

Executive summary



This is my third Native Title Report as the Aboriginal and Torres Strait Islander Social Justice Commissioner. This year I continue the theme from my previous Reports by focusing on land tenure and economic reform on Indigenous communal lands.¹

This Report analyses the implementation of the Australian Government's economic reforms by assessing their appropriateness to the geographic and human contexts of remote Indigenous Australia. Chapter 1 contains findings from a survey I conducted in 2006 to determine the aspirations and priorities of traditional owners for their land. Chapter 2 provides information about the location, the provisions and the caveats over Indigenous communal land. Chapter 2 also contains an assessment of the land leasing provisions in the amended *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (ALRA), and analysis of the Australian Government's Indigenous home ownership and enterprise development policies. Chapters 3 to 7 contain five case studies that document a range of Australian agreements and enterprises designed to stimulate economic development on Indigenous land.

There is no doubt that sustainable economic development is essential for the well-being of remote Indigenous communities, now and into the future. This is not just my view, it is the view of the majority of Indigenous people who responded to my national survey in 2006.² It is also the view of the Australian Government whose ambitious economic reform agenda during 2005 and 2006 is designed to stimulate economic activity on Indigenous owned land. In fact, there is widespread agreement that action is required to assist the many remote, Indigenous families who languish in overcrowded accommodation, welfare dependency and poverty.

Arguably, over the past 30 years, Indigenous Australians on communal land have lived under a form of economic protectionism. Protectionism in first world economies is primarily about protecting politically important domestic industries, or vulnerable sub economies such as those of minority groups and Indigenous peoples. Until now, the permit system (in the Northern Territory), and communal land rights in remote Australia have protected Indigenous economies from competition with the broader Australian economy. Government subsidies in the

1 Note: Indigenous communal land is not owned by individuals. Communal land titles are held by Indigenous land trusts or corporate bodies for the benefit of the traditional owners and people with traditional interests in the land. Under most land rights legislations, decisions over the use of communal land must have the consent of the traditional owners as a group, and the ratification of the relevant representative body. Most communal land in Australia is inalienable, meaning that it cannot be sold.

2 Note: The majority of traditional owner respondents to the 2006 HREOC survey agreed that economic development is important for their land. However, when asked to rank the most important uses for land, traditional owners supported 'custodial responsibilities' and 'access to land' before economic development.



form of housing services and welfare payments have largely supported remote Indigenous communities.

During 2005 and 2006 the Australian Government made policy and legislative changes to reform this protectionist economic model. The Government reforms are aimed to encourage the development of remote market economies by removing the barriers that prevent non-Indigenous economic interests from obtaining a long-term foothold in remote communities.

During 2006, the Government enacted legislative amendments to the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (ALRA) to make 99 year lease tenures possible over Indigenous townships on communal land. The lease provisions are not unlike those over the city of Canberra. The government maintains a 99 year headlease over the township area, and then subleases individual land lots to residents and businesses for a 99 year period. After 99 years the leases can be renewed.

While subleasing has always been possible on Indigenous lands, the new leases will differ from the old in that they are managed by government rather than traditional owners. The Government's rationale for taking control of lease arrangements is to give certainty of tenure to non-Indigenous investors, businesses and residents. These groups are more likely to invest under a government administered lease regime than under a lease regime with traditional owners through their Land Councils.

Indigenous communities will not be compulsorily required to agree to headleases. However, the Government is encouraging agreements by negotiating annual rental payments with families who have the traditional rights to the townships. Additional housing and infrastructure is also being offered to communities that sign to headleases. This is a considerable incentive given that many remote Indigenous communities are chronically short of housing accommodation and overcrowding is causing health and social problems. Once signed, government entities will take administrative control over Indigenous townships and issue 99 year subleases to residents and businesses. Traditional owners can negotiate conditions on a headlease but they will not be able to decide who moves onto their land, nor will they have control over residential, business and infrastructure development under the sub leases.

The Government strategy for remote Indigenous land also includes the reduction of services to smaller, 'unviable' communities. Both the incumbent Minister for Indigenous Affairs and his predecessor have argued that Indigenous people in small, remote communities cannot expect to receive government services and they should become part of the wider Australian economy. As Minister Vanstone argued, the Government is no longer willing to support these so-called 'cultural museums'.³ While Minister Vanstone referred to communities of less than 100 people as lacking critical mass, there is no policy to date about the size of communities that will be considered unviable. Should homeland communities and outstations be denied government services, Indigenous people will be forced out of these communities and into larger township areas.

3 Vanstone A, (Former Minister for Immigration, Multicultural and Indigenous Affairs), *Indigenous communities becoming 'cultural museums'*, ABC Radio, AM Program interview, 9 December 2005, available online at: <http://www.abc.net.au/am/content/2005/s1527233.htm>, accessed 15 March 2007.



In order to stimulate economic growth, the Australian Government, Indigenous Business Australia and the Indigenous Land Corporation have provided some levers to assist remote Indigenous Australians to develop enterprises and to enter the housing market. A number of enterprise development programs are available to Indigenous individuals and entities that are in a position to apply for loans, funds and support. The assistance operates on a self access model. Applicants require English literacy competency, business knowledge and management or governance capacity to be able to apply.

In order to stimulate home ownership, the Australian Government is also building low cost houses in remote communities with 99 year headleases. Home ownership programs are targeted to Indigenous Australians with incomes at a level that can support low interest loans.

According to the Australian Government, the policy and legislative levers are designed to stimulate the dynamic forces of economic and social competition and lift remote Indigenous communities out of their social and economic malaise. By directing incentives to market participation, and by limiting access to subsidised resources, the Government aims to encourage remote Indigenous Australians into employment, home ownership, asset accumulation and higher levels of participation in economic activity. The Government describes these policy reforms as 'normalising' Indigenous communities.

Overall, while I commend the Australian Government for its intensive effort to improve outcomes for remote Indigenous communities, my research demonstrates that the current reform agenda will not provide benefit to the vast majority of remote Indigenous Australians. In fact it has potential to do great harm. My reasoning is as follows:

- Increasing contact between Indigenous and non-Indigenous people is not a strategy in itself to stimulate Indigenous economies. Despite access to employment and all of the benefits of a 'normal' economy in towns like Alice Springs, Moree, Broome, Port Augusta and many of the other large townships across Australia, social and economic dysfunction continues. For remote Indigenous people, relocation to town camps on the fringes of townships increases, rather than alleviates alienation and dysfunction.
- Basic economic modeling demonstrates that the Australian Government's expanded home ownership scheme will be out of reach of the majority of remote Indigenous households. While the scheme may advantage some Indigenous families, the policy will only be effective for families already able to access current programs such as the Indigenous Business Australia home loan assistance scheme. There is no clearly articulated public housing policy for families who are unable or unwilling to purchase a home.
- The home ownership scheme will transfer the considerable costs of remote housing maintenance to Indigenous people on low incomes. 'Cost effectiveness' is the most important design parameter for houses to be built for home ownership in remote communities. Given that structural problems and climatic conditions are proven causes of the majority of maintenance requirements in remote Australia, low cost



housing is likely to exacerbate these problems. Low cost housing is also likely to be more expensive to heat and cool in some of the harshest environments in Australia. In this context, home ownership is likely to put considerable economic strain on low income households.

- International experiences demonstrate that individualising Indigenous communal tenures such as those proposed through the 99 year headleases leads to the loss of Indigenous owned land. The economic benefits are marginal and short-term, and do not compensate in the long term for loss of traditional lands.
- Most Indigenous land tenures are located in very remote desert country, distant from markets and infrastructure to support enterprise development. The current Australian Government policy will not have any impact on these communities.
- Many remote communities currently lack the governance, capacity and skill to access Australian Government enterprise development incentives. In order to be able to apply for funds, applicants must have competent English literacy and financial literacy skills, and be able to develop business plans and grant applications. Many communities require targeted intervention to get to a point of gaining any benefit from policies under the Government's self-access model.
- Under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth), (the ALRA), the authorization provisions for 99 year headleases agreements are not adequate to ensure that traditional land owners are giving their free, prior and informed consent. The ALRA does not specify that traditional owner's document and authorise their traditional or agreed decision making processes *prior* to engaging in negotiations for 99 year headleases. Given that 99 year leases have a financial component through annual rental payments, there is potential for more powerful people to coerce others in the interests of monetary gain, disregarding other cultural and social considerations.
- In the majority of remote communities, Indigenous people are not likely to be competitive in an open employment market. Australian Bureau of Statistics data demonstrates that private enterprise is not a reliable employer of Indigenous people. In remote contexts, private enterprise will be under no obligation to employ Indigenous people, the majority of whom have limited skills and education. Given that secondary education is only now being rolled out in remote Australia, Indigenous people are disadvantaged in competition for employment.

The Government's economic strategy for remote areas will only be successful in a minority of Indigenous communities with good governance systems and personnel capable of accessing government subsidies and grants. Communities that are well resourced and well organised may be able to leverage additional benefits for Indigenous residents. Coastal communities on fertile land may also be attractive to investors and attract external business interests under the Government's reforms. Clearly, the benefits of the Government's strategy are directed primarily to individuals and communities that are already advantaged or to non Indigenous



businesses and investors who want to access Indigenous lands for economic gains.

It is likely that communities on marginal land with no history of enterprise development will continue to find themselves economically isolated. In its current form, the Australian Government's economic reform agenda is not targeted to the remote Indigenous communities most in need, where there is compound disadvantage including:

- poor governance or a lack of governing bodies;
- low levels of English literacy;
- reduced access to education and training relevant to support employment;
- marginal land that has not provided income to date and is unlikely to do so in the future; and
- poor community infrastructure.

This Report contains 14 recommendations and five case studies. The case studies document Indigenous agreements and enterprises that support community development as well as economic development on communal lands. Each case study was selected because it describes a participatory model of Indigenous enterprise and economic development.

While the Australian Government's approach is cumulatively distancing Indigenous people from participation, management and governance of our affairs, there are some good practices across Australia that support Indigenous controlled processes for economic development. The case study at Chapter 7, for example, demonstrates an approach to economic development that has some parallels with the Australian Government policy, and some contrasts. Chapter 7 documents the efforts of Yarrabah community to establish a 99 year lease scheme over the township and stimulate home ownership, local employment, and enterprise development, while emphasising Indigenous management and autonomy in all aspects of the project. While the Government model divests administration of 99 year leases to a government entity, the Yarrabah model emphasises local management and control through the Aboriginal Shire Council. The entire Yarrabah community is invited to participate in discussion and decisions about land tenure resolution and economic development, now and into the future.

I am in support of economic development on communal lands. Moreover, I support home ownership and enterprise development for Indigenous Australians who are in a position to achieve these goals. My concerns are not with the intention of the Australian Government policy. My concerns are with diminution of Indigenous autonomy and active participation in achieving these objectives.

The case studies in this Report are a small sample of some of the good practices across Australia that maintain Indigenous control of the policies and processes that affect us. They demonstrate that it is possible and desirable to involve Indigenous people at all levels of policy development and implementation and agreement-making. Furthermore, they demonstrate that the best outcomes for Indigenous people are achieved when policy and agreements are informed by principles and practices that support Indigenous self determination.



The preservation of Indigenous rights to land and an emphasis on Indigenous participation in policy development should be the central points of all future government activity to support economic development on Indigenous land.

Report methodology

Research for this Report included a literature review of relevant publications and policy documents. Interviews of relevant stakeholders added to my research as did information sourced from media reports and government websites. Two surveys conducted by my Office in 2006 provide the primary data to support the findings of the Report. They were the *National Survey on Land, Sea and Economic Development* and the *Survey of Australian Government Departments and Statutory Authorities*.

National survey of traditional owners 2006: *National Survey on Land, Sea and Economic Development*

In May 2006, HREOC conducted a national survey of traditional owners and their representatives designed to elicit information about their experiences and views regarding economic development on their land.

The survey consisted of 19 questions, with a combination of standard quantifiable response questions and open questions aimed at eliciting contextual and qualitative information. All questions gave respondents the opportunity to add their own comments. The survey was designed to identify the following:

- priorities and aspirations for traditional lands;
- capacity to understand and engage in land agreement negotiations;
- barriers to effective participation in land agreement negotiations;
- access to funding and resources; and
- capacity to leverage opportunities on land from other agreements including Shared Responsibility Agreements (SRAs).

Surveys were sent to entities with responsibility to hold, manage and progress land agreements under Indigenous title. These entities included Native Title Representative Bodies and Native Title Services, Land Councils, Community Councils, Shire Councils, Prescribed Bodies Corporate and Indigenous Corporations. Each entity was asked to seek the views of traditional owners represented by their organisation by (a) encouraging individual traditional owners to fill out surveys, and (b) by seeking the endorsement of traditional owners before submitting a response. HREOC received 54 survey responses in total. The survey findings are represented in detail in Chapter 1 of this Report.

Survey of Australian Government Departments and Statutory Authorities

In October 2006, HREOC conducted a survey of Australian Government departments and national, statutory authorities with responsibility to administer programs relevant to economic development on Indigenous lands. Seven Australian



Government departments and two statutory authorities provided information. They were:

- Department of Employment and Workplace Relations;
- Department of Families, Community Services and Indigenous Affairs;
- Department of the Environment and Heritage;
- Department of Agriculture, Fisheries and Forestry;
- Department of Transport and Regional Services;
- Department of Industry, Tourism and Resources;
- Department of Communication, Information Technology and the Arts;
- Indigenous Business Australia; and
- Indigenous Land Corporation.

The survey was conducted by way of a letter which contained ten questions. The questions asked whether:

- programs were designed to implement a particular government policy;
- the department is collaborating with other departments;
- management/monitoring/evaluation systems assess the achievement of program outcomes;
- Indigenous advisory or management committees inform program development;
- the department employs strategies to disseminate program information to Indigenous communities;
- data is available regarding successful and unsuccessful applicants;
- common reasons for unsuccessful funding applications; and
- information about how the program fits into the whole of government strategy to overcome Indigenous disadvantage.

Findings

Findings Chapter 1

- 1.1 The most important land priority for traditional owners is custodial responsibilities and capacity to either live on, or access the land.
- 1.2 Economic development is welcomed by traditional owners, though many lack capacity to develop ideas into enterprise.
- 1.3 There is no consistent and reliable research that identifies the needs and aspirations of traditional owners by location.
- 1.4 A majority of traditional owners do not have a good understanding of the agreements on land.



- 1.5 Entities with responsibility or potential to progress economic development are not funded to do so and have numerous statutory obligations that consume existing time and resources.
- 1.6 Less than 50 percent of the Native Title Representative Body survey respondents claimed to be accessing funds specifically targeted to economic development on land.

Findings Chapter 2

- 2.1 The Australian Government has begun a process of implementing reforms to Indigenous communal lands that have the potential to radically change the nature of Indigenous communities on these lands.
- 2.2 The Australian Government's economic reform agenda on Indigenous land will be evaluated by successive COAG reports.
- 2.3 The marginal nature of the majority of Indigenous land and the legislative restrictions on the resources and the rights of Indigenous tenures, severely limit capacity for economic development.
- 2.4 The majority of Indigenous communities are located in desert areas where there is limited or no development potential. A minority of Indigenous communities are located in resource-rich areas with well-developed governance structures, experience in negotiating agreements, and capacity to leverage economic opportunities. This means that Indigenous communities have vastly different contexts and capacities and therefore require different forms of support.
- 2.5 The Australian Government has rejected proposals by Indigenous communities who have put up alternative models to the Government's 99 year head-lease model.
- 2.6 International evidence demonstrates that **individualising lease tenures** on communal lands such as those proposed under section 19 of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) [99 year headleases] leads to a loss of communal lands, and few, if any, economic benefits.
- 2.7 The Australian Government has signaled an intention to reduce services to homeland communities.
- 2.8 The home ownership scheme administered by Indigenous Business Australia and central to the Australian Government's economic development strategy is outside the financial reach of the majority of remote Indigenous households.
- 2.9 The Australian Government has emphasised 'cost effectiveness' as the most important criteria for the provision of homes for purchase under the home ownership scheme.
- 2.10 Indigenous houses in remote locations have high maintenance requirements due to construction problems, poor choice of building materials and extreme weather conditions.
- 2.11 Australian housing markets are escalating and investors are increasingly looking to remote markets for capital growth.



- 2.12 The private sector is not a reliable, proven employer of Indigenous Australians.
- 2.13 There are a wide range of economic development programs that are targeted to Indigenous people, but there is differential capacity for Indigenous Australians to obtain any benefit from a self access model.
- 2.14 The capacity of Indigenous people to leverage opportunities from ILUA and SRA agreements is largely dependent on the existence of strong local governance and entities with capacity to progress economic outcomes.

Recommendations

The following recommendations address the concerns raised in this Report. Each recommendation is referenced to relevant international human rights law. Appendix 3 contains full text of the human rights articles cited here.

Recommendations: Chapter 1	Applicable international human rights law
<p>1.1 That the Australian Government identify the enterprise aspirations of traditional owners and other Indigenous people and assess their capacity to engage in economic development by:</p> <ul style="list-style-type: none"> • consulting with communities on a regional basis; • auditing existing resources within regions; • auditing community access to government resources; and • strategically targeting resources to communities according to their relative disadvantage. 	<p><i>International Covenant on Civil and Political Rights (ICCPR) and the International Convention on Economic, Social and Cultural Rights (ICESCR): Article 1(1) and (2)</i> ICCPR: Article 27</p> <p><i>International Covenant on the Elimination of Racial Discrimination (ICERD):</i> Article 2(2)</p> <p><i>International Declaration on the Right to Development (DRD): Articles 1(1),(2), 3(1) and 8(2)</i></p> <p><i>United Nations Declaration on the Rights of Indigenous Peoples (DRIP): Article 18, 19, 32(1) and (2)</i></p> <p><i>International Labour Organisation Convention No. 169 (ILO No. 169): Articles 6(1)(b) and 7(3)</i></p>



<p>1.2 That the Australian Government develop a communication strategy to inform all Indigenous Australians, including those who are remotely located, of economic development policy, programs, initiatives and potential sources of funding.</p>	<p>ICCPR and ICESCR: Article 1(1) and (2) ICESCR: Article 11(1), with reference to General Comment No. 4: <i>The right to adequate housing</i>, para. 9 ICERD: Article 2(1) DRD: Articles 1(3), 3(1) and 8(2) DRIP Articles 19, 32(2) ILO No. 169: Article 6(1)(a)</p>
<p>1.3 In consultation with the states and territories, that the Australian Government develop a mechanism to coordinate the reporting obligations of Indigenous corporations and community councils.</p>	<p>DRD: Article 2(3) ILO. No. 169 Article 6(1)(a)</p>

<p>Recommendations Chapter 2</p>	<p>Applicable international human rights law</p>
<p>2.1 That the Australian Government support a range of land leasing options on communal land including options where leases are held by traditional owners through their elected entities for varying periods of time. That the <i>Community Homes</i> program be extended to communities with alternative lease schemes where the lease period is commensurate with the maximum loan repayment period.</p>	<p>ICCPR and ICESCR: Article 1(2) ICCPR: Article 12(1) ICESCR: 11(1), also General Comment No. 4 para. 8(a), (c), (d), (f) and (g) DRIP: Articles 19, 26(1), (2) and (3) and 32(2) ILO No. 69: Article 6(1)</p>



<p>2.2 That all land leasing options on communal land be rigorously and progressively monitored and evaluated and that evaluative research be utilised to inform existing and future lease options.</p>	<p>DRD: Article 4(1) DRIP: Article 39 ILO No. 169: Article 7(3)</p>
<p>2.3 That the Australian Government provide evidence of models (domestically and internationally) where individual tenure rights have led to improved economic outcomes for indigenous peoples living on communal lands.</p>	<p>ICESCR: Article 11(1) with reference to General Comment No. 4: <i>The right to adequate housing</i> para. 9 ILO No. 169: Articles 7(3) DRIP: Articles 23, 27 and 39</p>
<p>2.4 Governments legislate to ensure that consent and authorisation processes for 99 year leases are consistent with those required by sections 203BE(5) and 251(A) of the <i>Native Title Act 1993</i> for authorising Indigenous Land Use Agreements (ILUAs).</p>	<p>ICCPR and ICESCR: Articles 1(1) and 1(2) ICCPR: Article 2(3)(a- c) ICERD: Article 5(c) DRIP: 18, 19, 20(1) and (2) ILO No. 169: Article 8(1)</p>
<p>2.5 That the Australian Government remove section 64(4A) from the <i>Aboriginal Land Rights (Northern Territory) Act 1976</i> (Cth).</p>	<p>ICCPR and ICESCR: Articles 1(1) and (2) ICCPR: Article 2(1) and (2) ICERD: Article 5(c) DRIP: Articles 4, 18, 20(1) and (2), 26(1),(2) and (3) and 28(1) and (2)</p>
<p>2.6 That governments ensure employment contingencies for remote Indigenous employees who are unemployed as a result of a transition from community administration to a shire council model.</p>	<p>ICESCR: Article 6(1) and (2), Article 7(a)(i) with reference to General Comment No. 13: <i>The right to education</i> para. 11 and 12 ILO No. 169: Article 2(2)(c), Article 4(1)</p>



<p>2.7 In recognition of the continuing disadvantage of remote Indigenous Australians, that governments commit to providing subsidised, quality community housing and public housing according to need, and that no funds from rental housing schemes be redistributed to home ownership schemes.</p>	<p>ICCPR: Article 12(1), Article 27 ICESCR: Articles 11(1) with reference to General Comment No. 4: <i>The right to adequate housing</i>, para. 1, 2, 7, 8(b-g) and 9; and Article 15(1)(a) with reference to General Comment No. 14: <i>The right to the highest attainable standard of health</i>, para. 1-3 and 11 DRD: Article 4(1) DRIP: Article 21(1) and (2)</p>
<p>2.8 That houses constructed under the home ownership scheme be of the highest quality and that regulations be developed to indemnify home owners for agreed periods against structural flaws in the house and the associated infrastructure.</p>	<p>ICESCR: Article 12(1), (2)(b) and (c) with reference to General Comment No. 14: <i>The right to the highest attainable standard of health</i>, para. 3,4 and 9 DRD: Article 8(1) DRIP: Article 21</p>
<p>2.9 That the Australian Government develop a planned, supervised and strategic approach to train CDEP employees working on the house building and maintenance programs by ensuring the highest industry construction standards. That the Government maintain national data on the program. That CDEP employees be provided with award wage employment once they have completed the training.</p>	<p>ICESCR: Articles 6(1) and (2), 7(a), (b) and (c), Article 13(1) and (2) with reference to General Comment No. 13: <i>The right to education</i>, para. 11-14 ICERD: Article 5(e)(i), (iii), (iv) and (v) DRIP: Articles 17(3), 21(1) and (2) and 23 ILO No. 169: Article 24</p>



<p>2.10 That the Australian Government direct ICCs to work with Indigenous land entities (including representative bodies) to strategically link Shared Responsibility Agreements to land agreements in ways that will increase economic development projects and opportunities.</p>	<p>ICESCR: Article 6(1) and (2) ICERD: Article 5(e)(i) and (v) DRD: Article 8(1), (2) DRIP: Articles 19, 23, 32(1) and (2) and 39 ILO No. 169: Article 6(1)(a),(b)</p>
<p>2.11 That governments provide bilateral support to fund and develop regional Indigenous governance structures that are attached to entities capable of the following:</p> <ul style="list-style-type: none"> • developing and sustaining an economic development strategy for the region; • applying for funds from governments and other sources; and • coordinating appropriate training and development to support regional economic development. 	<p>ICESCR: Article 6(1) and (2), Article 13(2)(b) and (d) with reference to General Comment No. 13: <i>The right to education</i>, para. 11-14 ICERD: Articles 5(e)(i), (iv- v) DRD: Article 8(1),(2) DRIP: Article 4 ILO No. 169: Article 2(2)(b)</p>

Note: Appendix 3 of this Report contains full text of the relevant international law provisions.

Native Title Report 2006 overview

Chapter 1

The first chapter contains the findings of a nation-wide survey of Indigenous land owners that was conducted by the Human Rights and Equal Opportunity Commission in 2006. The survey data represents the views of Indigenous land owners about the following:

- aspirations for communal lands;
- understanding of government economic policy;
- capacity to participate in land agreements; and
- capacity to initiate economic development activity on land.

The survey findings are summarised in quantitative data charts, explanatory text and direct quotations.



Chapter 2

The second chapter analyses the Australian Government's actions to implement free market reforms on remote, Indigenous communal lands. The reforms were primarily implemented in the Northern Territory where the Australian Government intends to create a model that can be replicated in other jurisdictions. Chapter 2 covers the following:

- individualising title on Indigenous communal lands through 99 year headleases;
- liberalising public access to Indigenous land through the modification of the permit system;
- home ownership on Indigenous lands;
- centralising government services in large Indigenous townships;
- developing regional shire councils to replace Indigenous community councils
- employment and CDEP reforms; and
- access to capital for Indigenous economic and enterprise development.

Case Studies, Chapters 3 to 7

Chapters 3 to 7 contain five Australian case studies. While each case study documents a very different agreement or enterprise on Indigenous land, they all have economic development in common.

Chapter 3

The Memorandum of Understanding (MoU) between the Australian Government and the Minerals Council of Australia demonstrates a collaborative arrangement between industry and government aimed at improving the life opportunities for Indigenous people. One MoU trial site is profiled in this case study; the East Kimberley Regional Partnership Agreement (the RPA). This case study outlines the ambit of the MoU project and documents the successes and the challenges of the process.

Chapter 4

In order to streamline Indigenous Land Use Agreements (ILUAs), the South Australian Government has implemented a State-wide framework for negotiations. The State-wide approach employs a strategic use of resources that have established State-wide negotiation forums as well as State-wide ILUA templates. The templates contain agreed standards and provisions across areas including pastoral, minerals exploration, petroleum conjunctive agreements, fishing and aquaculture, local government and outback area ILUAs. The templates are designed as useful practical guides to the parties in their attempts to efficiently and cooperatively resolve native title.



Chapter 5

The Argyle Participation Agreement is a high water mark example of a negotiation process for an Indigenous Land Use Agreement (ILUA). The case study demonstrates the ways in which the Argyle ILUA was tailored to meet the needs and aspirations of the traditional owners and the industry parties. The range of relevant, social and economic development opportunities provided by the Argyle Agreement demonstrates the potential for ILUAs to provide good outcomes where there is genuine participation and representation of Indigenous people throughout the negotiations.

Chapter 6

Ngarda Civil and Mining Pty Ltd is an Indigenous owned and managed company that employs an Indigenous workforce to provide contract services to the mining industry in the Pilbara. By employing an Indigenous workforce, the company meets its own objectives while also assisting mining companies to meet their native title Indigenous employment quotas. Ngarda Civil and Mining Pty Ltd profiles innovative practices in recruiting, training and employing Indigenous people in mining and associated industries.

Chapter 7

The Yarrabah community housing project has some distinct parallels with the Australian Government's initiative to individualise tenures on Indigenous communal lands and encourage home ownership. However, while there are similarities in the intention of the Government and Yarrabah initiatives, there are also marked differences in management and governance structures. This case study provides an alternative to the Australian Government model, demonstrating an example of a community determined to locally manage the development of the township while stimulating local economic growth.

