

## The Next Level: Township Leases on Aboriginal Land

by Dominic McCormack

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In a previous article entitled, ***“Back to Basics: ‘Development on Aboriginal Land – Can’t be done... or can it?’”***, I addressed one of the commonly-held views in Northern Australia that, given the presence of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) and the lack of development in Aboriginal communities, having secure tenure for business development and producing decent commercial or residential property on Aboriginal land was impossible. In reality, development on Aboriginal land in the Northern Territory is possible and the Land Rights Act is a mechanism for that development, provided agreement is secured from traditional Aboriginal owners while working in conjunction with their representative, the relevant land council for a particular area.

I referred in my article to the specific example of the Wadeye South development – an area of land formerly utilised as a taxiway for Wadeye’s airstrip which was redeveloped some years ago into a residential subdivision. While this was a unique development, it demonstrated clearly that such a process was indeed possible. Of course, development of individual lots for public housing or government / non-government organisation service delivery has been occurring for some time.

In recent times, however, a new level of development utilising the leasing provisions of the Land Rights Act has occurred – **township leasing**.

### Background

For most, the term “township leasing” first came to public attention in 2007 when the-then Indigenous Affairs Minister, Mal Brough, secured agreement from the Mantiyupwi traditional owners of Nguiu (now Wurrumiyanga) on Bathurst Island (represented by the Tiwi Land Council) to grant a 99-year lease from the Tiwi Aboriginal Land Trust to the Executive Director of Township Leasing (EDTL), a Commonwealth government body. This was the first time in the Northern Territory’s history that an agreement had been struck utilising the Land Rights Act to lease an entire township situated on Aboriginal land to the Commonwealth. This process was later replicated in the communities of Milikapiti and Ranku, situated on Melville Island, and also Angurugu, Umbakumba and Milyakburra, located in the Groote Archipelago (although I note that the latter three were for a term of 40 years instead of 99 years).

In the past eighteen months, however, a township lease with a difference has emerged – one where, instead of the long-term lease being held for the full term by the Commonwealth through the EDTL, it is either:

- 1) immediately held by a community-controlled entity; or
- 2) agreed to be transferred from the EDTL to a community-controlled entity.

The community-controlled entity is one that is either fully- or majority-controlled by the traditional Aboriginal owners upon whose land the relevant township is situated. Such lease agreements have now been struck for the townships of Gunyangara (Ski Beach, Arnhem Land – Northern Land Council region), Pirlangimpi (Garden Point, Melville Island – Tiwi Land Council region) and Mutitjulu (Uluru, Central Australia – Central Land Council region).

The major difference with the latter three leases compared to those earlier is that tenure is ultimately held by an entity owned and controlled by the traditional Aboriginal owners (or majority thereof) of the relevant township. This places control, responsibility and authority – for the first time in many decades – back into the hands of the people who own that land. Where the tenure is not immediately held by the traditional owners' entity (as with Mutitjulu and Pirlangimpi), there is an agreed mechanism within the lease so that, when key performance indicators are met by the entity, the EDTL works with the relevant land council to transfer the lease to the entity.

This variation to the township lease model implemented by the Howard government first originated at Wadeye in 2006. The idea was then immediately picked up by the Gumatj clan and driven forward with great insight and patience by that clan's leader, Galarrwuy Yunupingu. A 99-year lease controlled by the Gumatj clan over Gunyangara was initially agreed to by John Howard and Mal Brough before being resisted, then rejected, by the Rudd government. It was later resurrected by then-Prime Minister, Tony Abbott, and his Minister, Nigel Scullion, in a face-to-face discussion with Yunupingu and other Yolngu leaders at Gunyangara in late 2014 where Prime Minister Abbott was convinced that this was the only model that would ultimately work.

### **Gumatj township lease**

For the Gumatj, then, it had been a long journey but this face-to-face discussion led to the signing of their own lease on the 18<sup>th</sup> of November 2017. From here, the decision and conditions about who can sublease the land now belonged to the Gumatj clan.

In an *NT News* article from that day, Chief Executive for the Gumatj, Klaus Helms, stated that, "with the 99-year lease, we know we can get investments involved, if (the traditional owners) want. It is their choice, the community, to do it". Mr Helms also noted that they were dealing with "fairly vast areas, so that you can develop areas outside your community for, say, tourism or...industry...but you have to be very careful. You can't let this get out of hand, you've got to really manage this well".

In an article penned in the same paper by my colleague, Sean Bowden, he noted that "from today onwards, this town will be developed by its traditional owners, the Gumatj clan. Australian and Northern Territory law will apply and town planning rules will be installed. ...external investment will be welcomed, but the town council is a Gumatj town council and the decisions and conditions about who can lease the land belong to the Gumatj clan".

This was an important step for the Gumatj, but it also paved the way for two other traditional owner groups.

### **Anangu and Munupi township leases**

The leases for both Mutitjulu and Pirlangimpi were signed earlier in the same year (16 March 2017 and 26 June 2017, respectively), although their path to the position which the Gumatj occupy will be different with transfers from the EDTL required to take place.

In December 2016, an agreement being reached as to lease terms, Sammy Wilson of the Mutitjulu community near Uluru stated in an interview with the ABC that the new lease, "allows us to live properly within the park and to be able to look after our community really properly and to do things to really improve it. I'm really happy... . We want to live on the land. ... We're going to start a corporation which will hold the [lease] and from that be able to make decisions, rather than the Government holding the [lease]".

Similarly, Munupi leader, Pirrawayingi Purantatameri, on 26 June 2017 noted that the transfer from the EDTL would only happen when the community corporation could show it was ready to take over: "It is our aim to, as quickly as possible, develop and build the required confidence in our own township lease corporation so that transfer of the lease from the EDTL to community control can occur sooner rather than later".

## **A future of township leasing**

This is a path which is able to be taken by many other clan groups that have communities and townships upon their clan country throughout the Northern Territory. While negotiations can be difficult and the process at times challenging, other clans that wish to take this step should be fortified in the knowledge that each of the Northern Territory's four land councils, the Commonwealth Government and the Northern Territory Government understands and backs this process. Just as any private landholder is able to do throughout Australia, they have the opportunity to make direct decisions and impose conditions in relation to who can sublease their land, while acting as property developers in their own right.

Done correctly, there is the opportunity for secure tenure for business development and provision of Government services, the creation of employment and training opportunities, and, importantly, with authority over land returned to the leadership of the clan, a sense of belonging and ownership which has been absent for generations.

In an environment, then, where authority is restored to those who should hold it, direction is appropriately given and life becomes about order, structure, dignity and opportunity for growth in peoples' lives (which can be achieved through business and employment opportunities), and as Barack Obama noted in his book, "*The Audacity of Hope*" (p. 256-9), "over the course of ten or fifteen years norms would begin to change, young men and women would begin to imagine a future for themselves...and children would have a more stable world in which to grow up. ...It's hard to quantify the benefits of such changes – precisely because the benefits would be immeasurable".

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