage. Current government policy undermines most attempts to build the type of capability that is required for people to move into private rental or home ownership.

Pride of Place (POP) is currently the only program for housing in the welfare reform communities that is about ‘skin in the game’ as compared to the passive provision of social housing. POP is delivered by Cape York Partnership and was designed to reward good tenancy and incentivise people into home ownership. The program has several elements including a public space beautification scheme, garden clubs and a back-yard blitz. The backyard blitz is the most active element, where families are required to have a tenancy agreement in place, save $1,000 and commit to sweat-equity. In return they are supported to design and construct up to $15,000 of outdoor enhancements such as gazebos, sheds and garden beds.

A suite of well-designed support structures focussing on resident responsibility and capability are necessary. CYI has previously articulated the need for a facilitated transition from the existing tenant/welfare recipient paradigm of having virtually no accountability, through to good quality tenancy management and on to sustainable home ownership. The costs and resources needed to establish and maintain such a support service would be offset by reducing the costs of providing widespread, long-term social housing and all the associated negative consequences.

No private home ownership model has pursued 100% home ownership, rather it is accepted that there will always be a number of people who would remain dependant on public housing. Home ownership for those who lack these key capabilities will be unsustainable, unbeneificial and costly for individuals as they fail to deal with the responsibilities attached to home ownership. It should be noted that those that do not possess the requisite level of key capabilities for home ownership is not a static group—indeed, people in this group may be assisted to attain the necessary level of independence and capabilities required for home ownership. Any housing policy pursued in Cape York must be mindful of these key capabilities that are required to improve housing and home ownership outcomes, these include:

- A minimum level of income sufficient to sustain the financial responsibilities associated with home ownership, such as mortgage repayments and maintenance costs.
- Adequate savings to cover a deposit on a house, and create a buffer to cover mortgage repayments in the event of an unexpected reduction or cessation of their income stream.
- Freedom from other major financial obligations. The individual must not have any other major debts, to financial institutions or otherwise.
- Money management skills. Individuals must possess the basic money management skills, including the ability to budget and a demonstrated capacity to save.
- House maintenance skills. Basic household maintenance skills are required, such as the capacity to identify the need for and undertake basic repair work and cleaning. Pride of Place and other similar supports may assist individuals build this capacity.
- Family stability. Personal relationship breakdown and family instability are the second most commonly cited reasons for mortgage arrears after income/employment loss. Individuals should ideally be deemed to be at low risk of family instability.
In Cape York Welfare Reform communities, MPower may assist individuals build the financial capabilities required. The purpose built ‘Bayan’ program, previously proposed by Cape York Partnership, could also assist to build the full range of capabilities to move from social housing into home ownership. Innovative program responses to support housing policy reforms are clearly required to build capability.

The Wunan model: supported housing can change the future for families

Responding to a shortage of affordable housing in the Kimberley, in 2012 Wunan launched a highly successful Transitional Housing program specifically targeted at fostering on-going employment for Indigenous people. 55 Transitional Houses were offered in the first round and Wunan has plans for a second development of another 50 houses. When complete the program will span 4 different locations in the Kimberley region. This program is a partnership between the Indigenous led Wunan Foundation, private developers, property managers and the state government.

The package is part of a broader social change strategy to encourage people to move out of dependency into independence. The program is designed so that access to good quality, affordable housing is the incentive to engage and remain in work. Intensive supports are provided to assist the family to achieve long-term employment and to manage their housing responsibilities adequately. Participants are expected to meet minimum education and employment participation requirements. This has been highly successful as school attendance rates for families in the program are near-perfect. The whole community is supported into better housing options by Wunan through initiatives such as workers hostels, financial literacy programs and a home ownership program. Ultimately, some participants can transition from social housing, to private rental to home ownership – all without moving house.

One of the Halls Creek tenants of a Transitional House recently declared ‘This shows how much I achieved by working and providing for my family. To be in a stable comfortable, spacious and affordable home is a true privilege. It’s taken a big stress factor away for me now that we have a home to call our own. Now that I have achieved this milestone I now have other goals for the future’.

Sources:  
Models supporting the emergence of housing markets

In all successful modern economies, home ownership, economic development and the creation of successful business enterprises are built on the foundation of private interests in land. First Nations people hold various forms of land tenure that are held communally and are inalienable, and this means that using land for economic development, to generate wealth and for private home ownership is challenging. Where native title continues to exist over Indigenous land tenures, the picture is further complicated, as agreement must also be reached with native title holders to create private interest in land. For Cape York First Nations people there remain significant bureaucratic, legal and financial hurdles to the emergence of housing markets. These obstacles are not insurmountable, however, and there are clear examples of models that can be drawn on to improve the approach.

A brief review of the literature investigates the different structures that could be utilised to support private rental and home ownership for First Nations people across Cape York as the emergence of a more normalised housing market is enabled. The summary outlines how each of these options typically operates to assist to support private rentals and/or home ownership, and the relevant risks and benefits. This is followed by a discussion of potential implications for Cape York.

Singapore’s Universal Housing Scheme

The Singaporean experience famously shows a successful transition from overcrowding, squalor and slums, to a cohesive and prosperous society. A raft of economic policies helped to create and distribute wealth, including housing policies in which a very significant role was played by the government in housing supply and housing finance. The Singaporean government has pursued housing policies founded in the belief that a mortgage will encourage people to work and save, and that home ownership turns tenants into responsible stakeholders in their neighbourhood and homes. Singapore’s HDB is a monopoly housing builder that can statutorily acquire land at low cost, design and procure the construction of new housing estates, and set rental rates and home ownership policies. By constructing and making available for purchase homes of various sizes and quality, upward mobility and aspiration to move up the property ladder was promoted amongst the population. Demand was also created through compulsory savings from wages into the Central Provident Fund that was then able to finance home ownership. Singapore has achieved one of the highest rates of home ownership in the world, at around 90% and the vast majority (around 88%) of the population continue to live in a flat constructed by the government.

The Singaporean model of home ownership was built on 99-year leases rather than freehold title and this has prevented people from being able to access equity in their homes and accessing the full range of economic benefits that should flow from home ownership leading to high rates of dissatisfaction with the leasehold tenure arrangements.\(^{13}\)

Rent-to-buy schemes

Another well-known scheme is Margaret Thatcher’s Right to Buy policy public housing privatisation scheme in the United Kingdom. Thatcher strongly believed that home ownership is crucial to economic self-sufficiency and she introduced the scheme at a time when the UK government was in struggling with debt, so that home ownership could reduce the financial liability of government. Public housing tenants were provided with a statutory right to buy their council house and received between 33-70% discount on market price depending on housing type and length of tenure. The scheme contributed to the normalisation of home ownership as the dominant tenure in the United Kingdom. Home ownership lifted from 57% in 1980, to around 70% home ownership after the scheme. The United Kingdom government subsequently boosted the Right to Buy discount, resulting in a renewed influx of applications from council housing tenants to purchase their house.

The United Kingdom continues to offer a ‘Rent to HomeBuy’ program for new build properties. Under this scheme developers are subsidised to provide newly built houses for rent at 80% of the market rate. This then allows the tenant to save the remaining 20% of what they would normally be paying in rent to go towards a deposit for a mortgage. Most then allow the tenant to buy the house they live in, or can use their deposit to buy another house, or continue to rent at the full rate.

Thatcher’s Right to Buy scheme inspired others to follow suit, with varying degrees of success. For example, Hong Kong’s Tenant Purchase Scheme (TPS) and Home Ownership Scheme (HOS) provides evidence that families engaged in cost-benefit analysis and often preferred tenures that they perceived to offer best benefits, rather than simply opting into the ideology of home ownership.

Right to Buy schemes exemplify the fact that much thought must be given to adequate protections for purchasers. There must be an appropriate purchase price, a framework for valuations, inspections, risk-allocation for defects, and a safety net for those who face sudden, unexpected changes in their circumstances. Even with the success of the Thatcher model, there was evidence that by failing to provide these things, purchasers can find themselves plunged into negative equity holding a mortgage over a vastly devalued asset.

Individual Shared Equity

Under individual shared equity schemes the consumer shares the capital cost of purchasing a home with an equity partner, in return for a share of any home price appreciation that occurs. Shared equity ‘enables the division of the value of a dwelling between more than one legal entity. Typically a mortgage is taken out by the purchaser on a proportion of the full cost of the property, and a second, subordinate loan (or covenant), is set against the remaining portion of that cost. At the time of sale (or refinancing), the partner recoups their equity loan plus the

capital gains on that share. There are well-established government backed shared equity schemes in South Australia (HomeStart) and Western Australia (Keystart).

The Queensland Government currently offers a shared equity home loan to existing social housing tenants on selected houses. In this scheme the tenant buys a 60% share of the house in which they live. Repayments cannot exceed 35% of the person’s income. They are not required to pay rent on the portion of the house still owned by the government and additional shares can be purchased over time. The home owner is required to pay rates, home insurance and maintenance and provide a $2,000 deposit. Under the loan conditions it is not possible to leave the house to your children upon your death (while the government still owns a portion) or to rent it out.

Shared equity makes housing more affordable for individual purchasers, and also offers more flexibility (and reduced risk) for mortgage lenders/investors to enter new markets. The key limitation, however, is that shared equity schemes depend on favourable housing markets for success.

In the context of Cape York, shared equity may be a great entry point for people with home ownership ambitions, and the idea of shared equity has been suggested by a number of residents in Hope Vale as a possible home ownership model, for example. However, land and house valuations are a critical component to the success of this model. Valuations are used to determine the proportion of equity the buyer and investor own at purchase, and also the amount owing to the investor at the time of sale. For example, if a house and land package is valued at $150,000 and the buyer’s equity portion is $100,000 then the buyer would hold 66% equity in the home and the investor owns the remaining 33%. These proportions are later applied to the value of the house at resale. In Cape York, there has been a long history of debate about accurate valuations, and without accurate house and land valuations the model would fail. Investors will only lend at real market value and the sharing of appreciation needs to be accurately calculated and apportioned. A commitment from a large institution with strong capacity would be required to implement this model as the shared equity model represents a huge risk for financial lenders the limited size of the active property market on Cape York is considered. IBA may be the only lender willing to lend under such a model.

Community Land Trusts

Community Land Trusts (CLTs) are an alternate model of shared equity that limits personal gains to maintain community benefits in perpetuity. CLTs are non-profit, community-based organisations designed to ensure ongoing community stewardship of land or assets, while enabling individual private interest. Over one million families are part of CLTs in the United States where CLTs own the land in perpetuity and issue tradeable leases to homeowners. When a homeowner sells, they may be subject to some limitations on who they can sell to, and they will only receive a portion of the increased property value. In this way any subsidies are retained in the housing stock and passed on to the new owner, maintaining affordability for future households. Characteristics of a CLT include:

• While the land is retained forever in trust by the CLT for the surrounding community, effectively and permanently removing the land from the market, by contrast, buildings on the CLT’s land are sold to and owned by families through strate title developments, community rental housing providers, co-operative housing corporations, small businesses, or nonprofit organisations.

• Repurchasing options mean CLTs have an on-going interest in the assets on the land, and typically undertake major maintenance of the assets and assist owners with finance trouble to prevent bank foreclosure.

• Residents living in the CLT land area are eligible members of the CLT and can participate in organisational governance.16

The CLT model is relatively new, with the first examples appearing in the United States in the 1970s, although there are now approximately 250 land trusts across the United States.17 In Australia, CLTs are attracting interest and some are starting to take hold. For example, the Yawuru Home Ownership Shared Equity Scheme offers part ownership of housing on Aboriginal land. This scheme utilises the WA Keystart shared equity finance for eight houses as part of a larger land development undertaken by the Yawuru people.

CLTs may be a good vehicle for Indigenous communities to offer home ownership without the fear of the land being sold on to people not from the community. Many people across Cape York express the need for First Nations people to protect their land holdings and ensure it is not sold to people who do not have traditional or historical connections with an area.

Obtaining financial investment from a mainstream lender under a CLT structure can be difficult as there is no open market for house sale upon mortgage default. CLTs must demonstrate that they will be able to settle mortgage arrears, and that they are in a financial position to purchase houses if home owners foreclose on loans.

CYI has developed a conceptual model for a CLT proposed to be run by BBN in Mossman Gorge. This model is particularly relevant in Mossman Gorge due to the highly desirable and accessible location. There is potential not only for a market to develop here, but for land to be bought up by external people, for prices to rise to unaffordable levels—such a situation could effectively provide (at least) a short-term windfall to current residents of Mossman Gorge but could rob future generations of First Nations people of their property rights in the area and result in intergenerational equity.

Co-housing

Co-housing involves a group (typically 20–30) of privately owned houses clustered around communally owned facilities. While traditional societies such as Indonesia have been living in this way with family members for years, modern co-housing started in the 1960s in Denmark


17 Data sourced from website http://community-wealth.org/strategies/panel/clts/index.html accessed on 16th May 2017
when a group of young professionals bought adjoining properties with the objective of sharing child minding.

In most co-housing arrangements, the land is owned by a company established by the residents and the individuals purchase their leasehold homes and automatically become directors. Typically people pay for the mortgage on their individual home and make a financial or labour contribution to the running and management of the community. The arrangements do differ widely from scheme to scheme, with some requiring a deposit from each household and then a percentage of wages contributing to a mutual society. Many modern co-housing initiatives have a green agenda, allowing for dense urban living and reducing environmental impact.\(^{18}\)

There are also non-equity styles of co-housing where the company (typically a non-profit co-operative) owns all the assets and members hold shares. Leases are then issued to members. The primary benefit of this arrangement is not the building of personal financial equity but rather housing security. Shares can be sold to another party within the constraints of the company’s rules at which time the lease is also transferred.

Family or clan-based housing developments on communally owned land may offer a viable home ownership option for people in Cape York. This type of housing model could be pursued on larger blocks of land, typically outside the Council infrastructure footprint. Hence services such as water, power and rubbish would need to be developed and maintained by the family or clan-group themselves. In addition, the Local Government planning scheme would be required to support multiple dwellings on rural residential blocks. This option would take considerable social capital amongst the family or clan-group members to implement effectively.

Obtaining support for this model of home ownership is likely to be challenging. It is likely that government would be hesitant to support such a model as they traditionally prioritise economic efficiency which leads to standard sub-divisions and dense living layouts. Government may also fear that once the groups of houses are established, demands for government funded services will follow. Co-housing may also be a difficult option for attracting mainstream finance and individuals will struggle to obtain finance for house builds on communally owned land as there is no security on resale if the bank forecloses on the loan.

**Self-build/Sweat equity**

There are a range of self-build and sweat equity models that have helped to resolve housing issues for the poor over time. For example a self-build movement emerged in the 1970s in the US when government policies and financial conditions culminated in widespread landlord abandonment of housing. Hundreds of buildings were boarded up and left vacant after they had been unmaintained and were no longer liveable. In New York City a number of self-help housing organisations emerged. Abandoned properties were handed over to organised groups of poor people, who then redeveloped the homes with their own hands and managed them co-operatively. Residents found innovative ways to work around and with existing laws and policies to simply ‘get on with it’ and build the housing they desperately needed. They managed

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to use existing government loan programs, powers to dispose of abandoned properties, tax abatement and governance laws to support their initiatives.\textsuperscript{19}

Habitat for Humanity runs an Australian program that partners with disadvantages families to build their own home. Each partner family receives an interest free, 20 year loan based on 95% of the market value of the completed home. Partner families contribute 500 hours of sweat equity which is recognised in the 5% discount on market value. For example, if a home is valued at $300,000, the partner family will have accumulated effectively $15,000 in equity, from their own efforts, on the day they move in. Habitat for Humanity also run a “Brush with Kindness” program that supports families to remain in home ownership by providing volunteer support for major home maintenance projects.

Sweat equity or self-help programs can provide more than simply getting a roof over a person’s head. The philosophy is particularly relevant for disadvantaged communities as it extends much further into personal and community development, with accommodation as an important by-product. A prime example is the Delancey Street Foundation in San Francisco. Delancey is a residential training facility for ex-convicts, ex-drug abusers and homeless people. It receives no government funding and has no paid or professional staff. It exists because older residents teach the newer residents what is acceptable. Everyone has a role and a contribution to make to the “extended family at Delancey. They run a number of enterprises including a restaurant, removalists and book store. These businesses are staffed by the residents but no-one receives a salary. All the income from the highly successful businesses is returned to Delancey to provide food, accommodation and training to the residents.\textsuperscript{20}

In the context of Cape York, a sweat equity model would require an investor to finance the home owner contributions. The most likely investor would be the State Government via their existing housing stock. A possible model could be built upon the State Government commitment that social housing tenants looking to buy their house would receive housing upgrades prior to transfer. The upgrade works (or a portion of) could be offered to the tenant as a sweat equity component. The government would therefore save money on the upgrades, which could then be provided to the tenant as a lump sum upon completion. This may form the deposit needed by the tenant (and soon to be home owner) to obtain a mainstream mortgage to purchase the house.

**Community rental housing**

Community rental housing is attractive to governments as an alternate form of social housing provision. Community rental housing encourages local communities to take a more active role in managing and providing affordable housing. Community housing organisations are seen as more agile than government and have greater flexibility to provide choices in housing location, type and management.

The Netherlands claims to have the oldest housing association in the world, first established in Amsterdam in 1852 on behalf of the working class. Now more than 30% of all household

\textsuperscript{19} Carlson, N. 2002. ‘UHAB Comes of Age – Thirty years of Self-help housing in New York City’

\textsuperscript{20} Deutschman, A. 2007, ‘Change or Die’
dwellings are owned by housing associations. They were originally developed to respond to the need of low income households for affordable housing. Housing associations are positioned between government-led social housing and market-based private housing. The extensive investment in housing associations was provided by a national cash advance which was required by the government to be repaid within 50 years. This model has historically worked very well, however more recent moves to privatise housing associations have caused significant tension with the original social good objectives. Now they are known as housing foundations or corporations and are no longer governed by a board elected by the members. This has resulted in reduced social housing stock and increasing supply of more profitable, and therefore less affordable, rental options.21

Community rental housing stock in Australia has doubled since 2006 due to policy directions from the Australian and state governments. Most housing organisations are tasked with increasing the provision of affordable housing to low and medium income households. They deliver this in a variety of creative means including accessing significant government subsidies, offsetting profits from market-based developments and/or provision of charitable services.22

A hybrid Community Housing Association that offers affordable private rental and home ownership opportunities could be an effective model for Cape York. This hybrid model would need to deviate from the traditional Community Housing Association objective, which is to create affordable housing that straddles the divide between social housing and private-market rent. In Cape York the objective would be to provide alternatives in the market, this could help to move communities away from the complete domination of social housing in the public/welfare economy.

Such a model could be achieved through transfer of Department of Housing stock to the Community Housing Association who then holds management and ownership rights over the properties. The scheme would hinge on the willingness of the government to enforce housing eligibility criteria for social housing tenants. In this way, the tenants of the Community Housing Association would have reasonable levels of income and able to afford commercial rental rates. This in turn would fund the operations of the Community Housing Association. Such work is core business for organisations such as the Brisbane Housing Company, and is likely to be most effectively delivered by such an organisation with a larger portfolio and existing resources.

**Social impact bonds**

A social benefit bond (also known as a social impact bond) is a financial instrument that pays a return based on achieving agreed social outcomes. It is a special type of payment-by-results contract, where private investors provide working capital to a service provider to deliver an intervention. If the provider achieves the agreed social outcomes, this can result in savings to the government in the form of future avoided costs. Part of these savings are then used to repay the upfront investment plus a financial return. If successful Social Impact Bonds could create a new approach and framework through which social services are delivered.


Social Impact Bonds are relatively new to the Australian political and social landscape; these types of bonds have gained greater traction in both the United Kingdom and United States. New South Wales Government was the first state in Australia to trial a Social Impact Bond. The Queensland Government is currently trialling three Social Impact Bonds, one of which is aimed at reducing youth homelessness.

Social Impact Bonds are designed for service delivery as a financial instrument rather than a housing approach/model. Housing Organisations may be eligible for a Social Impact Bond where they are able to create cost savings for the government. This may be achieved through more efficient management of existing social houses or through moving people out of social housing into home ownership. In Cape York there are many, otherwise ineligible, people in social housing as it is their only housing option. Major cost saving for government may be achievable from a transformational housing program moving people into home ownership and would therefore be applicable as a Social Impact Bond.

Subsidies and incentivised savings

In 2008 the Federal Government launched a program called the National Rental Affordability Scheme (‘NRAS’). The aim was to increase the supply of new, affordable, private rental properties by offering a financial subsidy for up to 10 years to housing providers. Houses were required to be offered to tenants for, at least, 20% below market rates. 133 housing providers (including property developers, not-for-profit organisations and community housing providers) across Australia utilised NRAS to provide 38,000 rental properties. The scheme was defunded in 2014. NRAS was a model of the government and private sector working together to improve housing opportunity. A similar scheme could hold significant value for taking the necessary steps to housing reform on Cape York.

The Australian Defence Force offer a Home Ownership subsidy scheme that funds 37.5% of the interest payable over the life of a 25 year home loan based on the variable monthly interest rate. This is offered through a panel of three mainstream lending institutions and is scaled, based on the person's level of service. The objective of this scheme is to entice people to remain in the defence forces for longer periods of time, as the subsidy is only applicable to serving members.23

There are various incentivised savings schemes in existence, such as tax rebates or exemptions, including Australia’s First Home Buyers scheme which also operate to incentivise home ownership.

Discussion: a trust model is needed in Cape York

Pinnegar et. al. interviewed users and identified that people were more likely to view individual equity options (such as Individual Shared Equity, Sweat Equity and Rent-to-Buy options) as ‘real’ home ownership, whereas community equity options (such as Co-housing or CLTs) were seen as a way of saving for a deposit or an opportunity for housing stability, but due to the inherent limitations of these model they were not seen as true home ownership. Pinnegar et. al. argue that community equity schemes are a way of keeping housing stock affordable, but strongly advocate that success lies with individual equity as a true home ownership opportunity.

23 Australian Government, 2017, 'Subsidy Certificate Approval Fact Sheet', Department of Veterans' Affairs
with greater options and interaction with the housing market. In addition, individual equity schemes are less complex to establish and administer in comparison to community equity schemes.

The home ownership and private rental models presented in the literature represent a wide range of options that may be suitable for Cape York. There is no stand-out model that meets all the needs for all communities. What is clear is that the control of housing on Cape York needs to be diversified out of the sphere of government, to include greater scope for community and private management and ownership. The best model to do this must be determined within the specific context of each community. Considerations of sustainability, scalability and capacity will all be of paramount importance.

Many of the options may be suitable for both existing housing stock (potentially using social housing stock in a partnership with government) and new builds through developers tailoring their stock for low-income ownership initiatives. The objectives housing incentive schemes need to be clearly identified. Clear distinction between the *promotion* of home ownership and the *facilitation* of home ownership is important. Policies seeking to bridge the gap between those that have some capability for ownership but need some strategic, on-going support into ownership are the most likely to succeed. Potential tension between this objective, and the need to maintain a clear commercial driver and individual wealth generation element to the schemes, must be kept in mind.

In Cape York a Regional Indigenous Housing Co-operative may be necessary to underwrite and facilitate home ownership and private rentals. Such an entity would need to provide security to land owners, carefully manage the risks associate with a secondary market where none would normally form, and guarantee assets maintain value with moderate appreciation. For example, an intermediary entity, such as a Regional Indigenous Housing Co-operative could provide support for home ownership aspirations by developing a trust to underwrite housing. The trust would hold a minimum tranche of the proceeds of sales to support resales. The co-operative may offer vendor financing, allowing home purchase at set prices with a resale guarantee assuming the house has been maintained sufficiently. Alternatively, the co-operative could offer fail-safe measures with a first right of purchase if an owner defaults on their loan with a mainstream bank. This entity could also be instrumental in undertaking new builds for rental or sale. The successful design and implementation of such an entity would of course require place-based, innovative co-design approaches.

A Transitional Housing type program could also support those orbiting to regional centres to move from long-term unemployment in remote communities to an economic centre for work. This support could provide rental (or rent-to-buy) accommodation, but could also be linked with employment, education and social norms outcomes. Government subsidies to support mobility for work are very small scale and grossly insufficient for the scale of orbiting to economic centres that Cape York people require. For example, the *Relocation Assistance to Take Up a Job* programme reimburses up to $9,000 to cover the costs of transport, rent, bond and children’s education expenses when moving to an economic centre for work. However, what families really need, is not a subsidy, but rather supports to find, commence and maintain employment, be good tenants and send their kids to school. Such supports may help to re-balance the disincentives for moving away from welfare dependence such as losing access to social housing and rent assistance. Genuine support and rewards are needed.
2. LESSONS LEARNED FROM HOPE VALE AND MOSSMAN GORGE

Support for land reform, housing and home ownership continues as a core focus of CYI through intensive support two projects, one with Hope Vale Congress Aboriginal Corp (Congress) in Hope Vale and the second with Bamanga Bubu Ngandimunku (BBN) in Mossman Gorge.

Work with Hope Vale Congress of Clans has focused on housing reform and offering home ownership choices to 38 families currently living on rural residential blocks on the land surrounding Hope Vale town and creating the option for new builds. This project is supporting tenancy reform on Congress land as well as providing a first class form of home ownership through leasing with up to 200 existing and new rural residential blocks on Congress Aboriginal freehold land. Engagement sessions have been well attended, despite the complexity of the issues to be dealt with, and capability for the planning and decision-making needed has clearly built over time (see a photo of a Hope Vale engagement workshop).

The first three home ownership leases are expected to be granted by Congress by early 2018. Recent positive meetings between Congress and the Queensland Government should now lead to previous delays with planning scheme amendments and ILUA funding resolved.

The very clear lesson from the work undertaken at Hope Vale and Mossman Gorge is that a high level of support is needed for people at the grassroots to:

- Work through the complexity created through the current patchwork of property rights and governance and the lack of the implicit legal infrastructure that is required to transform assets and labour into capital.

- Address the serious information asymmetry that exists, with a great deal of technical knowledge being held by government and lawyers, but not by people at the grassroots. For example, many people do not understand the different property rights and interests created by different tenure types, nor do they understand their native title rights and interests clearly enough to enable decision-making and planning to collectively occur for the future.

- Broad and inclusive processes are needed that allow people to properly understand and assess the options before them, and then proceed to build comprehensive and cohesive place-based plans. This kind of communal planning and decision-making can only occur...
after the information asymmetries have been addressed and there is a good level of grassroots understanding that allows for full and proper consents.

**Attachments 1 and 2** provide examples of some of the tools that have been used to help facilitate engagement and develop the basic capabilities required in Hope Vale. These engagement activities in Hope Vale are ongoing, and despite the successes that are on the horizon, there is much work yet to be done before a cohesive and comprehensive plan, backed with the appropriate consents, exists to enable markets to emerge.

Unless effort is put into supporting First Nations people at the grassroots in the way that has been able to occur at Hope Vale and Mossman Gorge—complex laws, poor land administration, economic disadvantage, and information asymmetry will continue to prevent any satisfactory housing outcomes from being achieved.

**Conclusions**

There are numerous legal, policy and practical steps required to establish an Indigenous-controlled development system that will build human and financial capital, allowing full economic participation for the people of Cape York. Four principles need to underpin housing sector strategies that the people of Cape York implement going forward:

1. **People should enjoy maximum participation in economic life**

   It is no longer acceptable to have low expectations or a passive mentality or outlook. Housing policies need to establish a system that allows full participation in economic activities. This includes all aspects of capital building and asset accumulation as this is the foundational element to overcoming disadvantage. Simplifying the arrangements for dealings on land to be able to occur is a critical element of this approach, as is a trust model that could support wealth generation where a secondary market is limited and emerging.

2. **Expanding the range of choices available**

   Through a lack of capability and passive service delivery, Indigenous people are left with fewer and fewer choices. Having low capability in work, education and health can result in no option other than to remain in community on welfare. A support structure for broad capability building in tenancy and home ownership is required.

   Capability is essential to make the most of the opportunities available. We propose the development of individual capability through supports that do not reinforce passivity. The housing system must tirelessly support the building of individual and family capability for being a responsible tenant or home owner. Passivity is a negative capability which undermines all other attempts at capability building.24

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3. **Every person has the right to take responsibility**

Years of one-sided support has taken away many of our First Nations people’s basic responsibilities and created deeply entrenched passivity. Housing and tenancy reform must embody the principle of the right to take responsibility.

4. **Incentives need to be rational so that good, healthy lives are the logical choice**

If the incentives are right, First Nations people will take steps to improve their lives. Too many programs, including many in the housing sector, offer perverse incentives that encourage people to remain in social housing and in poverty. Careful design of incentives is necessary to nudge people to make positive choices for their families. A Transitional Housing scheme, for example, could overcome the disincentives for moving to regional centres to pursue opportunities for work and education. From a broader perspective, reconciling overlapping rights and interests in land, and the associated organisations holding those rights, is necessary to remove perverse incentives, reduce conflict and facilitate a cohesive approach to development.

Local authority and responsibility are critical parts of determining local development agendas and the central role that land ownership will play in housing and economic development. Meaningful outcomes in the housing sector will only be possible when government is prepared to take its lead from the people it is trying to help. Incremental improvements to a system that has such fundamental structural flaws in its design and operation will result in the status quo being maintained. Reform is needed that turns the operation of the current model form top-down and outside-in, to bottom-up and inside-out. The social housing system needs to be turned on its head through an ongoing program of reform that is able to respond to local context in every community of First Nations people. Accelerating housing reforms in a manner that is consistent with the directions highlighted in this discussion will be possible through the current intensive work occurring, with the support of the Australian Government, to develop the Cape York Agenda 2.0.