

Living on the edge

Northern Territory Town Camps review

Department of Housing and Community Development
May 2017

Do we want to create
a better welfare
system or make a real
difference?

Investing in people to
enable long-term
economic participation
will resolve the
current challenges
over time.

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General Use Restriction

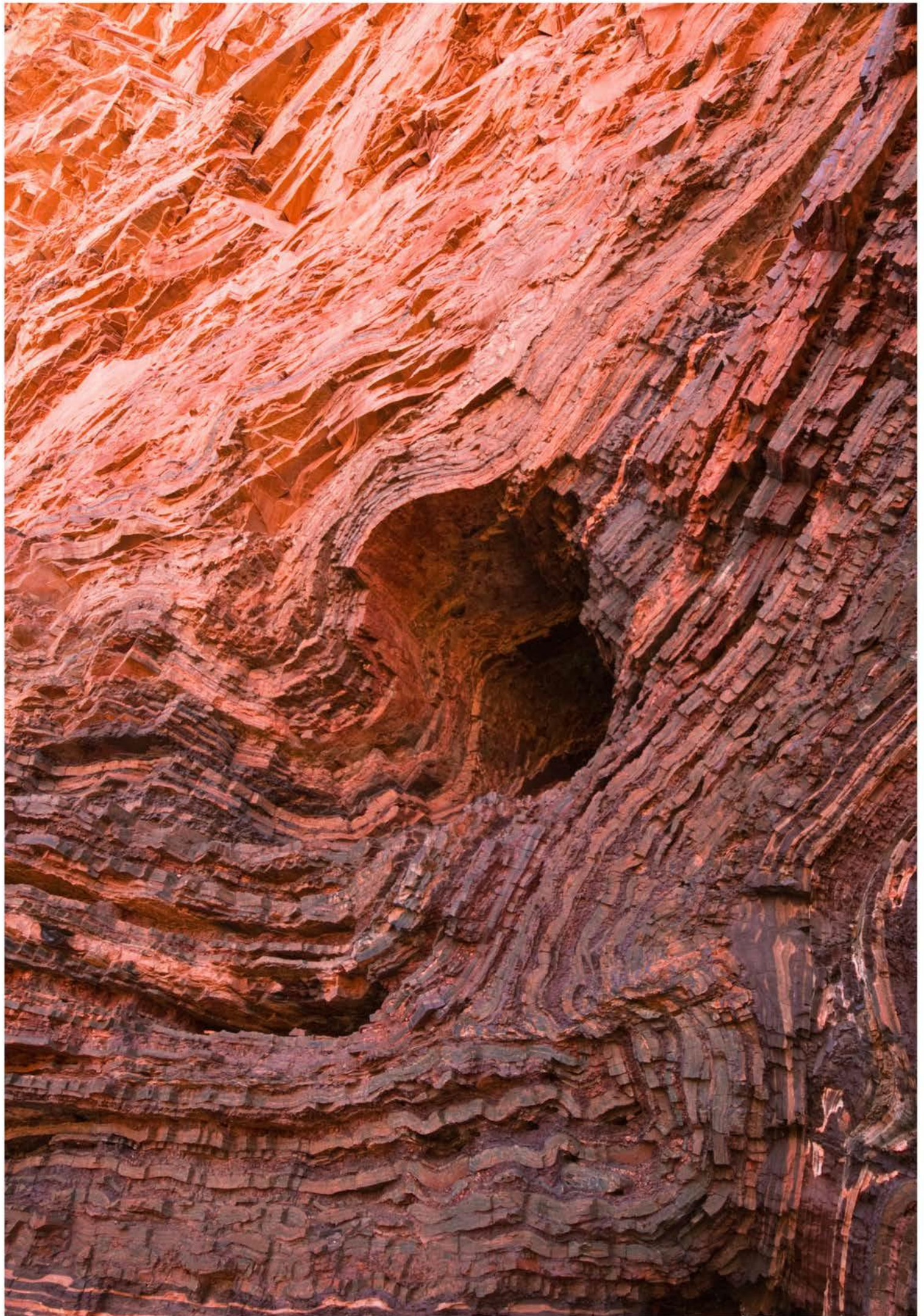
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The story in a nutshell

Background

In February 2016, a Parliamentary Inquiry into housing in Aboriginal Town Camps was established by the Northern Territory Government. The Inquiry examined the two housing models currently operated by the Northern Territory Government. These models, broadly referred to as the “Public Housing model” and the “Community Housing model”, were at the time of the Inquiry, managed by the Department of Housing and the Department of Local Government and Community Services.

The Inquiry found that the various Governments over the years had failed to provide an efficient and effective Public Housing service to Aboriginal people living in Town Camp communities. The committee noted the complexity of delivering services into these living spaces, and made a number of recommendations. The Government, recognising the importance of resolving this complex problem, instituted a major review of all 43 Town Camp communities in the Northern Territory. The Review was tasked with examining and reporting back to Government in the following areas:

- legislation and governance arrangements;
- leasing and tenure arrangements;
- housing quality, management and ownership;
- municipal and essential infrastructure;
- service delivery arrangements;
- community aspirations; and
- potential economic development opportunities.

A multi-disciplinary team led by Deloitte and Cross Cultural Consultants were the successful tenderers based on a proposal that actively involved Aboriginal people, either from within the Town Camp communities, or having significant relations in the communities, as the front line in the community consultation and review process. These staff were identified as Aboriginal Community Engagement Specialists (ACES) and conducted the community engagement in first language.

The Deloitte team was comprised of a range of sub-contractors with specialist skills. All team members who visited the communities underwent “pre-departure” and “in-country” cultural training to ensure they were “bush ready” prior to project commencement. In addition, all team members were accompanied by first language speakers throughout their field work in Town Camp communities.

Why is this important

The Territory Reality

The Northern Territory is a unique jurisdiction. Not only do we have untapped resources, both natural and human, but these resources rest either on Aboriginal land or with Aboriginal people. Aboriginal people, as an outcome of the Aboriginal Land Rights (Northern Territory) Act 1976 hold inalienable freehold title to approximately 50% of the Northern Territory land mass.¹ This includes the intertidal zone as a result of the “Blue Mud Bay decision” in July 2008. Further Federal and High Court decisions have confirmed the continued existence of Native Title rights over a large proportion of the remaining areas of land in the Northern Territory.

A report by the Australian Institute of Health and Welfare, *Housing assistance for Indigenous Australians 2014*, found that Aboriginal people have relatively lower incomes, higher rates of unemployment and lower levels of financial literacy compared to other Australians. For the Northern Territory to prosper and grow we are charged with engaging Aboriginal people in all aspects of our life; social, cultural, and economic.

Aboriginal people have always been central to the economic well-being of the Northern Territory. In the frontier days they were the only labour source and made a significant contribution to the economic growth of the Northern Territory. However, the value for the Territory was not always passed on to Aboriginal people who did not always work out of choice or for adequate compensation. Nevertheless Aboriginal people worked in mines, on fishing boats, on cattle stations, in farming, and in many other seasonal, labour intensive industries, while they continued to maintain cultural and ceremonial lives. For the most part they were ignored by the rest of Australia and they were just a given part of Territory life.

The growing awareness concerning Aboriginal people as the First Peoples of Australia in the 1960s saw a Government, and a nation, that was forced to recognise the dispossession of these First Australians and set in place well-intentioned programs to fast track the Aboriginal population into mainstream life. Many of these programs did not achieve the desired outcomes for a variety of reasons. Some writers believe these programs failed because they were based on false assumptions. The first of these was that Aboriginal people were just like other Australians, they just needed to learn what other Australians already knew; the second was that Aboriginal people would be better off if they became like the rest of Australia; and thirdly, that Aboriginal people would want to be like the majority Anglo-Celtic population.

We, the Northern Territory, more than any other jurisdiction, need to realise the importance of Aboriginal people not only for our lives but for the lives we create for our children and grandchildren. According to the 2011 census performed by the Australian Bureau of Statistics, Aboriginal and Torres Strait Islander (ATSI) Australians comprised 30% of the Northern Territory population, the highest proportion of any state or territory.² Population projections estimate that there will be 86,773 Indigenous people in the Northern Territory by 2026;³ an increase

¹ <http://www.nlc.org.au/articles/info/what-does-the-northern-land-council-do/>

² <http://www.abs.gov.au/ausstats/abs@.nsf/mf/3238.0.55.001>

³ <http://www.treasury.nt.gov.au/Economy/populationprojections/Pages/default.aspx>

of 26% from the 2011 census figures. Though Aboriginal people predominantly live outside the major urban areas, Darwin (9%⁴), Alice Springs (19%⁵) and Katherine (28%⁶) have a significant proportion of their population who identified as Aboriginal in the 2011 census. In the Northern Territory, nearly 44% of school student enrolments were Indigenous in Term 3, 2016.⁷ This leaves us with some unique challenges, but also unique opportunities.

Aboriginal people are not an ongoing problem to be resolved, they are part of the solution. They are currently one of the foundation stones of the economy, but it is an economy in which they have little power, except as consumers. Opportunity is denied them through their lack of access to resources and lack of power over many aspects of their own lives. History has shown, across cultures, and across communities, that welfare dependence does not, as a general rule, create vibrant, happy, well-balanced people. Non-participation in most aspects of life leads to a sense of helplessness and often depression. Substances become the crutch, the daily opiate to get people through the day, and certainly in this review we found too many Aboriginal people who fitted into this category.

Upliftingly, not all the people we spoke to felt this way and there was a strong desire from individuals and organisations to change the interaction between the Government and the Aboriginal population of the Northern Territory.

⁴ http://stat.abs.gov.au/itt/r.jsp?RegionSummary®ion=701&dataset=ABS_REGIONAL_ASGS&geoconcept=REGION&datasetASGS=ABS_REGIONAL_ASGS&datasetLGA=ABS_REGIONAL_LGA®ionLGA=REGION®ionASGS=REGION

⁵ <https://www.cdu.edu.au/sites/default/files/research-brief-2013-1.pdf>

⁶ <https://www.cdu.edu.au/sites/default/files/research-brief-2014-2.pdf>

⁷ <https://education.nt.gov.au/education/statistics-research-and-strategies/enrolment-and-attendance>

Our approach

The unique and comprehensive nature of this project necessitated the coming together of a wide range of parties in order to deliver on the key objectives of the review. This included 5 locally based organisations working together with all levels of Government, Indigenous organisations, service providers and the Town Camp residents themselves.

Each of the professional organisations listed were below comprised of Northern Territory residents who were personally invested in the success of this project.

The project team consisted of:

Organisation	Responsibility
Aurecon	Municipal and essential infrastructure
Bennett Design	Housing
Squire Patton Boggs	Land Tenure, Leasing and Legislation
Deloitte	Economic Development and Governance
Cross Cultural Consultants	Community Engagement

The project followed a place based approach to Indigenous community engagement in 43 unique Town Camps across the Territory. This necessitated Community Engagement to gather information specific to each organisation’s area of responsibility in each Town Camp.

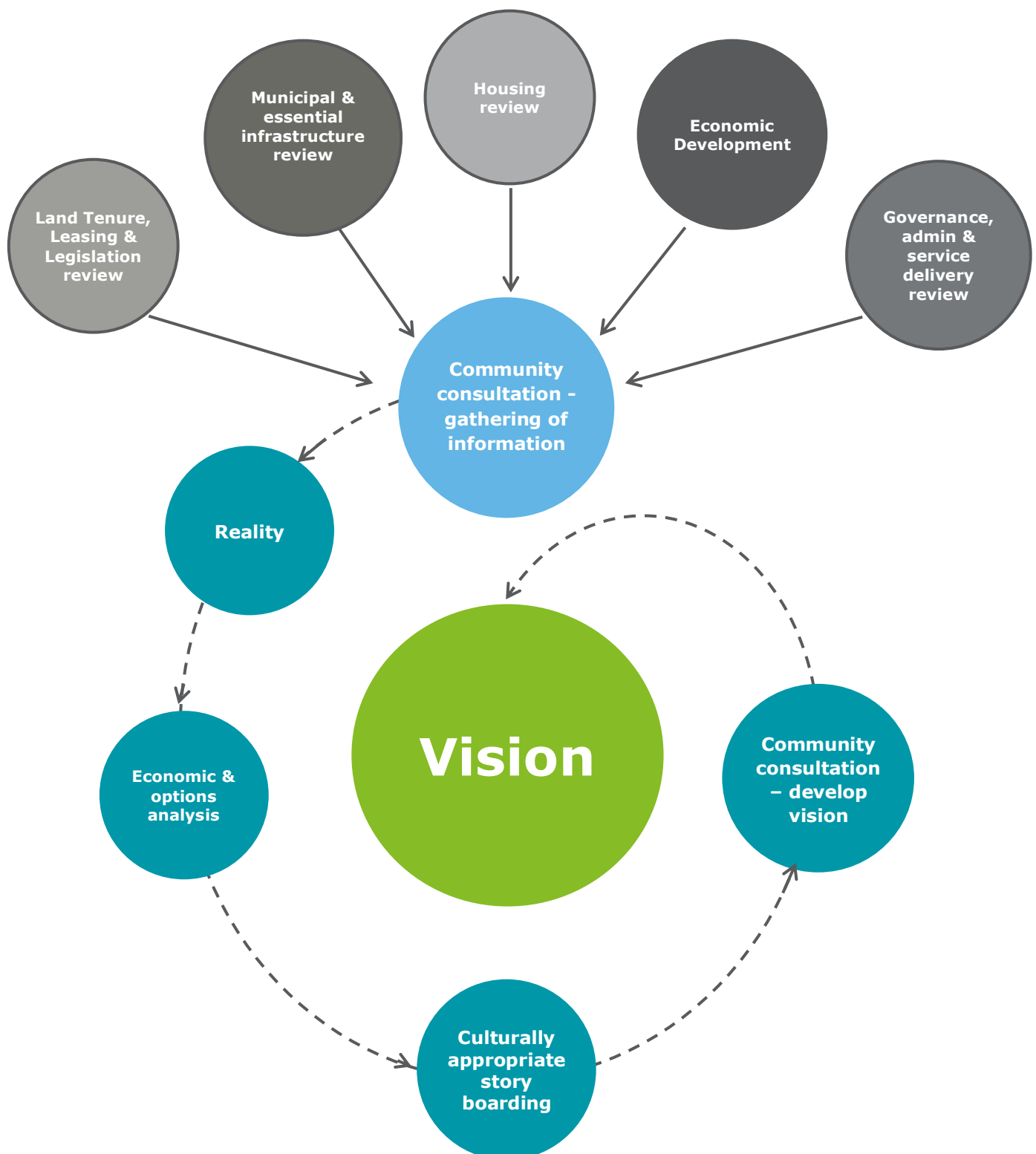
To facilitate a process that ensured local residents have as much opportunity to be heard as they desire, we created a community engagement team that was led by local Indigenous residents. This involved a unique approach which recruited and trained local residents as Aboriginal Community Engagement Specialists (ACES), each with key relationships within the Town Camps. This process allowed for collection of relevant information with respect and integrity.

The ACES formed the first point of contact for all our professionals, ensuring not only that respect and cultural sensitivity was maintained but also constituted a long term commitment to establishing relationships based on trust.

Cross Cultural Consultants, with the help of the ACES, helped guide conversations in each of the Town Camp across the Territory. This process for consultation centred on the inclusion of local residents by allowing them to tell the story of the reality of current living conditions.

The results of the team’s initial consultations were then transcribed into culturally appropriate story boarding to provide clarity to the Town Camp residents about key issues and concerns that accurately depicted the reality of day to day life in each Town Camp. This communication then formed the basis for the development of a vision. To do this our team held consultations and

workshops at each Town Camp to develop a unique vision that would clearly depict the wants and needs of local residents.



Finally as part of the closing the loop process Cross Cultural Consulting (again with the help of the ACES's) provided feedback to each Town Camp about the vision that was created.

As part of the project, the engagement team relied upon housing data for Elliott and Borroloola that was provided by the Department of Housing and Community Development. These reports did not contain demographic information and as a result no population data could be provided for the Town Camps in these areas. Consequently, the average number of residents per room, the number of additional houses required and the cost of the additional houses were unable to be calculated.

Strategic findings and recommendations

A critical, sensitive question

There are many interlinked issues when addressing living standards in the Town Camps. This report addresses changing governance structures, empowering Town Camp residents and outlines a pathway to transforming thinking around housing. These steps will go a long way towards achieving progress down the path of improving living standards but will it solve the problem entirely?

Truly exploring the future of Town Camps requires engagement with a simple but critical question, shrouded in sensitivity. But the question must be asked. ***Will building more houses in Town Camps allow us to solve the majority of prevalent issues? We believe the answer is no.***

While building a house will alleviate the immediate need for better accommodation for the recipient of that house, and it will be a much needed improvement, experience has clearly demonstrated that this will not have a lasting impact on improving living conditions for Town Camp residents. Instead it perpetuates the current cycle.

Housing is a catalyst for growth. As with any culture, when more sustainable environments are available this often prompts migration. We are now faced with the prospect of making policy decisions that can either lead us down the same path or we can choose to confront simple realities and design a better path.

Investing in growth in Town Camps that offer impossible economic integration realities will only continue to proliferate the current problems. Quite simply this is investing in continued disadvantage. In several cases Town Camps are not fringe communities, they are the Town. So what is the purpose of continuing to invest in segregation? After all, future integration cannot just be confined to economics.

The simple reality for many Town Camps is that long term access to employment will always be aligned to the economic prospects of the associated Town. The economic centres that offer both diversity of employment and a substantial number of opportunities are limited. We must play to our strengths.

We recommend changing the Town Camps model to align with economic realities. To do this we believe in incentivising and enabling Town Camp residents over time to transition to economic centres that are expected to offer a greater diversity and sustainability of employment opportunities.

Investing to enable long-term economic participation is the other critical aspect of this solution. This alternate path can resolve the current challenges over time.

Housing investment

We believe that investment in additional housing should not be made in Town Camps. Instead investment should be made in sustainable social housing in the regions that have the economic fundamentals to offer both diversity of employment and a substantial number of opportunities.

This means economic centres that have:

- A diversified economy that is not exposed to boom and bust cycles of one industry
- Sustainable local services
- A healthy labour market
- Adequate training infrastructure and services
- Functional governance of economic activity

However solid economic fundamentals are not enough to support significant proportions of the Territory's population. This region must also have the potential for future growth. This means:



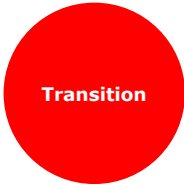
- Being on the right side of global trends
- Having strategies in place to capitalise on economic growth opportunities
- Having the necessary human capital
- Having the capacity to invest

To properly inform the significant investment in sustainable social housing programs we need to need to invest in ways to periodically measure the true size and location of the Territory Aboriginal population.

By incentivising migration to economic centres with robust economies through sustainable social housing programs; and equipping residents of Town Camps, who choose to transition, with the skills to participate and the means to access employment, over time, we can make a real difference.

Analysis of the Northern Territory Regions

An analysis of the Northern Territory regions is outlined below. It should be noted the economic potential of the various regions explored below are dynamic environments. Where long term investment opportunities arise this analysis is subject to change.

Region	Assessment	Reasoning
Darwin		<p>Darwin presents a diversified economic platform with substantial opportunities. There are a range of independent industries that offer comprehensive employment opportunities. The region offers sustainable local services and consistently is among the lowest unemployment rates in the country. This equates to a healthy and consistent demand for labour. Further Darwin offers adequate training mediums and a functional governance structure that is actively pursuing economic growth.</p> <p>The Darwin region is recommended as the primary region in the Northern Territory to incentivise Town Camp residents to transition to. We recommend investment in public housing stock in Darwin that is controlled and allows maximum economic opportunities and social support to residents. The provision of housing in this region presents the greatest opportunity to Town Camp residents.</p>
Katherine, Alice Springs & Borroloola		<p>Katherine, Alice Springs and Borroloola present partially diversified economic platforms. In each region there is a greater dependency on specific industries in comparison to Darwin. Local services are sustainable. Local labour markets are largely contingent on local industries but the scale is unlikely to account for large influxes of Indigenous labour. Access to training institutions are somewhat restricted as the training infrastructure and services do not exist in large capacity.</p> <p>We recommend investment in public housing to allow residents to integrate and participate in the broader economy. However over time transition should be incentivised into regions of greater economic opportunity that allows maximum economic opportunities and social support to residents.</p>
Tennant Creek & Elliott		<p>Both Elliott and Tennant Creek have economies constrained by limited industries. Employment opportunities are not diversified and simply do not exist in proportion to local populations. Local services are constrained by the number of skilled workers in the region. Adequate training infrastructure and services do not exist with the capacity to skill significant numbers. Further the region is not experiencing economic growth that can be capitalised on by the large number of Town Camp residents.</p> <p>Any additional investment in housing should be made within the Townships in public housing. However it should be noted that the region is unlikely to provide sustainable long term employment opportunities in the future. Over time transition should be incentivised into regions of greater economic opportunity that allows maximum economic opportunities and social support to residents.</p>

To be clear – we are not recommending no investment in Town Camps.

For permanent residents dilapidated housing needs to be upgraded to the standards of the Residential Tenancy Act. Where permanent residents reside in temporary structures these need to be replaced with adequate housing. Finally infrastructure upgrades will be required to support either existing or replacement housing in Town Camps.

Control of space

Uncontrolled space is resulting in the proliferation of serious social problems in Town Camps. Alcohol and substance abuse were consistently identified by residents as significant issues within Town Camps and cannot be ignored as an inhibitor to economic development.

To facilitate the control of space we recommend a holistic approach which has the scope to address as many of the identified issues as possible. This includes fundamental changes to the governance of Town Camps including:

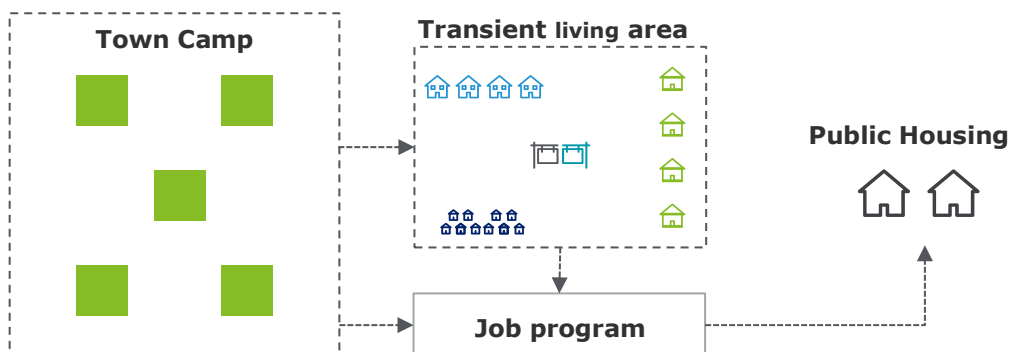
- The Establishment of a Central NT Government Division that consolidates funding agreements and ultimately supports the continued development of Town Camps and their residents
- Empowered residents through the establishment of local representative bodies that facilitate control over Town Camps space including tenancy management.

With the implementation of stronger governance frameworks and firm tenancy arrangements in Town Camps, the tenant will obtain control over space.

The next step is to acknowledge that many Town Camps have a significant transient population that need to be accommodated in alternative accommodation to prevent strains on housing and infrastructure and to address some of the social dysfunction in Town Camps.

To provide for Town Camp visitors, temporary accommodation areas should be constructed as alternate accommodation to Town Camps that can channel visitors away from Town Camps. In the short term we envisage that additional transient living areas should be constructed in Darwin and Katherine to provide for transient populations visiting these regions. The accommodation options therein must be suitable for a range of demographics and cultures which will use the facilities. This means a variety of accommodations options.

Transient living spaces must be strictly controlled to succeed. We envisage the best way to do this is through management by a non-government organisation (NGO) who provides on-site administration and management on the back of funding agreements.



This strict control can ensure sustainable usage and begin to provide a pathway to opportunity. For example, 1 week of accommodation in a transient living area can be allowed free of charge. Beyond this, visitors can stay for up to 3 months where they enrol in a job program. With specifically designed job programs, we can begin to skill residents towards specific employment and housing opportunities. Then when the resident is ready they can enter public housing and the workforce equipped with the tools necessary to succeed.

Another approach to consider in addressing the transient population is to increase delivery of essential and social services in remote communities. The ability to access essential services in remotes areas will negate the need for travelling to major centres.

Invest in people, rather than places

With clear delineation of ownership, respected governance arrangements and established protocols for utilising local labour, employment and economic initiatives are more likely to yield ongoing results.

It is in this context that the framework we have proposed for considering options for economic development is graduated, allowing time for governance structures to be put in place and tested. The framework includes the following continuum:



This framework is underpinned by the philosophy that long term investment in participation will generate pathways to economic integration. To effectively do this a long term co-ordinated approach from all Territorians is required. It demands a departure from what is most economically feasible in the short term, and an understanding that this process will take time. Government needs to lead by incentivising and enabling the employment of local Indigenous residents to deliver local services. The best way to do this is to align funding agreements for service delivery and local contracts to the goal of long term Indigenous employment. Employment must deliver long term, transferable skills to local residents as a primary priority. However, the learning and deployment cannot be confined to the Indigenous people. The cultural awareness of non-Indigenous employers and employees needs to be improved. Territorians need to understand that ignoring Indigenous employment as too hard is simply not an option anymore. Clever rules need to be developed to ensure that Indigenous employment is an integral part of doing business in the Territory.

This investment in support programs and the development of Town Camp residents can afford people the skills to enable transition.

Summary of findings and recommendations

Land tenure, legislation and leasing

Finding	Recommendation
<p><i>Varying and uncertain tenure</i></p> <p>Due to the varying and inconsistent land tenure of Town Camps, and dealings with the land in Town Camps, there is often uncertainty of rights and obligations of land owners, leaseholders and ultimately residents.</p>	<p><i>Create certainty in land tenure</i></p> <p>Current tenure arrangements should be simplified and restructured so that Town Camp owners are empowered to control their own space and seek development opportunities.</p>
<p><i>Restrictive legislation</i></p> <p>Prescriptive and prohibitive legislative, outdated covenants and conditions of current Town Camp perpetual leases, limit the ability for Town Camps to deal with the land for economic benefit or otherwise.</p>	<p><i>Remove or reduce restrictive legislation</i></p> <p>A statutory review of the Special Purposes Lease Act should be undertaken to modernise its provisions, and remove restrictive barriers to land dealings.</p>
<p><i>Role/responsibility confusion</i></p> <p>There is a lack of agreements in place formalising relationships, responsibilities and rights of owners, occupiers and service providers contributing to widespread uncertainty. Where formal agreements exist they are unnecessarily complex.</p>	<p><i>Establish clear roles/responsibilities</i></p> <p>A legal framework needs to be established which delineates clear roles for each of the funding parties, Town Camp owners, residents and service providers. This can be achieved by implementing agreements between the parties detailing the obligations and rights of each. These should be supported by rigorous reporting and compliance monitoring to ensure those roles/responsibilities are being upheld.</p>

Housing

Finding	Recommendation
<p><i>Dilapidated housing</i></p> <p>The overall assessment of the housing within the 43 Town Camps revealed that the majority of housing stock is over 20 years old. This age, in conjunction with neglect by the tenants and a lack of appropriate maintenance, has resulted in 18% of the housing stock being of a poor condition and below. The total cost to bring all Town Camp houses up to the standards of the Residential Tenancy Act is \$77,702,182.</p>	<p><i>Refurbish housing</i></p> <p>All existing housing stock that houses permanent residents should be refurbished to meet the standards of the Residential Tenancy Act. To improve housing durability and future maintenance costs, asset management plans should be developed and implemented on the back of firm Tenancy agreements. Where permanent residents reside in temporary structures these need to be replaced with adequate housing.</p>
<p><i>Population data is unreliable</i></p> <p>Substantial inconsistencies were observed in demographic data sourced from the Australian Bureau of Statistics, tenancy records and housing surveys resulting in an unknown population across Town Camps.</p>	<p><i>Determine Town Camps' populations</i></p> <p>Further work is required to determine the actual demographic position and the additional housing capacity if any, which is required.</p>
<p><i>Transient visitors</i></p> <p>There is a significant transient population that is causing overcrowding and a significant strain on housing across Town Camps.</p>	<p><i>Account for transient visitors</i></p> <p>Temporary accommodation spaces should be constructed in areas that experience significant population fluctuation. These spaces must be strictly controlled with strong rules and accountabilities for transient visitors.</p>
<p><i>Limited pathway to home ownership</i></p> <p>There are limited pathways to Home Ownership in Town Camps.</p>	<p><i>Create pathways to home ownership</i></p> <p>Through strong governance frameworks provide structured support to Town Camps for the development of defined pathways to home ownership.</p>
<p><i>Ineffective tenant contributions</i></p> <p>The system for service delivery contribution fees and payments for essential services is ineffective.</p>	<p><i>Create effective collection structures</i></p> <p>Through strong governance frameworks provide structured support to Town Camps for the development of sustainable collection frameworks.</p>
<p><i>Limited private investment opportunity</i></p> <p>There are limited pathways for private investment in Town Camps.</p>	<p><i>Create private investment opportunity</i></p> <p>Through strong governance frameworks adequate contributions from residents can be achieved which will increase the commercial viability of opportunities associated with the provision of housing and essential infrastructure. A strong governance structure will also be able to provide investors with long term certainty facilitating the exploration of private investment opportunities in Town Camps.</p>

Municipal and Essential Service Infrastructure

Finding	Recommendation
<p><i>Sewage networks are not compliant</i></p> <p>The majority of the Town Camps have sewerage networks that are not compliant with Power and Water Corporation standards. Deferred maintenance costs of existing structures are \$30,000 and it will cost \$23,156,000 to upgrade sewage networks to meet current design standards.</p>	<p><i>Upgrade sewage networks</i></p> <p>Town Camps with undersized networks or non-compliant sewage pump stations should be upgraded so that the infrastructure complies with relevant standards.</p>
<p><i>Water networks are not compliant</i></p> <p>Water supply networks, bulk water meters and fire hydrant coverage are generally non-compliant by current standards. Deferred maintenance costs are \$110,000 and it will cost \$27,812,000 to upgrade water networks to meet current design standards.</p>	<p><i>Upgrade water networks</i></p> <p>Town Camps that are non-compliant should undergo major upgrades to the water supply in order to comply with Power and Water Corporation standards and provide the required capacity. The water supply to the Town Camps is proposed to be measured with bulk water meters located on the community boundary.</p>
<p><i>Road and stormwater infrastructure is in a poor condition</i></p> <p>The roads, road furniture and storm water drainage in almost all Town Camps were in poor condition due to a number of defects. They were also not compliant with local council standards and appear to have not been maintained on a regular basis. Roadworks and stormwater drainage deferred maintenance costs are \$47,874,000 and it will cost \$54,284,000 to upgrade road networks to meet current design standards.</p>	<p><i>Upgrade road infrastructure</i></p> <p>Long term designs which incorporate a full two lane road network, with all appropriate road furniture, line marking, footpaths, signage, kerbs and gutters, side entry pits and underground drainage should be constructed at all Town Camps.</p>
<p><i>Community Structures require upgrades</i></p> <p>Regular maintenance has not been carried out on the majority of the community structures. Playgrounds, basketball court and BBQ areas varied in condition from very poor to very good but almost all require immediate maintenance or upgrades to bring them to a practical standard. Deferred maintenance costs are \$465,000 and it will cost \$95,000 to upgrade community structure to meet current design standards.</p>	<p><i>Upgrade community structures</i></p> <p>Community structures should be upgraded and/or repaired. Regular maintenance should be undertaken to ensure the structures are kept in good working order.</p>
<p><i>Electrical infrastructure requires upgrades</i></p> <p>Street lights and sports area lighting systems require maintenance and need to be upgraded in the majority of the Town Camps. Deferred maintenance costs are \$1,146,000 (including \$400,000 of Power and Water Corporation assets and load monitoring) and it will cost \$17,410,000 (including \$375,000 for PWC transformer</p>	<p><i>Upgrade Electrical infrastructure</i></p> <p>Electrical infrastructure should be upgraded and/or repaired. Regular maintenance should be undertaken to ensure the structures are kept in good working order. Investment should be made in cage protection to protect electrical components, and new street lighting.</p>

upgrades) to upgrade electrical networks to meet current design standards.

Economic Development

Finding	Recommendation
<p><i>Serious Social Issues</i></p> <p>Alcohol and substance abuse are prevalent in many Town Camps, impacting on economic development.</p>	<p><i>Invest in people rather than places</i></p> <p>Strong governance frameworks, transient accommodation areas and defined pathways to economic development will allow individuals to be directed to the social programs that can assist recovery.</p>
<p><i>Low level of employment</i></p> <p>There are a small number of residents engaged in active employment and typically employment that occurs in relation to Town Camps is performed by non-residents.</p>	<p><i>Invest in people rather than places</i></p> <p>Facilitate long term investment participation to generate pathways to economic development.</p>
<p><i>Limited skills</i></p> <p>Current economic participation occurs haphazardly resulting in a limited transfer of lasting skills onto residents.</p>	<p>Incentivise and enable the employment of local Indigenous residents to deliver local services, leading to the progression of individuals down a continuum of economic development.</p>
<p><i>Few incentives</i></p> <p>There are few incentives for unskilled workers to transition from welfare dependence to active employment. As a result Town Camps residents have limited interest in economic participation.</p>	<p>Align funding agreements for service delivery and local contracts to the goal of long term Indigenous employment.</p>

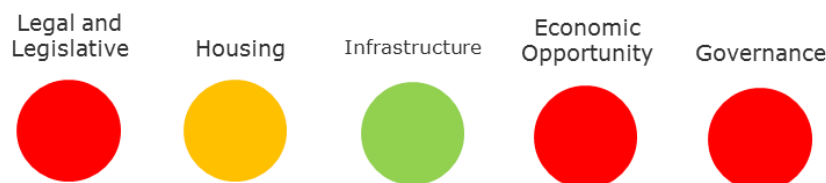
Governance

Finding	Recommendation
<p><i>No clear governance structures</i></p> <p>There are no clear governance structures that provide agile decision making frameworks, direction, support and funding to Town Camps and their residents.</p>	<p><i>Create a clear governance structure</i></p> <p>Facilitate the implementation of strong governance structures that allow residents to control space and make decisions representative of the resident population.</p>
<p><i>Residents cannot control their own space</i></p> <p>Governance structures give no ability to Town Camps residents to control and take ownership for the space in which they live.</p>	<p><i>Empowering Town Camps residents</i></p> <p>Facilitate the establishment of active representative ownership groups who can control the Town Camps space. Support the ongoing development of the representative group.</p>
<p><i>Lack of Town Camp oversight</i></p> <p>There is a distinct lack of agency or organisation providing direction, support and funding to Town Camps contributing to a systemic failure across the Town Camps system.</p>	<p><i>Establish a structure to give Town Camps leadership and direction</i></p> <p>A more effective framework should be designed starting with creation of a single division tasked with providing the direction and leadership to Town Camps. The agency should be used to streamline funding distribution and the provision of support and information services to Town Camps.</p>
<p><i>Lack of support to Aboriginal associations</i></p> <p>The regulatory framework under which most Town Camp owners are incorporated, the NT Associations Act, is not equipped or funded to provide the level of specific support that is required by Aboriginal Associations operating in this space.</p>	<p><i>Incorporate Aboriginal Associations</i></p> <p>Incorporate a regional body representative of each Town Camps residents under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)</p>

All Town Camps

Current State

March 2017



Legend



Immediate Actions

- Fix current housing to urban standards and replace temporary shelters with houses



x 10



\$8.2m



\$77.7m

Total Number of replacement houses

Cost of replacement houses

Deferred Housing Maintenance Cost



\$11.2m

Deferred Infrastructure Maintenance Costs



\$35m

Cost of Transient Camps for Darwin and Katherine



Total immediate costs

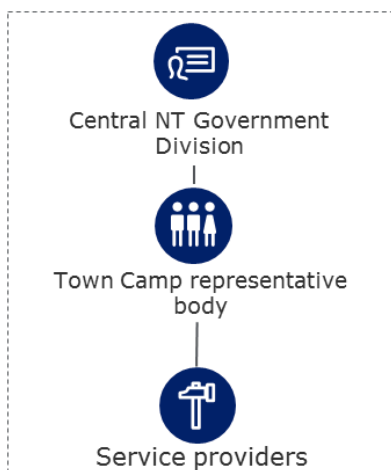
\$132.1m*

* Note: ongoing maintenance costs and operational costs of the visitor centres are not included

Long Term Actions



Invest in long-term participation



Build Stronger Governance



- Investment should be made in sustainable social housing, integrated with established communities, in regions that offer diversity of employment and a substantial number of opportunities
- Address significant transient populations with visitor accommodation based on continually improving population data



Upgrade Infrastructure to meet Design standard
\$138m



Total infrastructure and housing costs
\$270.1m*

*Note: ongoing maintenance costs and operational costs of the visitor centres are not included

Costing estimates are a preliminary estimate only. Actual prices may be different to those used to prepare estimates. There is no guarantee that the works can or will be undertaken at the estimated price. Housing and Infrastructure colour indicators are based on the average condition of the assets assessed and does not take into account the cost to meet infrastructure design standards.



This report

The preceding section of this report has provided an overview of the project as a whole. From here the report gradually steps down in levels of detail from a high-level overview right down to the individual Town Camps.

The following sections provide a summary level overview of the current state of play within the Town Camps as a whole. It also outlines the key findings and recommendations that were identified in each of the project areas. These project areas form the following sections of the report:

- Land Tenure, Leasing and Legislation
- Municipal and essential infrastructure
- Housing
- Economic Development
- Governance

Following on from the summary level overview, the report then addresses the key themes identified in each region within the Northern Territory. This section of the report addresses the project areas per identified region in the Territory. The regions are as follows:

- Darwin
- Jabiru
- Katherine
- Elliott
- Tennant Creek
- Alice Springs
- Borroloola

The report then steps down another level into the individual Town Camps. Again, this section of the report addresses the project areas for the Town Camps included as part of the engagement.

Finally a range of appendices are provided that support the conclusions reached.

Ultimately this report is designed for sections to be used individually depending on the user's requirements. This report provides a high-level overview of the state of all 43 Town Camps identified, right down to the detail of individual houses in specific Town Camps. The structure therefore results in some duplication of findings and recommendations in individual sections.

The story according to Town Camp residents

Findings

Our review faced a number of challenges and contradictions, in both the consultation, and the in-community asset assessments. Many people had no interest in providing any information, because they had no faith that any information they provided would make any difference to their lives. They were happy to have conversations, but once they were told the purpose of the consultation, and what would be done with the information, they withdrew from the process.

Fortunately, not all residents felt this way, and were willing to once again express both their frustrations at their current situation and to talk about their aspirations. The people who provided their time and their thoughts on the process tended to be older people. Although it could be said the outcomes of the visioning is biased toward this group, these were senior community members who were contributing on behalf of the community as a whole. To access a wider number of people would require a much longer time period, and significantly more resources than were available for this review.

Place

The primary observation was the attachment people had to place. Normally people talk about ceremonial connection and belonging to country. This was true in some of the Town Camp communities but not many. Most people, but particularly older people, were attached as a result of historical connections. People were proud to be “foundation” (Town Camp residents), and in some cases talked about the struggles they had endured to create the community in which they lived. Younger people tended not to be so interested in the history but were struggling with their current reality. Some of the current community leaders say they struggled with alcohol when they were young, but don’t drink now, and they are worried about their children and grandchildren.

There was quite a bit of diversity in terms of how the various Town Camp communities looked, and what the place based issues were for people. Issues such as drainage, poor roads, lack of street lighting, poor condition of fencing, lack of parks and recreation areas, were general themes. There were very few major infrastructure issues, apart from drainage, though in Borroloola insufficient water storage and poor sewerage were raised by residents. Social order was an issue in many Town Camps, but not at a level that made people wish they lived somewhere else. Many people expressed the view that the Police needed to stop people from bringing alcohol into the community; or if there are problems, to respond more quickly. Many Town Camps presented as small villages, run down, but otherwise quite pleasant rural environments. Some, however, were littered with car bodies and mounds of rubbish, and this appears to reflect a low level of municipal service combined with a lack of tenant concern.

Space

The overall assessment of the housing within the 43 Town Camps revealed that the majority of housing stock is over 20 years old. This age, in conjunction with neglect by the tenants and a lack of appropriate maintenance, has resulted in 18% of the housing stock being of a poor condition and below.

Those houses which presented as “being managed” were predominantly “owned” by senior men and women, non-drinkers, who through the force of their personalities seemed able to control usage. The challenge for most people is how to maintain the space when you have no ability to control, not only who lives there, but the behaviour of visitors while they are there.

The complex issues of who is responsible for maintaining houses and yards seems to be poorly understood by residents, as is the notion of “Public Housing”. Many people do not see themselves as living in Public Housing. They say they live in Aboriginal Housing, but see no contradiction in the Government being responsible for all repairs and landscaping. This indicates that there has been insufficient communication to help people understand how public housing works, and what each parties’ rights and responsibilities are. The other major issue was the residents views about who should decide who moves in, and who needs to move out. People want control over tenancy allocation. While tenancy placement is an issue, residents are keen to have a local Aboriginal entity building their houses, and providing long-term employment opportunities. How this might look is of great concern to Town Camp residents. Their experience has been that organisations that are not properly managed, tend to end up in chaos, and the money disappears.

Town Camp residents, if they are to transition into urban spaces, need to take more responsibility and be afforded the same opportunities as everyone else. Historically housing delivery has been with no understanding of how the money is accessed, houses have been delivered into environments where there is no clear ownership, no negotiated Tenancy programs, and no consequence for failure on the part of either party when the system fails.

Interface

Welfare dependence means that most Aboriginal people are receiving their income from passive benefits. Royalties contribute, but are also passive, and are best described as pulse injections. These passive income sources disabled the traditional balance, allowing people to expend no energy for their input return. The marginalisation and exclusion of Aboriginal people from mainstream economic life over the past 50 years means that most lack the skills to gain employment at a level that will encourage participation. Community Development Employment Projects (CDEP) and Community Development Programme (CDP), while they attempt to redress the balance, are fundamentally flawed because, while they demand participation, they do not provide a pathway to a real job. Town Camp residents, though they may live in communities where work is available, do not have the skills to be competitive. In spite of these challenges some residents do work, but they are in the minority. In many Town Camp communities, residents complained that the old CDEP was much better than the new CDP, because under the old Work for the Dole scheme people worked in their own community.



Land Tenure, Leasing and Legislation

Introduction

This section of the report presents the findings of a review of:

- the land tenure, leasing and legislation applying to the 43 Aboriginal communities in the Northern Territory that are characterised as 'Town Camps'; and
- any impediments identified in the above to the progress of Town Camps.

A list of the Town Camps and an overview of the land tenure is provided at Annexure A.

There are numerous historical dealings with Town Camps land that have impacted on the current standing and state of the Town Camps which this report does not intend on comprehensively covering and which have been detailed in a number of other reports/publications.⁸

This report:

- focusses on the current legal structure of Town Camps' land and land dealings; and
- provides recommendations for amendments to that structure and innovative ideas that may assist in achieving the improvement of living conditions in Town Camps.

Summary Findings

There are a number of land tenure matters that may hinder the progress of Town Camps, which may be compounded by current administrative arrangements and a perceived lack of support for Town Camp communities.

1. Lack of Town Camp oversight

A conclusion could be drawn from the information available that the lack of appropriate and adequate resourcing for a distinct agency or organisation in order to provide direction, support and funding contributes to what appears to be:

- a systemic failure across the Town Camps system; and
- a confusion of roles and responsibilities and the lack of tenure or formal agreements.

The resourcing to manage the overall administration of Town Camps appears to be inadequate, leading to a situation where Special Purpose Lease (SPL) and

⁸ Crabtree et al, *AHURI Report: Community Land Trusts and Indigenous communities: from strategies to outcomes* (2015); NT Public Accounts Committee, *Report on Repairs and Maintenance of Housing on Town Camps* (2016).

Note: References to 'Government' refer to both the NT and Commonwealth Government.

Crown Lease (CL) conditions are not enforced or compliance with the conditions monitored. This would arguably contribute to what appears to be a long-standing complacency by all parties. On one view, this lack of administration and oversight could impact on the effectiveness of the owner associations, which are allowed to flounder through lack of effective oversight or support.

The regulatory framework under which most Town Camp owners are incorporated – the NT Associations Act – is managed by NT Licensing, however it does not appear that NT Licensing is adequately equipped or funded to provide the level of specific support for Aboriginal associations operating in this space. It is a clear case of one model not suiting all circumstances, and it is an essential first step that any future reform includes not only the re-establishment of associations that are representative of Town Camp communities (through new revived membership and governance bodies), but also the incorporation of those associations under a more appropriate and supported framework better suited to the needs of Aboriginal corporations.

2. Varying and uncertain tenure

The varying underlying land tenure of the Town Camps means that there is not one solution or recommendation that is going to work for every community. Further, as per the community consultation outcomes, each community has expressed different desires and requirements for the land which need to be addressed separately.⁹

Due to the varying and inconsistent land tenure of Town Camps, and dealings with the land in Town Camps, there is often uncertainty of rights and obligations of land owners, leaseholders and ultimately residents.

The feedback received through our consultations was that there was a high degree of uncertainty, and therefore presumed difficulty, surrounding the opportunities to deal with Town Camp land – including from relatively informed participants in the sector. This meant that opportunities for land dealings by non-government organisations, say through subleasing arrangements, were few and far between, notwithstanding that the ability has always been there to undertake such arrangements.

3. Restrictive legislation

Prescriptive and prohibitive legislative requirements would appear to limit the ability for Town Camp owners to deal with the land for economic benefit or otherwise.

In addition, outdated covenants and conditions of current Town Camp perpetual leases, and outdated provisions of applicable legislation may only add to the confusion and uncertainty.

These hinder planning and potential development options. Uncertainty as to existing rights and mechanisms for undertaking dealings with Town Camps land could have the effect of discouraging development ideas or opportunities.

4. Role/responsibility confusion

There appears to be a lack of agreements in place formalising relationships, responsibilities and rights of owners, occupiers and service providers, which contributes to uncertainty for all parties involved. Where there are formal

⁹ See Town Camp visioning.

agreements in place, there tends to be an overly complex structure adopted than what would seem to be necessary.

This uncertainty appears to be compounded by the difficulty in many Town Camps to find an effective land owner organisation to engage with. One view, from a senior individual actively involved in Town Camp management, was that many of the original land owner organisations ceased being effective some time ago, which created a void that has been filled by unrelated service providers or associations. This has created a further complication in that the organisations now 'representing' the Town Camps, albeit that the organisations may be well meaning, are not representative of the Town Camp community. This raises the question whether this de-facto model represents the best interests of the Town Camp community going forward.

The feedback indicated that some owners of SPL/CLs do not feel like owners of the land, but rather the tenants of the NT or Commonwealth Government, and consequently funding, maintenance, repairs and construction are considered a Commonwealth or NT Government responsibility.

5. Disparity in goals/visions

Each Town Camp has different visioning and goals which will require location specific solutions and case by case options e.g. home ownership versus community ownership or a combination.

There appears to be a disconnection between what the Government sets as goals for communities versus community goals about what is required, including the concept of 'home ownership'. Western cultural ideals of land/infrastructure values are less relevant to some communities, where the sentiment expressed reflects a more basic and immediate need to have "security of place" – somewhere secure to live without risk of dilapidation, eviction or overcrowding.

Summary Recommendations

1. Establish a structure to give Town Camps leadership and direction

A more effective framework should be designed that enables funding to be streamlined to one agency/organisation that will be responsible for the management and distribution of funds. That agency/organisation should also be tasked with providing the direction and leadership to Town Camps by establishing it to provide the support and information services that Town Camps require to drive positive changes, in response to engaging in the reform model put forward.

2. Create certainty in land tenure

The current tenure arrangements on Town Camps should be simplified and restructured so that Town Camp owners are empowered to control the Town Camp. This would allow Town Camp owners to take steps to participate in this reform model and seek opportunities for economic development. Ideally, this would ultimately mean the surrender or termination of any long term Government leasing.

3. Remove or reduce restrictive legislation

A statutory review of the SPL Act should be undertaken to modernise its provisions, and remove any restrictive barriers to land dealings with SPL land – most importantly, removal of the prohibition on subdivision under section 9A of the SPL Act. Conversion of SPLs to CLs may invoke native title issues, therefore

the preferred option may be to rationalise the SPL and CL terms and legislation so that they give the same obligations and rights to owners.

Nevertheless, if a Town Camp was interested in conversion to CL or freehold, the information and support services should be available to Town Camp owners to facilitate or explore those changes.

4. Establish clear roles/responsibilities for Town Camp owners, funders and service providers

A legal framework needs to be established which delineates clear roles for each of the funding parties, Town Camp owners, residents and service providers. This can be achieved by implementing agreements between the parties detailing the obligations and rights of each. These should be supported by rigorous reporting and compliance monitoring to ensure those roles/responsibilities are being upheld.

5. Develop a structure which supports location based responses to Town Camp visioning

Each Town Camp is unique in the residents' requirements and visions, and the funding and support structure for Town Camps should be focused on a location based response which is tailored to each Town Camp.

Empowerment of Town Camp owners to deal with Town Camp land is an essential step to this tailored response, as it is the most likely arrangement that will ensure that the particular requirements of the community are met.

Further, if the Town Camp owners are the negotiating party, it is far more likely that localised service providers will be engaged to deliver the services and works, which will stimulate growth and foster better community engagement and relationships.

Background / Context

Historically, the NT Government granted leases¹⁰ in perpetuity over Town Camp lands to Aboriginal associations whose members generally consisted of the residents of the Town Camp¹¹ for the purposes of community living. The leases were given in recognition of the long term use of the land for Aboriginal living purposes.

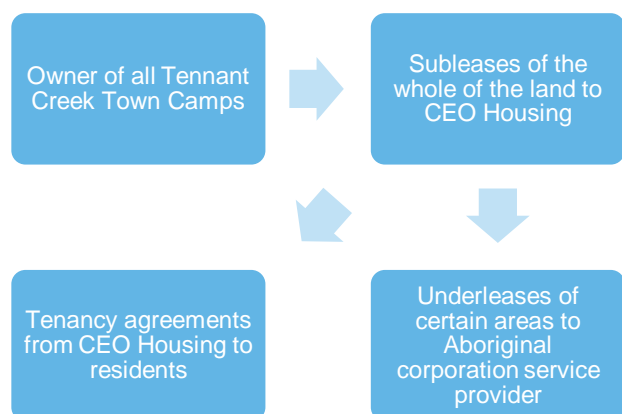
The nature of the tenure and how they are used currently varies widely and could contribute to the sense of confusion and lack of consistent approach.

1. Land Tenure in Tennant Creek

In 2008, the NT Government reached an agreement with the owner of the Tennant Creek Town Camps for long term leasing over all the Town Camps in Tennant Creek. The Chief Executive Officer of Housing (CEO Housing) holds the sublease from the Town Camp owner and underleases some of the land back to an Aboriginal corporation service provider. On the areas which are not subject to the underlease, the CEO Housing manages the tenancies and properties as part of the public housing system.

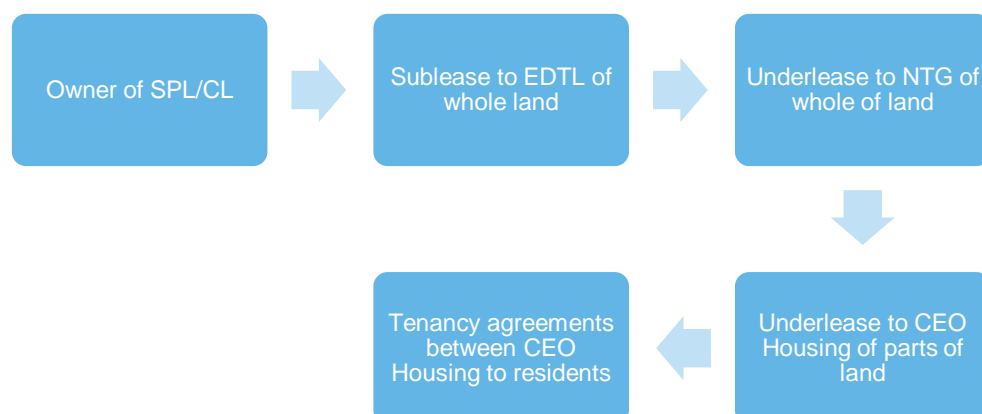
¹⁰ Both special purposes leases under the *Special Purposes Leases Act* (NT) and crown leases under the *Crown Lands Act* (NT).

¹¹ Note this usually applies to Alice Springs Town Camps, but many other Town Camp SPLs and CLs were granted to service providers who had an interest in improving the living conditions on Town Camps – for example, Aboriginal Development Foundation Inc in Darwin.



2. Land Tenure in Alice Springs

In 2009, the long term leasing of 17 Town Camps in Alice Springs and 1 compulsory acquisition (Ilpeye Ilpeye) by the Commonwealth was a result of the Northern Territory National Emergency Response Act 2007 (Cth) intended by the Commonwealth Government to improve housing and reform community living arrangements. The Commonwealth underleased all the long term leases to the NT Government for 3 year terms for it to act as a tenancy manager. The NT Government subsequently underleased parts of the land to CEO Housing for it to manage the tenancies and properties as part of the public housing system.



3. Other Town Camp land tenure

On most other Town Camps (with the exception of any titles of freehold or Aboriginal freehold) there are limited other tenure arrangements between the land owner and occupiers, and there are no tenure arrangements with the NT Government or Commonwealth Government.

In some circumstances, the Town Camp owners have entered into private leasing, but this is an exception to the norm.

4. Servicing and funding of Town Camps

In the context of identifying the land dealings on the Town Camps, the review also briefly considered the funding structure and service delivery to the Town Camps. Due to the long term leases over Tennant Creek and Alice Springs Town Camps there is generally 2 different modes of Town Camp servicing:

- Alice Springs and Tennant Creek Town Camps are now part of the public housing system and the CEO Housing provides the tenancy management in those areas; and
- At all other Town Camps, the NT Government and Commonwealth Government have no land interests and therefore no involvement in management of housing. However, we were informed that ad-hoc housing repairs and maintenance servicing is provided in some urgent situations by Department of Housing and Community Development.

Despite the Alice Springs and Tennant Creek Town Camps currently being part of the public housing system, the tenancy/property management services for those Town Camps are contracted to service providers. This is in contrast to other public housing assets, which are managed and serviced through the Department of Housing and Community Development directly. We were informed that this is because historically Town Camps were part of remote housing, so fell outside of the Department of Housing and Community Development service criteria. This is notwithstanding that these Town Camps are in or adjacent to the town centres.

Furthermore, in Alice Springs, the appointed service provider contracts with another service provider to provide the housing maintenance and repairs. This service provider is different to the service provider that is contracted by CEO Housing for delivery of municipal and essential services.

In respect of the Town Camps where the NT Government and Commonwealth do not have interests, it was found that the service providers act in pseudo-tenancy management roles, in relation to the houses and services in Town Camps. This is the case despite potentially no agreement existing between the service provider and the Town Camp owner and/or residents.

This outcome would appear to arise as a result of the divide between the funding streams and the land tenure. The funding is provided to service providers to perform the services, however the Town Camp owner is not a party to that agreement, and in some circumstances there is no agreement between the Town Camp owner and the service provider.

Under the service provider agreements with the NT Government, service providers are encouraged to obtain contributions from residents towards the delivery of the services. The feedback from communities is that this contribution is often erroneously termed 'rent' and non-payment of that 'rent' is often used as a mechanism for 'tenancy management' types of action by the service providers.

There are no strict guidelines in relation to the application or use of the collected 'rent' and it appears the collection amounts and processes vary across Town Camps.

What appears to be evident is that the confusing nature of the funding streams has an impact at the resident level and may be resulting in unfair 'tenancy management' processes/procedures by parties with no legal standing to enforce those processes.

The review also identified that there are various programs/agreements through which funding is provided to Town Camps dependent on the intended use of the funding for:

- capital expenditure;

- municipal and essential services; and
- housing maintenance and repairs,

(and also dependent on the Governments' policies at that time), which could also be a source of confusion for Town Camp owners, residents and the Government agencies, as the amount of funding available is not always clear, and in some instances appears to be provided on an ad-hoc and reactionary basis.

This short-term, ad-hoc model for delivering funding would inhibit owners from being able to effectively plan and manage their asset for the benefit of the community.

Review of current legal framework

Of the 43 Town Camps:

- 21 are special purposes leases in perpetuity (SPL);
- 16 are crown leases in perpetuity (CL);
- 3 are on Aboriginal freehold under Aboriginal Land Rights (Northern Territory) Act; and
- 3 are on freehold.

As set out above, the NT Government holds land interests in the Alice Springs and Tennant Creek Town Camps, and provides only funding/services to the other Town Camps.

There is one Town Camp in Elliott – South Camp – which currently has the registered owner of the SPL listed as “Commissioner of Consumer Affairs” in accordance with the Associations Act (NT), by way of s 67 of the Associations Act due to dissolution of the incorporated association. The owner of the SPL over the Bagot Town Camp, Bagot Community Incorporated, is currently in administration.

There does not appear to be any differentiating factor in regards to why some Town Camps were granted SPLs and why some were granted CLs, and it may be simply a matter of different processes/procedures applied at different times.

Home ownership options are a recurrent theme throughout the Commonwealth Government's land dealings on Town Camps, and a specific element of the scope of this review is to consider the capacity for home ownership on Town Camps.

During the consultations, feedback received was that home ownership is not necessarily a key focus of Town Camp residents, however some expressed interest in home ownership. This report envisages home ownership to possibly take the form of freehold title, separate CL/SPL or long-term sublease under the CL/SPL.

If the desire is to retain the community purpose of CL/SPLs but provide an avenue for ownership for Town Camp residents, the preferred option would be long-term sublease granted under the CL/SPL.

Underlying tenure

1. Special purposes leases in perpetuity

The SPL parcels, conditions and leaseholders are identified in Annexures A, B and C.

An SPL is a form of crown lease that is granted pursuant to the Special Purposes Leases Act (NT) (SPL Act). A 'special purpose' under the SPL Act is defined as 'any purpose other than a private residential purpose within a town, or a site for a town, within the meaning of the Crown Lands Act, a pastoral, agricultural or mining purpose'.¹²

Most of the SPLs granted for Town Camps are granted for Aboriginal communal purposes or similar.¹³ Under the SPL Act, SPL land cannot be used for any purpose other than the purpose (or ancillary purposes) for which the lease was granted.¹⁴ As a result, most future potential economic development plans of Town Camp communities would be inconsistent with the current purposes that the SPLs are currently granted for, and therefore not permitted under the current SPL and the SPL Act.

In order to change the purpose of an SPL, the Town Camp owners would need the consent of the Department of Infrastructure, Planning and Logistics, and the change would need to be registered at the Land Titles Office so that it was reflected on title.

Recommendation: The purposes of the SPLs should be amended to 'purposes consistent with the zoning of the land' where the land is subject to zoning, which would remove any limitations to potential zoning changes discussed at section 3.4(a) of this Report.¹⁵ Where the land is not subject to zoning, the purpose can be amended in accordance with the Town Camp's visioning/goals for the land (if required).

The SPL Regulations provide some general conditions that leases granted under the SPL Act must contain¹⁶, including:

- Reservations: of a right of entry in favour of the Minister to inspect; to the Crown of all minerals; of a power to resume the land; and of a right of entry for essential services.
- Covenants: that the lessee will pay the rent annually in advance; that the land will be used only for the purpose for which it was granted (or an ancillary purpose); and that the lessee will pay all rates and taxes in respect of the land.

The actual lease conditions and covenants of the Town Camp SPLs are in much the same terms as the general conditions provided for under the SPL Regulations. There are some additional terms (which are mostly outdated) to do with infrastructure and planning requirements/obligations.

All of the Town Camp SPL covenants and conditions are fairly simple in nature and there were no onerous conditions that were identified in the review that would present any difficulty from a compliance perspective. However, for the

¹² Section 3 Special Purposes Leases Act (NT).

¹³ Annexure A summary.

¹⁴ Section 9 SPL Act.

¹⁵ Similarly to what has been done with the Kulaluk and Minmarama Park CL.

¹⁶ Section 8(1) SPL Act; Regulation 5 *Special Purposes Leases Regulations* (NT).

reasons noted earlier, the apparent lack of effective governance support to assist with compliance and the apparent lack of compliance oversight by the Government arguably contributes to the lack of compliance with these conditions.

Recommendation: Together with the SPL holders, review the SPL covenants and conditions to remove outdated provisions in relation to infrastructure and planning; and update SPL conditions to ensure relevance to the particular uses of the land or proposed uses of the land.

Review conditions in consultation with the SPL holders and the relevant agency charged with monitoring them to deliver clear and enforceable lease conditions.

Put the SPL holders on notice that the compliance monitoring of SPL conditions and covenants will be undertaken and any issues of non-compliance enforced.

The SPL Act has fairly outdated provisions, based on ordinances pre NT self-government in 1975. It may be beneficial for a review to be undertaken of the SPL Act to modernise it and remove any superfluous provisions.¹⁷

Recommendation: Consider a review of the SPL Act.

SPL holders are able to transfer, mortgage, sub-let and surrender the whole or part of the lease, subject to the consent of the Minister.¹⁸ During the review, the view was expressed that ministerial consent was perceived to be a lengthy process. According to the relevant agency the process for ministerial consent is very straightforward where the application is consistent with the lease and the applicable legislation and the negotiated terms were not to the detriment of the community. If this perception is widely held, it would be beneficial if the process for ministerial consent is clarified for relevant stakeholders.

Of greatest significance to any potential land dealings on SPL land, is the prohibition of subdivision under the SPL Act.¹⁹ Subdivision is defined in the *Planning Act* (NT) as:

'The division of land into parts available for separate occupation or use, by means of:

- Sale, transfer or partition; or
- Lease, agreement, dealing or instrument purporting to render different parts of the land available for separate disposition or separate occupation.²⁰

However, leasing or licencing will only be deemed a subdivision under the *Planning Act* where the terms are for 12 years or more (including options).²¹

The consequence of the subdivision prohibition is that there can be no long term leasing granted over parts of the land, whether for commercial or residential purposes, which would impact on potential business planning or homeownership options for Town Camps.

¹⁷ Such as section 6(2) and (3) in relation to Aboriginal reserves.

¹⁸ Section 6(1) SPL Act.

¹⁹ Section 9A SPL Act.

²⁰ Section 5(1) *Planning Act* (NT).

²¹ Sections 5(3) and 5(4) *Planning Act* (NT).

There are a number of ways to overcome this restriction, most obvious of which is to amend the SPL Act. Other options include:

- Amending the planning regulations to exclude subdivision under the SPL Act from the definition of a subdivision.²² However, this will also result in exclusion of the subdivision requirements under the Planning Act, of particular concern compliance with Part 5 of that Act; and
- In Alice Springs, if the EDTL subleases remain, using section 20SB of the ALRA Act and including a provision in the Regulations that modifies section 9A so that it does not apply – however, any amendments to Commonwealth legislation are obviously not at the NT Government’s discretion and therefore this would not seem to be a practical or likely option.

Recommendation: Amend the SPL Act to remove the prohibition on subdivision in section 9A.

2. Crown leases in perpetuity

The CL parcels, conditions and leaseholders are identified in Annexures A, B and C.

The CLs are much the same as the SPLs, however there is no prohibition under the Crown Lands Act (NT) in relation to subdivision. If any subdivision was planned for CL land, particularly in respect of any home ownership plans (whether separate CLs are granted to the home owners or long-term subleases are granted to home owners within the CL) the CL holder would need to comply with the subdivision requirements set out in the Crown Lands Act.²³ We note that there may be some erroneous referencing in the Crown Lands Act to the Planning Act provisions and it may be of benefit to consider a statutory review of the Crown Lands Act in conjunction with the SPL Act to ensure there is no ambiguity in the provisions.²⁴

Recommendation: Consider a review of the CL Act.

CL holders are also able to transfer, mortgage, sub-let and surrender the whole or part of the lease, subject to the consent of the Minister.²⁵ However, unlike the SPL Act there is specific provision setting out the consent requirements – which must be made by application in writing to the Minister.²⁶ Similar to SPL's, ministerial consent was perceived to be a lengthy process. According the relevant agency the process for ministerial consent is very straightforward where the application is consistent with the lease and the applicable legislation and the negotiated terms were not to the detriment of the community. If this perception is widely held, it would be beneficial if the process for ministerial consent is clarified for relevant stakeholders.

Furthermore, there are specific provisions in the Crown Lands Act (NT) for variation of lease terms²⁷ and breaches of lease conditions.²⁸ These provisions,

²² Section 5(2)(h) *Planning Act* (NT).

²³ Sections 42 and 44 *Crown Lands Act* (NT).

²⁴ See section 44 *Crown Lands Act* (NT) referencing to Part 7 of the *Planning Act* in relation to subdivision.

²⁵ Section 46 *Crown Lands Act* (NT).

²⁶ Section 47 and 48 *Crown Lands Act* (NT).

²⁷ Sections 34 and 36 *Crown Lands Act* (NT).

²⁸ Section 38 *Crown Lands Act* (NT).

along with the subdivisions and consent requirement provisions discussed above, should be considered in any potential review of the SPL Act.

Similarly to the SPL Regulations, the Crown Lands Act provides general conditions which must be included in a crown lease.²⁹ The actual lease conditions and covenants of the Town Camp CLs are in much the same terms as the general conditions, and there are some additional terms (which are mostly outdated) to do with infrastructure and planning requirements/obligations.³⁰

Most of the CLs granted for Town Camps are granted for Aboriginal living/residential purposes, or similar. Under the general conditions to be included in CLs, CL land cannot be used for any purpose other than the purpose for which the lease was granted. Similarly to the SPLs, most future potential economic development plans would be inconsistent with the purposes that the CLs are currently granted for, and therefore not permitted under the current CL and Crown Lands Act.

In order to change the purpose of CL, the Town Camp owners could apply to the Minister for a variation of lease provisions,³¹ which variation would ultimately need to be registered with the Registrar-General to have effect.³²

Recommendation: The purposes of the CLs should be amended to 'purposes consistent with the zoning of the land' where the land is subject to zoning, which would remove any limitations to potential zoning changes discussed at section 3.4(a) of this Report.

Where the land is not subject to zoning, the purpose can be amended in accordance with the Town Camp's visioning/goals for the land (if required).

As with the SPLs, the Town Camp CL covenants and conditions are fairly simple in nature and there were no onerous conditions that were identified in the review that would present any difficulty from a compliance perspective. Consequently, the same issues of apparent lack of effective governance support to assist with compliance and the apparent lack of compliance oversight by the Government arguably contributes to the lack of compliance with the CL conditions. Despite there being a clear breach process identified in the Crown Lands Act,³³ it does not appear to have been utilised for any potential breaches by Town Camp CL holders.

Recommendation: Together with the CL holders, review the CL covenants and conditions to remove outdated provisions in relation to infrastructure and planning; and update CL conditions to ensure relevance to the particular uses of the land or proposed uses of the land.

Review conditions in consultation with the CL holders and the relevant agency charged with monitoring them to deliver clear and enforceable lease conditions

³⁰ Section 27 Crown Lands Act (NT).

³¹ Section 34 Crown Lands Act (NT).

³² Section 36 Crown Lands Act (NT).

³³ Section 38 Crown Lands Act (NT).

Put the CL holders on notice that the compliance monitoring of CL conditions and covenants will be undertaken and any issues of non-compliance enforced.

3. Aboriginal freehold

Aboriginal freehold is a form of title granted pursuant to the Aboriginal Land Rights (Northern Territory) Act (Cth) (ALRA). The ALRA legally recognises Aboriginal attachment to the land in the Northern Territory and is distinguished from native title. Applications for Aboriginal freehold can no longer be made.

The Aboriginal freehold parcels are:

- Mara in Borroloola owned by the Narwinbi Aboriginal Land Trust;
- North Camp in Elliott owned by the Gurungu Aboriginal Land Trust; and
- Mulgga in Mataranka owned by the Mataranka Aboriginal Land Trust.

Aboriginal freehold is not freehold in the usual sense, as the ALRA limits the ways in which an owning land trust can deal with and dispose of the land, including:

- it cannot be bought, sold or mortgaged, only transferred to another land trust or surrendered to the Crown;³⁴ and
- the rights of the Crown are preserved on potential ALRA land for things such as public roads.

Further, written permits are required to enter Aboriginal freehold to protect the privacy of the land and its inhabitants. It is likely, although not expressly stated as being the case, that residents of Town Camps over Aboriginal freehold lands retain a right of access by virtue of section 71 of the ALRA.

The Land Trusts, at the direction of the Land Council, is able to grant estates or interests in land vested in it to (which may be consented to or refused by the traditional owners):

- an Aboriginal or an Aboriginal and Torres Strait Islander corporation for residential, business or community purposes;³⁵
- the Commonwealth, Northern Territory or an Authority for any public purpose or to a mission for any mission purpose;³⁶ or
- any person for any purpose.³⁷

Ministerial consent is required for grants of estates or interests in the land described above where the term exceeds 40 years.³⁸

4. Freehold

The Town Camps on freehold parcels of land are:

- **Ilpeye Ilpeye:** owned by the Commonwealth after it compulsorily acquired the parcel of land that was once subject to a SPL;
- **Pine Creek:** used to be a crown lease (not in perpetuity) and when the crown lease expired, it was granted to the association as freehold for market

³⁴ Section 19 of the ALRA.

³⁵ Section 19(2) ALRA.

³⁶ Section 19(3) ALRA.

³⁷ Section 19(4A) ALRA.

³⁸ Section 19(7) ALRA. Ministerial consent is also required for grants involving the payment or receipt of an amount in excess of \$1,000,000 under section 27(3).

consideration. Therefore, in respect of this Town Camp there is literally no legal obstacles to dealing with the land and any apparent limitations would be a result of capacity, limited economic development opportunities and/or lack of funding; and

- **Jabiru:** owned by the Director of National Parks, but scheduled under the ALRA to become Aboriginal freehold. In 2009, native title claimants and the Commonwealth reached an agreement in respect of the Jabiru town lands and the ALRA was amended to make provision for the lands to be granted as Aboriginal freehold to the Kakadu Aboriginal Land Trust.

The Commonwealth's rights and the current land interests are to be protected by ensuring that the grant of land is conditional upon 99 year lease-backs being entered into. Under the ALRA, different parts of the land are going to be scheduled as Category A, B or C. The lease-back party may change dependent on that categorisation and can include lease-back to an Aboriginal Corporation, the Director of National Parks and the NT Government. Alternatively, the whole of the land can be leased back to the Director of National Parks.

As yet, the land has not been categorised and the negotiations in that respect must be ongoing. The relevance to this review is the impact this could potentially have on the Jabiru Town Camp. Provided the land on which the Town Camp is situated is protected under any lease-back arrangements, there should be no concerns. However, this means that the residents of the Town Camp will always be subject to the conditions of those arrangements, as it will have no ownership rights. The Town Camp tenure should be formalised by a sublease to an Aboriginal corporation established to protect the interests of the Town Camp residents.

CASE STUDY: Ilpeye Ilpeye

The owner of the SPL and the Commonwealth negotiated an agreement for the land to be subdivided and effectively become a new fully-serviced suburb of Alice Springs with home ownership options for the residents. We understand the subdivision of the parcel is completed or nearing completion.

5. Native Title

In making any proposed changes to Town Camp land on SPLs or CLs, there must also be consideration of any potential native title interests. It is possible that native title rights could be found to exist over those parcels of land where it is found that native title rights have not been extinguished. This may be relevant because, generally speaking, the granting of the SPLs or CLs would not have extinguished native title.³⁹ This is due to provision in the Native Title Act which operates to enliven native title where it has been extinguished in the past. In effect, the grant of a SPL/CL may suppress native title rights for the period of an SPL or CL which is held expressly for the benefit of Aboriginals or Torres Strait Islanders. Consequently, if this is found to be the case any dealings with the land within the term of that SPL/CL would not change the position of native title rights holders, but any change to the SPL/CL may do so.

So the ability for the underlying tenure to be changed may be impacted in areas where there are native title claimants, as any change may be likely to be deemed a future act.

³⁹ Section 47A *Native Title Act*

Under the Native Title Act 1993 (Cth), three hurdles must be overcome to establish a native title claim:

- there must be evidence of a group of traditional owners, known as a "claimant group";
- there must be a connection between the claimant group and the land concerned; and
- native title must not have been extinguished.

These requirements are not easily satisfied, and the process can be lengthy. It may be possible to negotiate an Indigenous Land Use Agreement with the native title claimants for the validation of the future act or extinguishment of native title rights. Validation could be seen to be the preferred option, however, in light of the review's findings of the transient nature of Town Camp residents, it is considered unlikely in most cases that Town Camps would be inhabited by native title claimants. In such circumstances, native title interests may be a competing interest to that of the Town Camp owner and the native title claimants may have little interest in agreeing to the validation.

Given the varied nature of the underlying tenure of Town Camps and the apparent confusion that appears to exist in terms of legal rights and obligations, it would seem a natural first step to attempt to rationalise the land tenure, for instance, converting all SPLs to CLs or vice versa. However, the legal and practical implications of doing so may be found to outweigh any potential positive outcome where the land is potentially subject to native title rights. For this reason, it is suggested that the SPLs are not universally transferred to CLs and instead a preferred option may be to make amendments to the legislation and SPL/CL conditions, to rationalise the rights and obligations of SPL and CL holders. If this approach is adopted, once the extent of the amendments are known consideration would need to be given to whether the amendments in totality themselves may constitute a future act. Unless the proposed amendments fundamentally changed the intention of the SPL/CL, moving it away from being for the benefit of Aboriginals or Torres Strait Islanders, reforming the legislation and SPL/CL conditions should not constitute a future act.

Nevertheless, for any SPL/CL Town Camps that consider acquisition, surrender or conversion of the SPL/CL with the aim of freehold title, any native title implications will need to be addressed.

Land dealings / leasing

1. Registered Leases

a) Alice Springs

Of the seventeen Alice Springs Town Camps existing on SPLs/CLs, sixteen have registered forty year leases to EDTL (Executive Director of Township leasing).

Fourteen of those had registered subleases to the Northern Territory Government (NTG), via the Department of Lands Planning and the Environment, that expired in 2012 but that still exist on a month to month holding over.

The purpose of the 40 year leases was to secure land tenure to enable substantial government investment in improved infrastructure and housing on the Alice Springs Town Camps. The Commonwealth Government committed to making up to \$100,000,000 funding available via its Strategic Indigenous Housing and Infrastructure Program in order to upgrade and increase the

housing and infrastructure located on the Alice Springs Town Camps during the first five years of the subleases.

The NTG and CEO Housing are also parties to the sublease (in addition to being underlessees as detailed below).

The subleases are all standardised documents and therefore will be considered as one Sublease for this Legal Report. Under the Sublease:

- the NTG must expend \$100,000,000 under SIHIP, inclusive of SIHIP projects costs, on the upgrade and construction of houses and infrastructure in the Alice Springs Town Camps within the first 5 years of the sublease;
- the NTG must provide a SIHIP annual report within 6 months of the end of each sublease year detailing the expenditure during that year;
- all existing improvements not subject to a registered interest or a right of occupation are the property of the SPL/CL Owners;
- EDTL is under no obligation to maintain, repair or replace any existing improvements unless the SPL/CL requires the Owner to maintain, repair or replace;
- EDTL may make or remove improvements on the Sublease area and those improvements will remain the property of EDTL for the term of Sublease, and the EDTL is responsible for their maintenance, repair and replacement;
- on expiry or earlier determination, all improvements will be the property of the SPL/CL Owner;
- the EDTL must use best endeavours to ensure that there is a Housing Management Agreement to enable a Housing Authority to provide housing services to Aboriginals in the Sublease area. A Housing Authority means a body which provides community or public housing (and includes the Territory, Tangentyere Council and Central Australia Affordable Housing Corporation);
- the EDTL may enter into a Housing Management Agreement if it is with the Territory or CEO Housing, or otherwise only with the approval of the Territory;
- the EDTL must include provision in each Housing Management Agreement which requires the Housing Authority to consult with the SPL/CL Owner in relation to housing and tenancy management policies and procedures;
- the EDTL may grant underleases over the Town Camp land;
- the NTG must call for tender for the provision of housing management services in the Alice Springs Town Camps within 2.5 years of the commencement of the Sublease. The tender must be assessed in consultation with the Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs (the Department) and the Sublease provides the basis of assessment;
- the Department will have regard to continuing housing and infrastructure needs in Alice Springs Town Camps in developing and applying policy;
- the NTG will commission an independent review of housing and infrastructure needs on a 3 yearly basis and the report be made available to the SPL/CL Owner on request;
- the parties agree to develop guidelines (including the apportionment of any purchase price) to enable Aboriginal people to acquire long-term secure

tenure in respect of residential parcels of the land to the extent permit by the SPL/CL and an applicable law;

- the EDTL is responsible for outgoings and services for the land, except for services used for the benefit of the SPL/CL Owner; and
- the EDTL must only use and permit the use of the land consistent with the purpose of the SPL/CL.

Consultative Forum: The parties agree to a Consultative Forum for the Alice Springs Living Area Subleases. The Consultative Forum facilitates communication and discusses land use and other issues arising from the performance of the Sublease with regard to the interests of the SPL/CL Owners and other legitimate community interests.

- all existing improvements are leased to the NTG under the Underlease;
- the NTG is under no obligations to maintain, repair or replace any existing improvements unless the Sublease requires EDTL to maintain repair or replace existing improvements, in which case that will be the responsibility of the Territory;
- EDTL reserves the right to carry out any works in respect of the existing improvements;
- the NTG may make and remove improvements to the land, and all of its improvements remain its property. At the end of the Underlease, all improvements will vest in the EDTL;
- the NTG may grant tenancy agreements provided that they do not exceed the balance of the term of the Underlease and are granted in accordance with the Underlease requirements. It may also grant underleases or licences over the land on the same basis and with the prior written consent of the EDTL (prior written consent is not required for a NTG entity);
- the outgoings and services are the responsibility of the NTG; and
- the NTG must only use the land consistent with the purposes of the SPL/CL and for the purpose or the provision of community or public housing services and related infrastructure.

Further underlease to Chief Executive Officer of Housing (CEO Housing)

There are unregistered underleases for parts of the Town Camp land from Territory to CEO Housing for public housing management for the same term as the underlease to Territory, which also now exists on a month to month holding over. This underlease covers all Town Camps other than Nyewente (Trucking Yards).⁴⁰ The underlease to CEO Housing commences and expires/terminates on the same dates as the underlease from EDTL to Territory.

The CEO Housing must:

- pay all rates, charges and taxes in respect of the premises;
- pay for all electricity, water and gas consumed or used on the premises;
- comply with the conditions of the Sublease between the EDTL and the Territory; and
- only use the premises for purposes consistent with permitted used defined in the Sublease between EDTL and the NTG – i.e. consistent with the purposes

⁴⁰ See Annexure D.

of the SPL/CL and for the purposes of provision of community or public housing services and related infrastructure.

The CEO housing may:

- transfer, sublet or assign the Underlease; and
- tenant, sublet or underlease in accordance with the permitted use.

Public Housing

The CEO Housing enters into a Public Housing Tenancy Agreement on a fixed term basis with the residents of the public housing on Town Camps.⁴¹ All tenants of the CEO Housing public housing must enter into this agreement, which is in accordance with the Residential Tenancies Act (NT) (RTA) and Housing Act (NT) (Housing Act).

The agreement includes usual tenancy provisions including:

- paying rent (which may be adjusted by CEO Housing);
- paying a bond;
- providing information in relation to identity;
- only using premises for residential purposes; and
- Obligations in relation to maintenance and use of the premises.

However, specific to public housing the agreement also provides:

- CEO Housing powers to require the tenant to enter into an Acceptable Behaviour Agreement in accordance with the Housing Act;
- public housing officers will monitor and control the premises; and
- the tenant must disclose the recognised occupiers of the premises.

b) Private leasing

There is registered private leasing over the Mara Town Camp in Borroloola and Kulaluk/Minmarama Park Town Camps in Darwin.

Gwalwa Darinki Association Inc, the Owner of Kulaluk and Minmarama Park Town Camps in Darwin, is the only SPL or CL Owner to have granted any interests in its land. Part of its CL (no. 671) is long-term subleased for the operation of the Ludmilla McDonalds.

The Owner of the Aboriginal freehold parcel in Borroloola, Narwinbi Aboriginal Land Trust, over which the Mara Town Camp exists, leases (or has leased previously) parts of the land to:

- Mabunji Aboriginal Resource Association Incorporated for crèche, child care centre, education establishment and ancillary uses; and
- Rumburriya Malandari Council Aboriginal Corporation for siting, construction, maintenance and operation of buildings to be used as a respite care centre and ancillary facilities including staff accommodation; and
- Northern Land Council for offices, meeting places, residential accommodation and for carrying out its functions under the ALRA (now expired)

⁴¹ See Annexure D.

CASE STUDY: Gwalwa Daraniki

The Kulaluk and Minmarama Park Town Camps owned by Gwalwa Daraniki Association Inc under a CL are a good case study in terms of what is possible on CL land. The land is the area in Ludmilla which includes the McDonalds Ludmilla site. Part of the CL has long term subleases and underleases over it to private businesses, providing a steady income stream for the Gwalwa Daraniki Association. There is also a proposed development over part of the land on Dick Ward Drive.

To facilitate these ventures, the land has been multi-zoned incorporating conservation, restricted development, community living, specific use (SD37 and SD44) and public open space zoning.

The purpose of the CL has been amended to 'consistent with the zoning of the land' rather than the usual Aboriginal residential/community purpose of the CLs and SPLs.

These changes permit a variety of uses on the CL land so as to preserve communal living whilst allowing for a range of uses including development and shows the potential use of the land which is subject to a CL.

2. Unregistered Leases

a) Tennant Creek

The 7 Tennant Creek Town Camps are all owned by the same association – Julalikari Housing Incorporated (JHI) – and all have unregistered leases to CEO Housing for 20+20+20 years.⁴²

There is a further underlease from CEO Housing to Julalikari Aboriginal Corporation (JCAC). Details of the obligations and responsibilities under this sublease include:

- JCAC must not assign or transfer, sublet, part with or share the possession of, grant any licence affecting mortgage, encumber, charge or otherwise deal with or dispose of the CL Underlease or the SPL Underlease Area
- JCAC must pay for all electricity, water and gas consumed or used on the CL Underlease Area
- JCAC must comply with all of JHI's and JCAC's covenants and obligations contained in each headlease and sublease in relation to the CL Underlease Area
- JCAC is responsible for repairing and maintaining the CL Underlease Area during the term
- JCAC must not use the CL Underlease Area for any purpose other than the Permitted Use (Permitted Use: community buildings and spaces, Plan marked A areas; child care centres, Plan marked B areas; and ceremonial and traditional Aboriginal purposes, Plan marked C areas) without written consent of Territory Housing). Plan marked A, B and C areas are included in Annexure A of the CL Underlease
- Territory Housing and its authorised persons may at all reasonable times enter the CL Underlease Area; view its condition and state of repair; and

⁴² See Annexure E.

notify JCAC of defect or damage and require JCAC to repair within a reasonable time

- Territory Housing may on reasonable notice enter onto the CL Underlease Area to construct, demolish, upgrade, extend, refurbish or do any other act or thing in relation to all improvements and services on the premises and in relation to the premises generally, and will not exercise this right unless certain circumstances exist, as specified in clause 8(e) of the CL Underlease
- Territory Housing agrees to observe JCAC's reasonable requirements to demonstrate respect for Aboriginal cultural practices and beliefs, except in an emergency as specified in clause 8(f) of the CL Underlease

Territory Housing covenants with JCAC that JCAC may peaceably hold and enjoy the CL Underlease Area during the term without any interruption or disturbance from Territory Housing or its claimants

b) Alice Springs

In Alice Springs there are unregistered leases from NTA (DLPE) to CEO Housing for public housing management for the same term as the underlease to NTG, which also now exists on a month to month holding over. This underlease covers all Town Camps other than Nyewente (Trucking Yards).⁴³ The underlease to CEO Housing commences and expires/terminates on the same dates as the underlease.

The CEO Housing must:

- pay all rates, charges and taxes in respect of the premises;
- pay for all electricity, water and gas consumed or used on the premises;
- comply with the conditions of the Sublease between the EDTL and the Territory; and
- only use the premises for purposes consistent with permitted use defined in the Sublease between EDTL and the Territory – i.e. consistent with the purposes of the SPL/CL and for the purposes of provision of community or public housing services and related infrastructure.

The CEO Housing may:

- transfer, sublet or assign the Underlease; and
- tenant, sublet or underlease in accordance with the permitted use.

⁴³ See Annexure D.

Public Housing

The CEO Housing enters into a Public Housing Tenancy Agreement on a fixed term basis with the residents of the public housing on Town Camps.⁴⁴ All tenants of the CEO Housing public housing must enter into this agreement, which is in accordance with the Residential Tenancies Act (NT) (RTA) and Housing Act (NT) (Housing Act).

The agreement includes usual tenancy provisions including:

- paying rent (which may be adjusted by CEO Housing);
- paying a bond;
- providing information in relation to identity;
- only using premises for residential purposes; and
- obligations in relation to maintenance and use of the premises.

However, specific to public housing the agreement also provides:

- CEO Housing powers to require the tenant to enter into an Acceptable Behaviour Agreement in accordance with the Housing Act;
- public housing officers will monitor and control the premises; and
- the tenant must disclose the recognised occupiers of the premises.

c) Other land dealings

Some of the Town Camps that are SPLs or CLs also have a notice of prescribed property as a registered dealing. Despite the notices only being registered on some of the titles, it is fair to assume that all of the SPLs and CLs that are held by incorporated associations are prescribed property and must be dealt with accordingly under the Associations Act (NT). This is discussed further at section 3.5 of this report.

Legislation in relation to land dealings

The SPL Act, Crown Land Act, ALRA and Native Title Act have been reviewed and considered within Section 3.1 – Tenure and will not be reconsidered here.

1. Planning Act (NT) and Planning Scheme

Any proposed development on Town Camp land must comply with the Planning Act and Regulations. Part 5 of the Planning Act sets out the requirements for any development and applies in any of the following circumstances:

- if a provision of a planning scheme allows development only with the consent of the consent authority;
- if the proposed development is the subdivision or consolidation of land; and
- if an interim development control order allows development only with the consent of a consent authority.

Section 46(3) of the Planning Act sets out the minimum requirements for a development application, including demonstrating how the proposed development will comply with any planning scheme that applies to the land. The

⁴⁴ See Annexure D.

consent authority may decide to reject an application if it does not meet these minimum information requirements.

The NT Planning Scheme applies to the whole of the Territory except where there is another planning scheme that applies or the NT Planning Scheme specifies an area of exclusion.

Planning Scheme zoning on Town Camps includes:

- No zoning (4 Town Camps);
- Community Living (30 Town Camps);
- Multiple Dwelling (1 Town Camp);
- Community Purposes (1 Town Camp);
- Public Open Space (1 Town Camp);
- And some are multi zoned which include different mixes of Multiple Dwelling, Public Open Space, Community Purposes, Community Living, Future Development, Water Management, Conservation, Heritage, Utilities, Restricted Development, Special Use SD37 and SD44 and Organised Recreation (7 Town Camps).

The Planning Scheme does not apply to Jabiru as it has a specific planning scheme in place in accordance with section 8 of the Planning Act.

There are several areas of the NT that are not zoned mainly due to the remote location or lack of population. Land use controls may still apply to some unzoned land when:

- the subdivision of land is needed; or
- the removal of over 1ha of native vegetation in areas not covered by other legislation.

Most of the Town Camps are zoned as "Community Living" and the purposes prescribed for that zoning in the NT Planning Scheme are:

- The primary purpose of Zone CL is to provide for community living.
- Residential accommodation may be temporary or permanent.
- There may be non-residential facilities for the social, cultural and recreational needs of residents.

Any potential subleasing or changes to the underlying tenure for economic growth and/or to create separable interests for residents may not be in compliance with the zoning of the land. Applications for re-zoning of the land would need to be made by the Town Camps to enable the potential uses of the land.

As a way to assist in any transition of zoning, the Territory Government could consider preparing or amending Area Plans for the relevant Town Camp areas as a first step. An example where this has occurred is in relation to Borroloola. The Area Plan identifies the current Town Camps and provides future uses for residential accommodation. If the Owners of the Town Camps sought to change the current uses and zoning of the Town Camps complying with the Area Plan will facilitate the approval of the application of rezoning.

Where a use of land otherwise prohibited by the relevant planning scheme is intended, an exceptional development permit may be sought from the Minister for Lands and Planning. This may be a useful avenue for development in Town Camps where the current capability of the land and services to the land would not be in accordance with the requirements of the NT Planning Scheme. For example, in many of the Town Camps not all of the service infrastructures inside the boundary of the Town Camp would meet the relevant authority's requirements for subdivision and therefore would not be supported by those authorities.

2. Residential Tenancies Act (NT)

Any long term subleasing of Town Camp land to residents akin to 'home ownership' is likely to be at odds with the provisions of the residential tenancies act. For example, under the RTA repairs and maintenance are the landlord's responsibility; however, home ownership under long-term leasing would likely require that the long-term lessee be responsible for repairs and maintenance as the 'owner' of the property. This would be in contravention of the RTA.

It may be necessary to exclude long term subleasing of this type from the RTA. The RTA will also require that the housing conforms to certain standards of fitness for use.

3. Stronger Futures in the Northern Territory Act 2012 (Cth)

Town Camps under the Stronger Futures in the Northern Territory Act 2012 (Cth) (Stronger Futures Act) are defined as land that is leased primarily for residential, community or cultural purposes for Aboriginal people under:

- the Crown Lands Act of the Northern Territory (the NT Crown Lands Act); or
- the Special Purposes Leases Act of the Northern Territory (the NT Special Purposes Leases Act).

So the powers and restrictions set out under the Act are limited to Town Camps within that definition (i.e. excludes any Town Camps on Aboriginal freehold or freehold).

Under the Stronger Futures Act the Commonwealth has the power to make regulations that modify any law of the Northern Territory (to the extent that it applies to a Town Camp) relating to:

- the use of the land;
- dealings in land;
- planning;
- infrastructure; or
- any matter prescribed by the regulations.⁴⁵

This may impact potential economic development in Town Camps as there is always a risk the Commonwealth may amend or introduce a law which impacts on Town Camp land dealings.

However, it must be noted that the purpose of the Stronger Futures Act, and the name of the Act itself, suggests that intervention is only likely where steps

⁴⁵ Section 34(1) Stronger Futures Act.

towards better living conditions or economic development are not being undertaken.

There are currently no regulations made in relation to this provision.

This may impact potential economic development in Town Camps as there is always a risk the Commonwealth may amend a law which impacts on Town Camp land dealings. However, it must be noted that the purpose of the Act, and the name of the Act itself, suggests that intervention is only likely where steps towards better living conditions or economic development are not being undertaken.

Legislation in relation to governance structure of Town Camp owner

The legislation governing the owners of the Town Camps are identified below:

1. Associations Act (NT)

Most of the SPL and CL Owners are incorporated associations under the Associations Act. The Act specifies a range of obligations for incorporated associations (via its management committee) including:

- lodging audited annual accounts with Licensing NT in the prescribed time frame;
- keeping a current register of members;
- holding meetings in line with the association's constitution and the law including recording accurate minutes that are confirmed by members and signed by the meeting chair;
- ensuring its activities are in line with its constitution; and
- acting in the best interest of the association and its members.

There are a range of fees applicable for incorporated associations including application fees for incorporation, constitution amendment fees and annual return fees etc.

A model constitution is provided on the nt.gov.au website to assist incorporated associations in drafting their constitutions. Incorporated associations may also make enquiries to Licensing NT if they have questions in relation to their obligations or reporting requirements. However, little other assistance is provided to incorporated associations that need support or guidance due to capacity issues.

The Director-General of Licensing has been delegated the independent statutory powers and functions of the Commissioner of Consumer Affairs under the provisions of the Associations Act. The position of the Director-General is supported by Licensing NT.

Under the Associations Act the Commissioner has the power to:

- dissolve an association that it has reasonable cause to believe is not carrying out the its objects or is not in operation;
- conduct an investigation into the affairs of an incorporated association if the Commissioner is satisfied it is appropriate having regard to information in the Commissioner's possession; and

- issue a certificate for the winding up of an association on grounds specified in the Act, which include, grounds that the association is defunct.

There are numerous offences stipulated in the Associations Act, most notable of these is the failure to prepare and submit the required reporting.

The current administration framework for incorporated associations is not adequately set up to monitor and discharge the requirements of the Associations Act. Information about compliance and reporting regarding incorporated associations is not available in a form that makes it easy to ascertain. Nor is any register kept of incorporated associations who are in administration or facing any other regulatory action.

Unlike corporations incorporated under the Corporations Act 2001 (Cth) or the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth) (CATSI Act), any searches of the register provide little information and are not able to give a complete view of the status of an incorporated association. For example, the Bagot Community Inc. is known to be in administration but any register extract search conducted with Licensing NT does not record this information and simply notes that that association is registered.

There is no information database that would enable the speedy search of the filing and reporting records of incorporated associations. It is understood that it is not possible to ascertain whether an association is complying with its obligations, unless a search of each association's records is undertaken.

These limitations in the compliance systems of incorporated associations contribute to the current inactive status of a number of SPL/CL Owners. Even if a search of the file was to be undertaken on each association, it would not be possible for us to draw any conclusions from the lack of information. Is a failure to provide annual financial reports, for instance, evidence that the Association in question is effectively defunct, or evidence of an Association acting pragmatically in not spending time on an activity which is not chased up if it has not been done?

It is clear that the regulatory framework under which most associations are incorporated – the Associations Act – is not equipped or funded to provide the level of specific support for incorporated associations that may require capacity building or extra support services.

Recommendation: Any future reform should include not only the establishment or re-establishment of associations that are representative of Town Camp communities (through new revived membership and governance bodies), but also the incorporation of those associations under a more appropriate and supportive framework better suited to the needs of Aboriginal corporations.

2. Corporations Aboriginal and Torres Strait Islander (CATSI) Act (Cth)

There are five SPL/CL Owners which are Aboriginal corporations incorporated under the CATSI Act. The Office of the Registrar of Indigenous Corporations (**ORIC**) is the independent statutory office Owner who administers the CATSI Act.

The obligations of Aboriginal corporations under the CATSI Act are similar to those of associations under the Associations Act, and include:

- following the rule book;

- understanding the corporation's finances and keeping proper financial records;
- making sure meetings are run properly and regularly;
- making sure reports are lodged with ORIC each year; and
- keeping records up-to-date, especially the register of members.
- The Registrar has a number of regulatory powers under the CATSI Act including:
 - convening and chairing meetings of a corporation;
 - sending compliance notices;
 - examining the books and records of a corporation or requesting production of books or attendance to answer questions;
 - requesting the court to issue warrants;
 - determining that a corporation be placed into special administration;
 - disqualifying people from managing corporations; and
 - applying to the court for the winding up of a corporation.

There is a broad range of offences for corporations and officeholders under the CATSI Act including for not meeting the annual reporting requirements. Through consultations with ORIC it is understood that the Registrar is vigorous in its compliance monitoring and the Director of Public Prosecutions actively prosecutes offenders under the CATSI Act.

ORIC provides a comprehensive support service for organisations interested in incorporating under the CATSI Act as well as already incorporated Aboriginal corporations. This is one of the main benefits of registering under the CATSI Act. There are also currently no fees charged by ORIC for any of the services they provide.

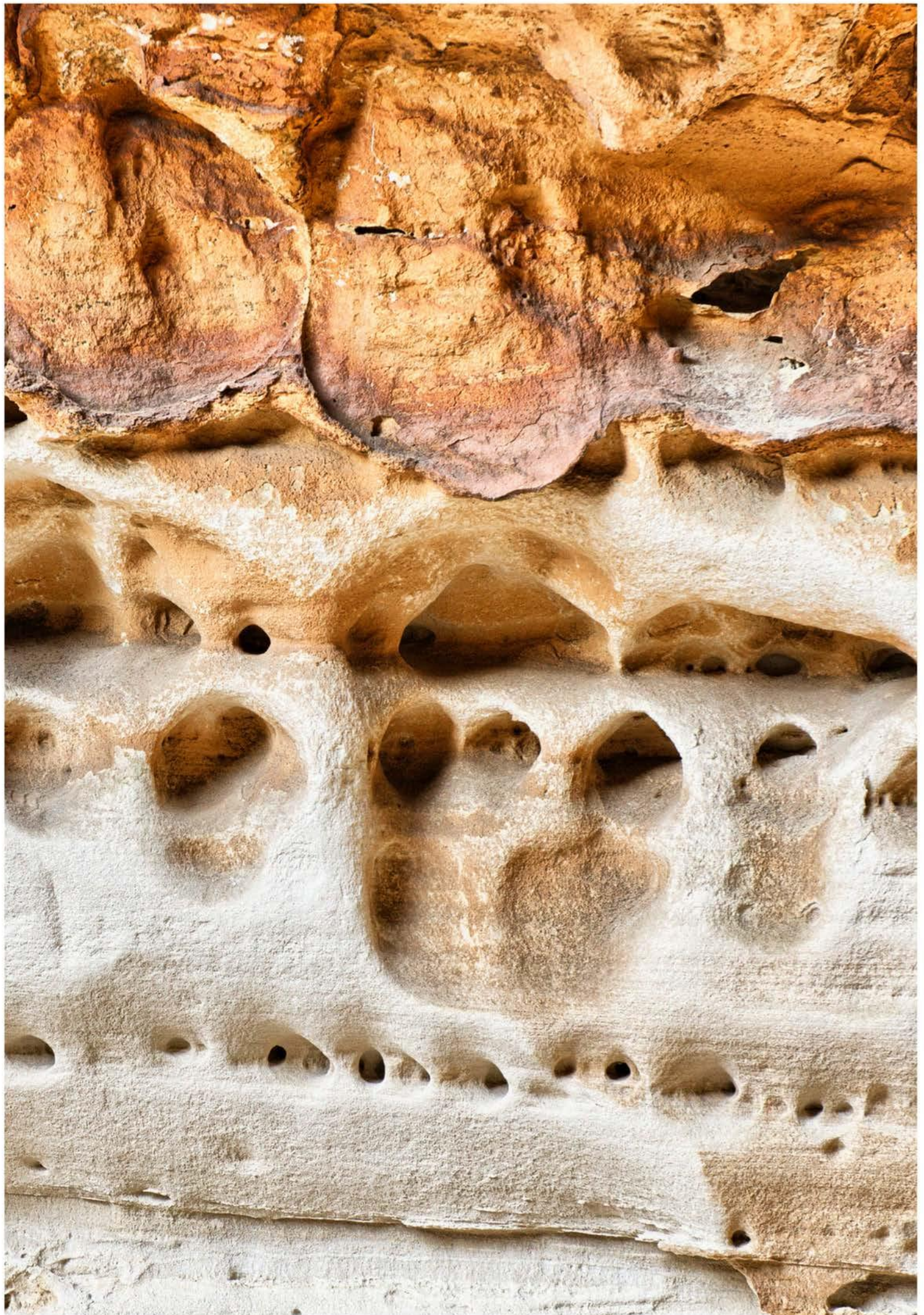
- Some of the services provided include:
 - assistance in developing the Aboriginal corporation's rule book;
 - assistance and support in completing reports and meeting reporting requirements;
 - a telephone information service for corporations to call seeking assistance;
 - training programs to help members and directors of corporations understand their roles, responsibilities and other corporate governance issues, ranging from introductory sessions to a Diploma of Business, as well as corporation specific training tailored to the requirements of an Aboriginal corporation;
 - a pro bono legal service which can assist with advice on matters such as the transfer of assets;
 - in community workshops and consultations;
 - a recruitment service to help fill senior positions within corporations; and
 - fact sheets, guides, forms and templates all readily available from the ORIC website.

Another benefit to incorporating under the CATSI Act is that it is culturally adaptive and any cultural issues can be provided for within the rule book.

Given the lack of structure and support provided for incorporated associations in the Territory, and the comprehensive support and structured administrative systems provided for Aboriginal corporations, it would seem that transfer of incorporation from the Associations Act to the CATSI Act is the most logical pathway to commence empowering Town Camp SPL and CL Owners. The CATSI Act provides a system designed for Indigenous corporations and ORIC is already equipped to provide support and effectively monitor compliance.

There are provisions in both the Associations Act and CATSI Act which provide for the transfer of incorporation and ORIC is able to assist and support the transfer process.

Recommendation: Aboriginal associations incorporated under the associations act should be required to transfer to an Aboriginal corporation under the CATSI act.



Municipal and essential infrastructure

Introduction

This section of the report highlights the results of infrastructure inspections conducted for Town Camp assets spread across the selected 43 Town Camps.

Specific findings have been identified at a consolidated level and strategic recommendations to address the findings have been outlined in detail. It should be noted that the general themes identified below do not speak for every Town Camp but rather provide an overall view. For detailed commentary on each region or specific Town Camp, refer to relevant part of this report.

Summary of Findings

- The majority of the Town Camps have sewerage networks that are not compliant with Power and Water Corporation standards. Deferred maintenance costs are \$30,000 and it will cost \$23,156,000 to upgrade sewage networks to meet current design standards.
- Water supply networks, bulk water meters and fire hydrant coverage are generally non-compliant by current standards. Deferred maintenance costs are \$110,000 and it will cost \$27,812,000 to upgrade water networks to meet current design standards.
- The roads, road furniture and storm water drainage in almost all Town Camps were in poor condition due to a number of defects. They were also not compliant with local council standards and appear to have not been maintained on a regular basis. Deferred maintenance costs are \$7,348,000 and it will cost \$29,518,000 to upgrade road networks to meet current design standards.
- Regular maintenance has not been carried out on the majority of the community structures. Playgrounds, basketball court and BBQ areas varied in condition from very poor to very good but almost all require immediate maintenance or upgrades to bring them to a practical standard. Deferred maintenance costs are \$465,000 and it will cost \$95,000 to upgrade community structure to meet current design standards.
- Street lights and sports area lighting systems require maintenance and need to be upgraded in the majority of the Town Camps. Deferred maintenance costs are \$1,146,000 (including \$400,000 of Power and Water Corporation assets and load monitoring) and it will cost \$17,410,000 (including \$375,000 for PWC transformer upgrades) to upgrade electrical networks to meet current design standards.

Summary of Recommendations

- Town Camps with undersized networks or non-compliant sewage pump stations should be upgraded so that the infrastructure complies with relevant standards.
- Town Camps that are non-compliant should undergo major upgrades to the water supply in order to comply with Power and Water Corporation standards and provide the required capacity. The water supply to the Town

Camps is proposed to be measured with bulk water meters located on the community boundary.

- Long term designs, which incorporate a full two lane road network, with all appropriate road furniture, line marking, footpaths, signage, kerbs and gutters, side entry pits and underground drainage, should be constructed at all Town Camps.
- Community structures should be upgraded and/or repaired. Regular maintenance should be undertaken to ensure the structures are kept in good working order.
- Electrical infrastructure should be upgraded and/or repaired. A number of Town Camps require load monitoring to determine the capacity of the transformers. Almost all Town Camps require new street lighting, particularly where roads are being upgraded. Regular maintenance should be undertaken to ensure the structures are kept in good working order. Investment should be made in cage protection to protect electrical components.

Context

The status of the municipal infrastructure and services, being the sewerage, water supply, roads and road furniture, stormwater drainage, community structures, electrical supply and communication services, were assessed in late 2016. No intrusive excavations or potholing of buried services were undertaken within the communities. The condition of the above ground / visible services were assessed against a standardised rating, categorised as being in very poor, poor, good, very good or excellent condition.

A desktop study was undertaken to assess the capacity of the existing below ground infrastructure and to determine whether these meet current relevant requirements and standards. This assessment was based on available drawings and the condition assessments from the site inspections.

Maintenance work and upgrades were recommended to improve the condition, capacity and compliance of the infrastructure. These recommendations can be found in more detail, including calculations and cost estimates, in Appendix B.

The future demand analysis showed that between one and four additional houses are required at the following Town Camps: Knuckey Lagoon, Railway Dam, Mulggan, Kargaru, Village Camp, Wuppa, and Mara. The additional houses are intended to provide permanent accommodation for residents that are currently living in non-house dwellings. The type and location of houses as well as number of bedrooms will need to be determined by the Department of Housing and Community Development when this work is undertaken.

The location of the new houses is assumed to be close to the existing houses such that significant extension of the existing sewerage, water supply, electrical and roadworks infrastructure would not be required. The additional houses will require minor works to the existing infrastructure including connections to sewerage, water supply and to the electrical network. Furthermore, a layover kerb will be required for access to the driveway. The cost estimates for these works have been allowed for in the upgrades for current demand. No additional works are required for stormwater drainage and community structures due to the new houses.

Sewerage

The above ground sewerage infrastructure (manhole covers, pump station compounds, etc.) in the Northern Territory Town Camps were generally in good condition. Below ground infrastructure could not be visibly inspected but from information sourced is believed to be generally in a poorer condition, with the exception of those services recently upgraded. These upgrades were mostly undertaken under the Strategic Indigenous Housing and Infrastructure Program (SIHIP) program and were centred on Alice Springs and Tennant Creek. Upgraded Town Camps now have sewer networks that generally comply with Power and Water Corporation (PWC) standards. All other Town Camps have sewer networks that generally do not comply with relevant standards, mainly due to the undersized pipes.

The sewerage infrastructure is generally owned by the operating group running the Town Camp, whereas the responsibility of repairs and maintenance belongs to the service provider funded by the Department of Housing and Community Development. On many occasions PWC have provided maintenance on an in kind basis as there are no formal maintenance agreements in place with PWC.

Water supply

The above ground water supply infrastructure including, fire hydrants, water meters, air valves, etc. is generally in good condition. Several Town Camps in Alice Springs and all Town Camps in Tennant Creek have recently had water supply infrastructure upgraded as part of the SIHIP program. These Town Camps now generally comply with PWC standards for water supply. With exception of the Town Camps that have undergone recent water supply upgrades, the water reticulation networks were found to be generally undersized and do not comply with relevant standards.

The water supply infrastructure is generally owned by the operating group running the Town Camp, whereas the responsibility of repairs and maintenance belongs to the service provider funded by The Department of Housing and Community Development. On many occasions, PWC have provided maintenance on an in kind basis as there are no formal maintenance agreements in place. PWC have advised that the water usage for the Town Camps in the southern region is billed to the Department of Housing and Community Development.

Roads and stormwater drainage

A number of Town Camps have recently had road and stormwater drainage upgraded as part of the SIHIP program. These Town Camps now have road pavements which are sealed two lane roads with new kerbs, gutters, side entry pits, and road furniture. The upgraded roads appear to comply with relevant standards however the roads in Alice Springs have not been approved by the Alice Springs Town Council. The roads in Town Camps that have not recently been upgraded are generally in poor condition due to a number of defects, the most frequent being potholes, edge breaks, surface cracking, stone loss, and an overall poor general appearance due to dirt, rubbish and graffiti on the road.

Road furniture, such as signs, footpaths and carparks were also assessed. The road furniture varied in condition throughout the camps however it was noted that many camps had insufficient signage and no footpaths.

The stormwater drainage networks were in poor condition or non-existent in a number of camps that had not been recently upgraded. The lack of drainage results in periodic flooding in almost all of these Town Camps. A reoccurring

issue in the Town Camps with existing stormwater drainage was that the side entry pits and/or gutters were blocked with dirt and debris.

Community structures

Approximately 75% of the Town Camps had a playground, 30% had a BBQ area, 40% had a basketball court, 10% had bubblers, and 25% had no community structures. The playgrounds were generally in a poor condition due to tears in the shade cloth, no shade cloth (either removed or none had been constructed), poor flooring (e.g. gravel surface, broken glass in sand pit), broken equipment, and poor general appearance due to paint peeling, graffiti, debris and weeds. Almost all Town Camps that have a playground require maintenance work to bring the playground back to a practical, useable and aesthetically pleasing condition. Likewise, the BBQ areas and basketball courts require general maintenance. The basketball courts that were covered with a shed-like roof were in better condition and appeared to be used more regularly than the basketball courts that were not covered.

Electrical infrastructure

The electrical infrastructure in the Northern Territory Town Camps is generally in good condition except for a few that are discussed below.

Maximum demand calculations indicated that transformer capacity in the majority of Town Camps meets the current needs. In 6 Town Camps where the calculated demand exceed 85% of transformer capacity it is recommended that power monitoring be undertaken to allow PWC to determine, by assessment, whether the transformer needs to be upgraded or not.

The overhead poles are of Weld Construction (Universal Pole construction) and steel Low Voltage distribution / service poles. Overhead poles were assessed to generally be in good condition and comply with relevant standards and practices.

The street lights power supply were 47% underground cables, 50% overhead cables and 3% solar type with the majority in good condition, which are not PWC assets. There are also street lights on overhead power poles, of which just over half were in good condition. Most of the poor condition street lighting systems were due to broken covers and lamps.

Almost all of the power meters in the Town Camps are prepaid meters and generally in good condition. Although switchboards inside of metering panels and switchboards associated with dwellings are generally in good condition, some need to be repaired because of safety issues with respect to missing blanking plates. It should be noted that the metering panels in Elliott and Borroloola could not be assessed.

Communications

Details of communications infrastructure are held by Telstra and were not provided for this report. The telecommunications infrastructure assessed were the pits and any telephone booths. The condition of the underground communication cabling was not assessed however pits were visually inspected and there are a number of broken pit covers in poor condition that need to be replaced.

National Broadband Network (NBN) roll-out maps indicates that NBN is currently available on application in most communities either via fixed telecommunications

line or via satellite. In a small number of communities NBN is not available but is planned via fixed telecommunications line.

It should be noted that representatives from NBN's Land Access and Stake Holder management teams are currently engaged with the Department of Housing and Community Development to look at how camps will be serviced. National Broadband Network Company (NBNCo) expect that existing premises in these camps will have NBN service via the NBN Brownfields Rollout in the future. It is recommended that NBN be advised of any new dwellings proposed in Town Camps.

Key findings

Sewerage

The majority of the Town Camps have sewerage networks that are not compliant with PWC standards, the exceptions being the few Town Camps in Alice Springs and Tennant Creek that have recently been upgraded.

Water supply

The water supply networks are generally undersized by current standards and require upgrades to extensive lengths of pipe. Water usage is commonly measured with bulk water meters located at community boundaries although a number of these are also undersized. The majority of the Town Camps have some fire hydrants, however the coverage is often inadequate, furthermore the undersized water mains are inappropriate to support fire flow demands to these hydrants.

Communities with recent upgrades to the water supply are generally in compliance with PWC standards and provide sufficient capacity for peak hour and fire flow demands. These water reticulation networks have been upgraded to DN150 PVC ring mains with network looping incorporated where necessary. Although the entire Town Camp is still formally viewed as a single lot, residential lot water meters are used to measure water usage rather than bulk water meters. Some sections of the upgraded water mains have been installed in what appears to be dedicated water easements, however, review of Land Titles shows that no formal easements are registered.

Roads and stormwater drainage

The roads, road furniture and stormwater drainage in almost all Town Camps were in poor condition due to a number of defects, were not compliant with local council standards, and appear to have not been maintained on a regular basis. The roads and stormwater drainage infrastructure that has recently been upgraded in Alice Springs and Tennant Creek were generally in very good condition and appeared to comply with local standards.

Community structures

It appears as though regular maintenance has not been carried out on the majority of the community structures. The playgrounds, basketball courts and BBQ areas varied in condition from very poor to very good but almost all require immediate maintenance or upgrades to bring them up to a practical standard.

Electrical infrastructure

In general maximum demand estimates indicate that the Town Camp loads are within the capacity of supply transformers. In cases where theoretical estimates indicate an overload, PWC are usually aware of the situation and have determined that no action is required. Where theoretical overloads exist, load

monitoring is recommended to allow further assessment to occur. This has been included in the cost estimates.

General lighting, including street lights and sports area lighting systems, need to be upgraded in the majority of the Town Camps. The current lighting is not owned or maintained by PWC. There are numerous broken covers and lamps and maintenance is also required on most operational lights (e.g. cleaning debris inside the covers to achieve maximum performance).

Approximately 30% of switchboards inside of metering panels and 15% of switchboards associated with dwellings are in poor condition and have safety issues due to missing blanking plates.

Communications

A number of visually inspected communications pit covers were in poor condition and covered by soil and need to be cleaned or repaired.

There are also some telephone booths in poor or very poor condition requiring upgrade/replacement.

Key options and recommendations

Sewerage

It is recommended that the Town Camps with undersized networks or non-compliant sewage pump stations are upgraded so that the infrastructure complies with PWC standards. It is also noted that if the assets are to be gifted to PWC in the future, easements will need to be created over all sewerage infrastructure.

Water supply

The majority of the Town Camps are non-compliant and have insufficient capacity for fire flow demands. It is proposed these Town Camps undergo major upgrades to the water supply in order to comply with PWC standards and provide capacity for fire flow demands. With the exception of the recently upgraded communities, additional fire hydrants are required throughout the Town Camps to provide sufficient coverage to comply with firefighting standards.

As the Town Camps are formally viewed as a single lot it is recommended that water usage is measured accordingly. The water supply to the Town Camps is proposed to be measured with bulk water meters located on the community boundary.

Roads and stormwater drainage

It is recommended that a long term design which incorporates a full two lane road network, with all appropriate road furniture, line marking, footpaths, signage, kerbs and gutters, side entry pits and underground drainage is constructed at all Town Camps which have not recently been upgraded as part of SIHIP (with the exception of Bagot community which generally already complies). This is likely to require the reinstatement of the base and subbase material, a seal with a two coat spray seal surface and construction of subsoil drainage, line marking and signage.

At the Town Camps that have existing side entry pits and gutters, it is recommended that these are cleared of debris to reduce further blockages in the stormwater drainage pipes.

Community structures

It is recommended that the community structures are upgraded and/or repaired and regular maintenance is undertaken to ensure the structures are kept in good working order. This includes repairing or installing new shade cloths, replacing broken playground equipment, repairing or replacing floor material, and generally tidying up the structures and surrounding areas.

Electrical infrastructure

It is recommended that cage protection is added to protect all street lighting whether on stand-alone lighting poles or on the power overhead poles. New street lighting is recommended for all Town Camps where the roads are being upgraded. This makes up the majority of the cost estimate for current design upgrades.

Continued power monitoring is recommended for six of the Town Camps to determine the detailed demand profile and whether the transformer needs to be upgraded or not.

Communications

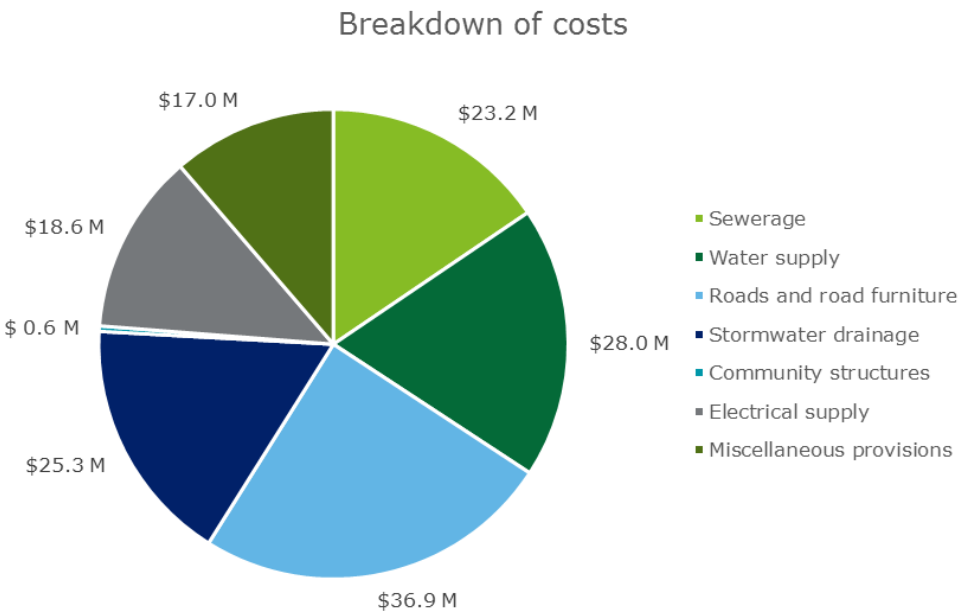
With NBN available at most Town Camps via either fixed telecommunications line or via satellite, it is up to individual residents to apply to an appropriate NBN access provider. It is recommended that residents be informed of specific and appropriate NBN access providers able to provide services.

Cost estimates

The table below shows a summary of the cost estimates to undertake the maintenance required to fix the existing infrastructure and the cost estimate to upgrade the existing network to meet current design standards and current demand. The estimates take into account a 30% contingency, are inclusive of GST, and a location factor has been applied to Town Camps outside of Darwin.

Infrastructure	Maintenance of existing infrastructure	Upgrades to meet current design
Sewerage	\$ 30,000	\$ 23,156,000
Water supply	\$ 110,000	\$ 27,812,000
Roadworks	\$ 7,348,000	\$ 29,518,000
Stormwater drainage	\$ 526,000	\$ 24,766,000
Community structures	\$ 465,000	\$ 95,000
Electrical	\$ 1,146,000	\$ 17,410,000
Communications	\$ 0	\$ 0
Miscellaneous provisions	\$ 1,629,000	\$ 15,276,000
Total (including GST)	\$ 11,254,000	\$ 138,033,000
Grand total	\$ 149,287,000	

The cost estimates are a preliminary estimate only. Since Aurecon has no control over the cost of labour, materials, equipment or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Aurecon cannot guarantee actual costs will not vary from these estimates.





Housing

Introduction

This section of the report highlights the results of a survey conducted for housing assets spread across the selected 43 Town Camps. The report considers the ages and general condition of these houses as well as providing cost estimates for both current and future demand. Consideration is also given to a range of housing issues prevalent in Town Camps across the Territory.

Specific findings have been identified at a consolidated level and strategic recommendations to address the findings have been outlined in detail. It should be noted that the general themes identified below do not speak for every Town Camp but rather provide an overall view. For detailed commentary on each region or specific Town Camp, refer to the relevant part of this report.

Summary of Findings

There are a number of findings constraining the economic development of Town Camps and their residents. These findings are outlined below:

- The current system of governance does not allow Town Camps residents the ability to control their own space (refer to the Governance Section for details);
- There is no clear governance structure that provides agile decision making frameworks, direction and support to Town Camps and their residents;
- There is a lack of clearly assigned roles and responsibilities of owners, occupiers and service providers;
- Housing and essential service infrastructure maintenance programs are unsustainable;
- Transient populations are causing overcrowding in a host of Town Camps which is compounding issues with maintenance of housing and essential service infrastructure;
- The system for service delivery contribution fees and payments for essential services is ineffective;
- There are limited pathways for Town Camps' residents to home ownership;
- There are limited pathways for private investment in Town Camps.

Summary of Recommendations

- Facilitate the implementation of strong governance structures that allow residents to control space and make decisions representative of the resident population (refer to the Governance Section);
- Guide Town Camp residents through a process of transforming their thinking about housing including:
 - Development of an understanding that housing resources are limited, not limitless;
 - The concept of shelter also being an asset.
- Build new houses in Town Camps to accommodate permanent residents (where required);

- Upgrade all Town Camp houses that accommodate permanent residents to the standards of the Residential Tenancy Act;
- Develop strategies to assign responsibilities to residents for the houses they occupy, including strong tenancy management frameworks;
- Plan and account for transient populations through the provision of transient living spaces with firm rules around usage;
- Provide structured support to Town Camps for the development of defined pathways to home ownership;
- Outline clear incentives for residents to take a defined pathway to home ownership leading to the development of an active housing market;
- Establish effective collection mediums to fund service delivery and essential service infrastructure leading to incentives for private investment;
- Consider the implications of the impact that the roll out of the NDIS may have for both, asset owners and tenants.

Context

Across all cultures one of the most basic needs of humanity is the ability to control space. Space embodies one of the most fundamental physiological requirements for human survival which is typically referred to as 'human shelter'. What forms that shelter might take are determined by cultural rules about space.

When humans were mostly mobile across the landscape, shelters needed to be easily erected using locally available materials. When shelter deteriorated, or the environment became unhealthy, shelter was easily abandoned, or dismantled. Groups often then simply relocated.

Over time humans have become more sedentary and living spaces more permanent, eventually morphing into the houses we know today. However, throughout the evolution of human shelter one thing that has remained constant is the right of humans to control their own space. This fundamental right eventually led to the concept of control embodying constructs of ownership. In turn this led to shelters becoming assets that could be bought and sold. This fundamental shift in the treatment of human shelter brought about a totally different set of rules and behaviours that transformed people's ability to control space.

The fundamental physiological requirement to control space through human shelter has existed in Indigenous culture for tens of thousands of years. However, in recent history Indigenous people have been denied that right. The simple reality for many Town Camps is that the residents cannot control who comes and goes within their space.

Findings

Control of space

The denial of the basic need of Indigenous people to control their own space is the catalyst for a host of symptoms that are restricting the development of many Town Camps in the Territory.

An inability to control space starts with the governance of Town Camps as a whole. There is seemingly no distinct agency or organisation providing direction,

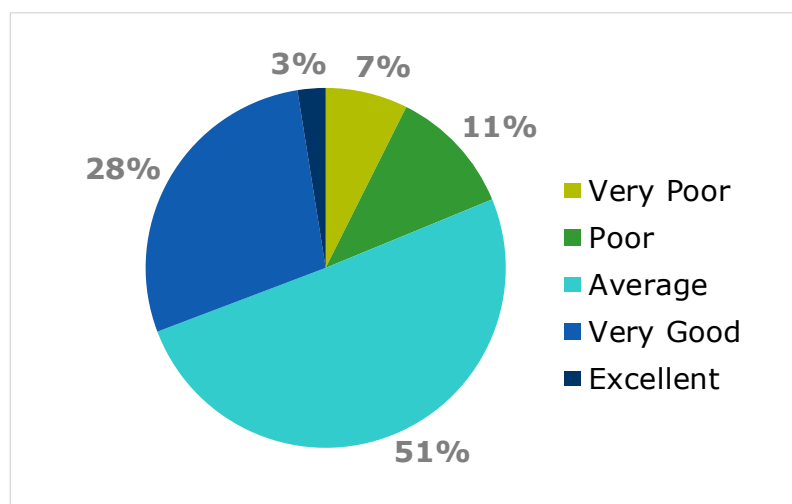
support and funding to Town Camps. Individual Town Camps often have no decision making ability as a community. This has resulted in a state of uncertainty that shrouds Town Camps in almost every respect (for a full explanation see the Governance section of this report).

In many Town Camps no responsibility or accountability is given to the residents for the houses they occupy. Stakeholders with years of experience in Town Camps still struggle to clearly allocate roles and responsibilities in relation to specific Town Camps. This has resulted in stakeholders having no logical way to determine the number of residents in a Town Camp at any given time, let alone the knowledge of exactly who those residents are.

No governance structures that control Town Camp living spaces has seriously affected the condition of many houses. Where asset use is not controlled there is no designated responsibility for its maintenance and therefore, no one is accountable for any damage done. In many cases this is quickly eroding any housing repairs and maintenance funding for emergency repairs and prohibiting any long term maintenance spending.

Condition of houses

The overall assessment of the housing within the 43 Town Camps revealed that the majority of housing stock is over 20 years old. This age, in conjunction with neglect by the tenants and a lack of appropriate maintenance, has resulted in 18% of the housing stock being of a poor condition and below. The total cost to bring all Town Camp houses up to the standards of the Residential Tenancy Act is \$77,702,182.



Additionally there are number of permanent residents that are residing in makeshift and semi-permanent structures that need to be accommodated. The cost of these new houses is estimated to be \$8,276,749.

Hygiene and cleanliness of the residences was identified as a significant issue in most of the inspected houses. Refer to the individual housing reports in the appendices for WHS or OHS issues and urgent and immediate repair issues. There is a likelihood of asbestos in the majority of the dwellings and many of the properties have compressed cement sheet linings that have some extent of damage.

There are well researched and reported housing investment models that explain how housing maintenance spending should be done to maximise success. Simply the models propose that for a housing asset to retain its value over the life of the investment, say 30 years, the investor will be required to spend between 1% and 5% of the capital value of the asset per annum over the investment period.⁴⁶

If the low end is 1% for good tenants, then the high end for current usage would be substantially higher. The current funds allocated to Town Camp dwellings are at the smaller end of the investment model, meaning that even the most successful tenant could not maintain the home purely on government funding. Add to this no roles or responsibilities and little incentives for Town Camp maintenance and it is clear that the current model is unsustainable and has to change.

Transient populations – Town Camps visitors

Another prevalent trend that is wreaking havoc for housing and infrastructure in Town Camps across the Territory is transient populations. Indigenous people have increased cultural reasons for travel in addition to leisure travel. This has resulted in a significant migratory population that comes and goes between various Town Camps and outstations in the Territory.

CASE STUDY: Mulgga Town Camp⁴⁷

Mulgga has approximately 12 dwellings which house an estimated 50 permanent residents. There are no tenancy agreements with residents who as a result, bear no rights or responsibilities for the condition of the dwellings they occupy. Depending on the season the population of this Town Camp can increase to 150 people. This huge variation in the number of residents is having highly detrimental impacts both on the condition of the houses and the essential infrastructure which is designed to service a much smaller population.

This also highlights the difficulties in economic integration when living in a house with a substantial number of guests. Add a single resident who is struggling with substance abuse and it is easy to imagine the difficulties that would arise in attendance at regular employment.

The population data collected during the survey indicates that houses are not overcrowded with permanent residents however the strain on the amenities is being caused by transient visitors. Transient populations are the primary driver of overcrowding which is difficult to predict and plan for.⁴⁸

A typical suburban house and the surrounding infrastructure is simply not prepared to handle rapid and substantial increases in the number of inhabitants. It is clear that the transient nature of many residents in Town Camps is an issue

⁴⁶ Brisbane Maintenance Experts, (2013) Don't Break the Bank: How to Budget for Home Maintenance. Retrieved from <http://www.brisbanemaintenanceexperts.com.au/wp-content/uploads/2013/11/Dont-break-the-bank.pdf>.

⁴⁷ Case study sourced from consultation with Roper Gulf Regional Council.

⁴⁸ However it should be noted that population data was not available the Boroollola or Elliot Town Camps.

that is not addressed by current housing stock and associated essential infrastructure.

Payment of service fees and rental contributions

Another issue impacted by the inability to control space is the level of rental contributions from residents and the payment of essential service bills. A host of structures exist for the collection of rent with varying levels of success. In many cases residents contribute to the service they receive in isolated pockets, often dependent on Centrelink deductions or local employment. In other cases residents believe that they own the houses in which they reside and they refuse to make any contribution.

CASE STUDY: Yilli Rreung Housing Aboriginal Corporation⁴⁹

Yilli Rreung Housing Aboriginal Corporation has some of the highest rental contributions of a non-government led tenancy management program. Yilli Rreung acts as the property manager for seven Town Camps in the greater Darwin region. The Corporation enters into tenancy agreements with residents on behalf of the lease holder.

With the exception of 1 Town Camp, the tenancy management program has resulted in an average collection rate of 75%. This is despite the fact that the Corporation has no ability to evict residents on the basis of non-payment. The success of this tenancy program is due to experienced housing officers that actively chase rental arrears and a comprehensive reporting platform that allows Yilli Rreung to hold residents accountable for the funds owed.

This is causing substantial heartache for the collectors of contributions who often have no legal basis to evict tenants and no other alternative living spaces for these people to go to. As a result this is causing strain on the funding that is provided for the service provision to Town Camps which must be used to address mounting maintenance issues.

It should be noted that the collection of rental payments under the control of the Northern Territory Government is obtaining far greater levels of rental contributions in comparison to those Town Camps not under Government led tenancy programs.

The collection of payment for the provision of essential services such as rates and sewage is also problematic. In some cases, the party responsible for the payment of essential service bills cannot be found resulting in mounting debts. As there is no responsibility or accountability for the use of essential services in some cases the water bill alone exceeds the entire amount of government funding provided for municipal and essential services. This is leading to further debt or local organisations agreeing to pay these costs out of their own pocket. Again, this is not sustainable.

Home ownership

Another symptom that has stemmed from an inability to control space is the limited established pathways to home ownership. This topic has been on the agenda for some time, however across the Town Camps there appears to be

⁴⁹ Case study sourced from consultation with Yilli Rreung Housing Aboriginal Corporation

little progress. In the end it typically boils down to a lack of incentive for home ownership. In some cases, individual Town Camp residents believe they own the houses in which they reside so why would they need to buy it? In other cases residents are residing in Town Camps for free so why would they be interested in having to pay? If you as a resident cannot control who comes and goes in your house why would you want to buy it? Most importantly there is simply no active market for houses in Town Camps. So why would you want to buy something you can't use for economic benefit?

Private investment

Finally uncontrolled space is hindering any opportunities for private investment in housing or infrastructure. As with home ownership, there is little incentive for the private sector to engage with Town Camps for investment opportunities except in the limited cases where commercially desirable land exists. For any investment to be made there must be a commercially viable opportunity and certainty over control of the asset that provides a viable income stream. Currently there is simply not a commercially viable opportunity due to the difficulties in obtaining contributions from residents. Concurrently there is also no certainty to private investors for control over any investment they make.

Ultimately a lack of clear governance structures with limited assigned roles and responsibilities has produced a situation where residents cannot control their own space. This has compounded a range of symptoms that have resulted in unsustainable maintenance programs and serious issues with alcohol and substance abuse. Further a lack of control has allowed transient residents to overcrowd Town Camps at variable times which is creating a strain on both housing and infrastructure. The collection of contributions for service delivery or essential services is typically ineffective across Town Camps.

Ultimately these symptoms are causing a continuation of a shelter mentality which is resulting in limited desires or established pathways for home ownership or private investment in either housing or infrastructure.

Recommendations

Governance

Strong governance structures with the ability to make decisions representative of the greater population is the ultimate decision making tool for any Town Camp. This is the first step in allowing the residents of the Town Camps to take control of their own space. For a full analysis and explanation of the reform model governance structure, see the Governance section of this Report.

Once a governance structure for each Town Camp is established, the residents of each of the Town Camps need to be guided through a process of transforming their thinking about housing. Residents need to understand that housing resources are limited, not limitless. The concept of shelter also being an asset needs to be understood particularly with regard to maintaining a permanent asset as opposed to living in a temporary shelter.

Upgrade of housing /additional housing

It is proposed that all houses that accommodate permanent residents be refurbished or renovated to meet the standards of the Residential Tenancy Act. Furthermore where the permanent residents are living in a makeshift shelter a new house need to be provided for these residents. Additionally where the

number of adults per bedroom exceed 2 adults additional houses should be constructed to account for permanent residents.

It is important to acknowledge the likely presence of asbestos. For future works, residents and maintenance contractors should be made aware there is a likely presence of asbestos before commencing any works. It is recommended that the materials be identified and houses labelled with appropriate warnings.

Transient populations

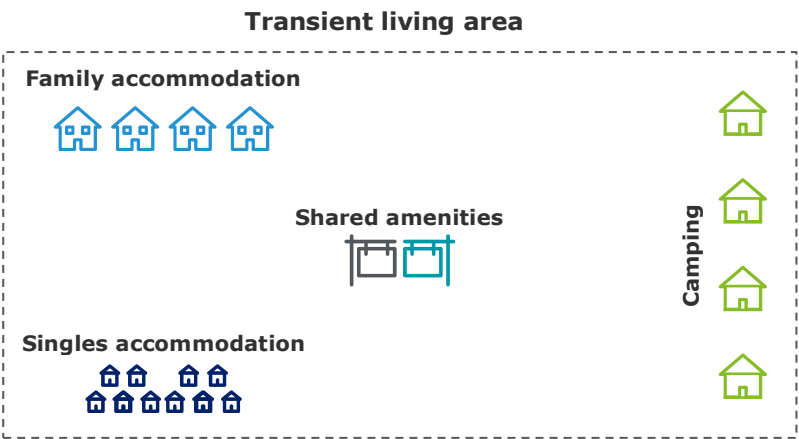
The next step is to acknowledge that many Town Camps have a significant transient population that need to be accommodated in alternative accommodation to prevent strains on housing and infrastructure and to address some of the social dysfunction in Town Camps. Strong governance around tenancies will enable established tenants occupying specific houses to ensure control over who visits and stays in the long term.

To provide for Town Camp visitors, temporary accommodation areas should be constructed as alternate accommodation to Town Camps that experience significant population fluctuation. In the short term we envisage that transient living areas should be constructed in Darwin and Katherine to provide for transient populations visiting these regions. Such a facility is already being successfully run as the Apmere Mwerre Visitor Park in Alice Springs.

Initially these 2 large transient living areas will require significant investment. Following the design philosophy for the existing facility in Alice Springs this is an estimated cost of \$16.2 million for Darwin and \$15.2 million for Katherine. The total combined cost is estimated to be \$35 million following a contingency allowance for unknown requirements around design, project management, site preparation and servicing costs.

Transient living spaces must be strictly controlled to succeed. We envisage the best way to do this is through management by a non-government organisation (NGO) who provides on-site administration and management on the back of funding agreements. Under the grant model the combined facilities are likely to require annual operational funding in the order of \$2-3 million per annum.

The NGO needs to ensure strong rules and accountabilities are assigned to the transient visitors living in these spaces. The accommodation options therein must be suitable for a range of demographics and cultures which will use the facilities. This means a variety of accommodations options.



Transient visitors will only be allowed to stay for short periods of time with the opportunities for transitions into more mainstream living environments, through the provision of more public housing stock (see strategic findings and recommendations).

As transient living areas are developed across the Territory, data needs to be collected to provide accurate visitation numbers. This data can help to determine if more transient living areas are required and ultimately help to determine the Indigenous transient population in the Territory.

Another approach to consider in addressing the transient population is to increase delivery of essential and social services in remote communities. The ability to access essential services in remotes areas will negate the need for travelling to major centres.

Tenancy management

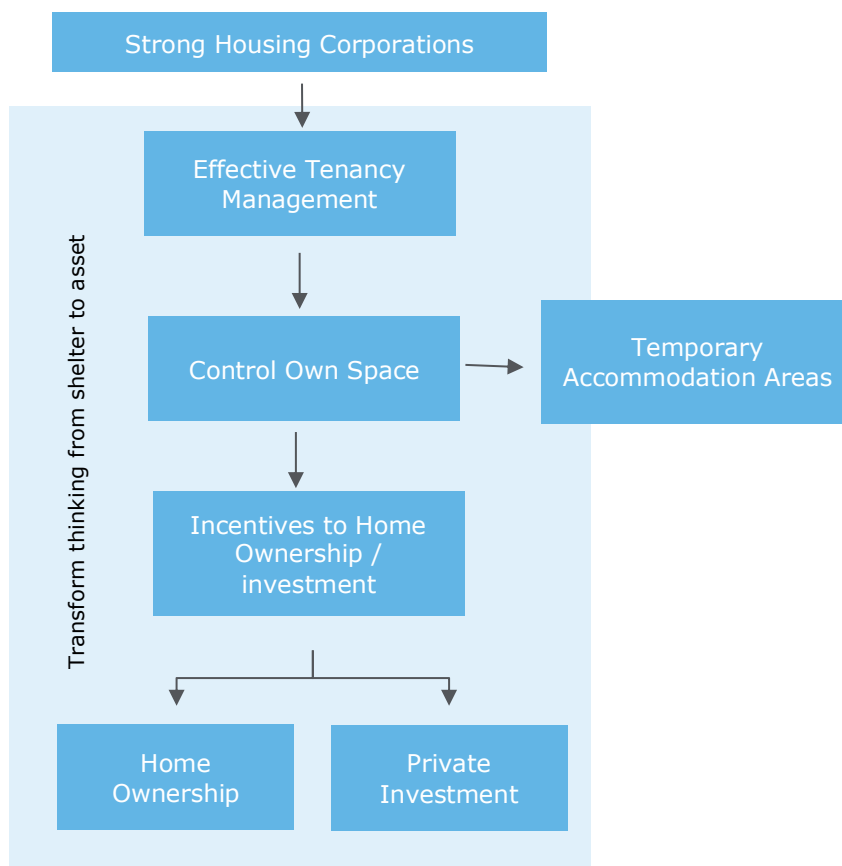
Strategies need to be developed with Aboriginal tenants, through their support organisations, so that they can take more responsibility for the houses in which they live. This needs to be firmly established through tenancy support programs that assist people to control their living space. This cannot be done as a punitive measure, but must act as a tool for change.

Home ownership

Effective Housing Corporations that can effect strong governance frameworks can provide structured support to allow residents to transform their thinking around housing. This will begin a transformation of houses being viewed as not just a shelter but also an asset that needs to be maintained. Strong Governance will also facilitate firm tenancy management programs that will bring accountability to residents and ensure that rental contributions are paid.

Temporary Accommodation Areas will allow transient visitors to be accommodated without disturbing established tenancy management programs. These areas will also remove overcrowding in Town Camps and ensure that visitors do not put additional strain on Town Camp housing and infrastructure.

Control of space will then allow structured governance structures to begin to emphasise the advantages of home ownership to Town Camps resident. Tenants will no longer be staying for free and the residents through the housing corporation will control who comes and goes in the houses they occupy. This will begin to create an active market for housing in Town Camps with strong support organisations to guide residents through this process.



Private investment

Control of space will also allow structured governance structures to collect adequate contributions from residents which will increase the commercial viability of opportunities associated with the provision of housing and essential infrastructure. A strong governance structure will also be able to provide investors with long term certainty over investment made in Town Camps. This will facilitate the exploration of private investment opportunities in Town Camps.



Economic Development

EXECUTIVE SUMMARY

This section of the report identifies potential economic development opportunities and constraints for Town Camps across the Northern Territory. The report considers the current economic and social realities of the Town Camps including the economic participation aspirations of current residents.

Specific findings have been identified at a consolidated level and strategic recommendations to address the findings have been outlined in detail. It should be noted that the general themes identified below do not speak for every Town Camp but rather provide an overall view. For detailed commentary on each region or specific Town Camp, refer to the relevant part of this report.

Summary of Findings

There are a number of findings constraining the economic development of Town Camps and their residents. These findings are outlined below:

- There is a low level of residents engaged in active employment and typically employment that occurs in relation to Town Camps is performed by non-residents;
- Serious social issues including alcohol and substance abuse are prevalent in many Town Camps, inhibiting economic development;
- Current economic participation occurs haphazardly resulting in a limited transfer of lasting skills onto residents;
- There are little incentives for unskilled workers to transition from welfare dependence to active employment;
- Town Camps residents have limited interest in economic participation due to limited incentive/opportunity and cross cultural understanding.

Summary of Recommendations

- Facilitate the implementation of strong governance structures that allow residents to control space and make decisions representative of the resident population (refer to the Governance Section);
- Invest in long term participation to enable Town Camp residents to undertake a defined and co-ordinated pathway to economic participation;
- Incentivise and enable the employment of local Indigenous residents;
- Invest in sustainable social housing in areas with the economic capacity to support the participation of residents in transition.

Findings

Participation

Our consultation process discovered that the majority of Town Camps have low levels of residents engaged in active employment and typically employment that occurs in relation to Town Camps is accessed by non-residents.

In some Town Camps, employment experience occurs through service provision programs and local government institutions however on the whole economic participation appears to occur on an ad hoc basis often in response to programs or limited lifespan projects. Mentoring and support activities are occurring in a variety of Town Camps but inherent difficulties with long term participation is generally not transferring lasting skills to residents.

Typically inflows of funding to Town Camps is through government welfare payments. Indigenous culture generally does not place a high importance on "self-fulfilment", rather the emphasis is on reverence for the land. Therefore there is little incentive for unskilled workers to work for the same amount of short-term monetary benefit that they can claim from welfare payments.

Generally speaking the economic participation interests of residents and the Town Camps as a whole are considered to be low. The residents typically desire far more basic needs to be addressed first (refer to the housing section). In many cases the economic aspirations are constrained by the simple realities of the Town Camps location. The costs of non-participation are enormous and are observable around Town Camps every day and night.

CASE STUDY: Elliott South and North Town Camp

Both Elliott South and North Town Camp exist on the outskirts of the town of Elliot and make up the far majority of the residents of Elliott Township. Elliot is remote and is not likely to be a major population or economic centre in the future.

Currently the combined population of Elliott's Town Camps is estimated to be over 5 times the maximum number of full time equivalent positions available

This also highlights the difficulties in economic integration when living in a house with a substantial number of guests. Add a single resident who is struggling with substance abuse and it is easy to imagine the difficulties that would arise in attendance at regular employment.

The Northern Territory, more than any other jurisdiction, needs to come to an acceptance that not only are Aboriginal people part of our life, but they are a necessary part of the life we create for our children and grandchildren. According to the 2011 census performed by the Australian Bureau of Statistics, Aboriginal and Torres Strait Islander (ATSI) Australians comprised 30% of the Northern Territory population, the highest proportion of any state or territory.⁵⁰ Population projections estimate that there will be 86,773 Indigenous people in the Northern Territory by 2026;⁵¹ an increase of 26% from the 2011 census figures. Though Aboriginal people predominantly live outside the major urban areas, Darwin (9%⁵²), Alice Springs (19%⁵³) and Katherine (28%⁵⁴) have a significant proportion of their population who identified as Aboriginal in the 2011 census. In the Northern Territory, nearly 44% of school student enrolments

⁵⁰ <http://www.abs.gov.au/ausstats/abs@.nsf/mf/3238.0.55.001>

⁵¹ <http://www.treasury.nt.gov.au/Economy/populationprojections/Pages/default.aspx>

⁵² http://stat.abs.gov.au/itt/r.jsp?RegionSummary®ion=701&dataset=ABS_REGIONAL_ASGS&geoconcept=REGION&datasetASGS=ABS_REGIONAL_ASGS&datasetLGA=ABS_REGIONAL_LGA®ionLGA=REGION®ionASGS=REGION

⁵³ <https://www.cdu.edu.au/sites/default/files/research-brief-2013-1.pdf>

⁵⁴ <https://www.cdu.edu.au/sites/default/files/research-brief-2014-2.pdf>

were Indigenous in Term 3, 2016.⁵⁵ This leaves us with some unique challenges, but also unique opportunities.

Although the Indigenous population currently comprises over 30% of the population, Indigenous Territorians currently consume a far greater amount of public services. Hospitals and prisons are an example of this consumption where significantly higher levels of Indigenous admission is commonplace.

The simple reality of this equation is that the future of the Territory lies with its Indigenous residents. If more than half of our residents typically are not contributing to the economy but are using disproportionately high level of services the equation becomes unsustainable. If we don't position ourselves now to engage with this issue, if we do not commit to long term change now trouble awaits.

Use of land

Another avenue for economic participation of Town Camp residents is the use of land. In many cases the use of Town Camp land is constrained by leasing provisions, the economic viability of the potential opportunity and the location of the land itself. There are instances where Town Camp land has been used for the development of business opportunities however these opportunities are typically intermittent. The use of Town Camp land needs to follow the processes outlined by the relevant government agency as with any other use of land.

CDEP and CDP not pathways to real employment

CDEP and CDP, while they attempt to redress the balance, are fundamentally flawed because, while they demand participation, they do not provide a pathway to a real job. Town Camp community residents, though they may live in communities where work is available, do not have the skills to be competitive. In spite of these challenges some residents do work, but they are in the minority.

Recommendations

The potential for economic development in the Town Camps is constrained by circumstances that are not generally present in other areas. In particular, the mix of traditional and non-traditional owners, the lack of individual or community ownership and the highly transient nature of the population combine to create an environment that is economically uncertain. As such, the options for sustainable economic development are highly dependent on the governance structure of the Town Camp. With clear delineation of ownership (whether that be housing corporations or individuals), respected governance arrangements and established protocols for utilising local labour, employment and economic initiatives are more likely to yield ongoing results.

It is in this context that the framework we have proposed for considering options for economic development is graduated, allowing time for governance structures to be put in place and tested (refer to the governance section). The framework is underpinned by the philosophy that long term investment in people will generate pathways to economic integration.

The four broad options also present a pathway for the economic development of the residents of Town Camps. Each is explained in turn below and include:

⁵⁵ <https://education.nt.gov.au/education/statistics-research-and-strategies/enrolment-and-attendance>

- Town Camp maintenance services,
- Pooled employment services,
- Individual employment and
- Development of Indigenous businesses.

Town Camp services

Town Camps tend to have a higher share of low skilled workers. Typically markets for low skilled roles is locally driven. As such the productivity of Town Camps depends on the successful upgrading of low skilled workers and an increase of workers with technical skills.

The services required in Town Camps presents an opportunity for employment within the Town Camp itself. Basic maintenance of buildings and surrounds could remain under the management of the selected (and potentially external) service providers, but minimum levels of resident participation could be built into procurement models. This has the benefit of offering expanding and contracting pools of labour in line with expanding and contracting service demands. This is a viable option for isolated Town Camps.

CASE STUDY: Amangal Town Camp

The Amangal Town Camp was provided a grant for the purchase of landscaping equipment. This was purchased and the residents now have a tractor, various gardening equipment and a shed to house all equipment. Currently gardening maintenance programs are not performed using this equipment and local residents are typically not involved.

An opportunity exists to utilise the assets that already exist to provide basic landscaping of the Town Camp. More importantly this can be used as a foundation to make long term investment in the residents of Amangal Town Camp.

To effectively use Town Camp services to impart lasting benefits to residents a long term co-ordinated approach from all Territorians is required. It demands a departure from what is most economically feasible, in the short term and an understanding that this process will take time. Government needs to lead the way on incentivising and enabling the employment of local Indigenous residents to deliver local services. The best way to do this is to align funding agreements for service delivery and local contracts to the goal of long term Indigenous employment. Employment must deliver long term, transferable skills to local residents as a primary priority. However the learning and deployment cannot be confined to the non-Indigenous. The cultural awareness of non-Indigenous employers and employees needs to be improved. Territorians need to understand that ignoring Indigenous employment as too hard is simply not an option anymore.

Pooled employment services

Examples of this option for economic development include gardening and maintenance services for the local council, stock management for pastoral companies (including Indigenous pastoral companies), manual labour for mining sites and bulk processing at mineral refineries. The nature of the opportunities depend on the economic circumstances of the broader region.

Consideration still needs to be given to the requisite skills for the services being provided (considered further in the discussion on individual employment below) and the means by which to provide continuity and certainty for employers/purchasers. For isolated Town Camps this option is obviously limited.

CASE STUDY: Garawa 2 Town Camp:

Despite no clearly defined labour pool or a permanent participation agreement, a local resident within Garawa 2 is already assisting to organising labour pools to provide workers for the Community Development Programme (Work for the Dole).

With clear governance structures, a defined program to develop local labour pools and local contracts contingent upon the utilisation and development of local residents a pooled employment service has potential with the Borroloola region.

Pooled employment services present perhaps the best opportunity for the transference of skills gained through service delivery into private sector employment opportunities. Residents exposed to internal service delivery employment opportunities will be best placed to form an employment pool that can be called upon to provide labour to larger service delivery projects and especially, local contracts that necessitate the private sector to engage and train local residents.

Individual employment

The medium to longer term options for individual employment rely on an investment into training and development. This necessitates investment in the capabilities of individuals in the Town Camps to upskill residents for participation in the wider economy. This could include, for example, investing in language and communication skills for employment in food and retail or animal husbandry skills for employment in agriculture.

By beginning to invest in the capabilities of Town Camp residents to deliver services and establish pooled labour groups we can begin to give individuals the skills to seek individual employment opportunities in the broader economy.

It is also important to acknowledge the cross cultural learning that needs to occur for successful participation for both employers and employees. Bi-cultural competence will ensure lasting relationship can be created between Indigenous employers and non-Indigenous employers.

Indigenous businesses

The development of on and off-site Indigenous businesses could utilise both the land and labour available in the Town Camps. The location of many of the Camps constrain the enterprise potential within commercial realities. In contrast the location of other Town Camps present seemingly endless opportunities.

CASE STUDY: Kulaluk Town Camp

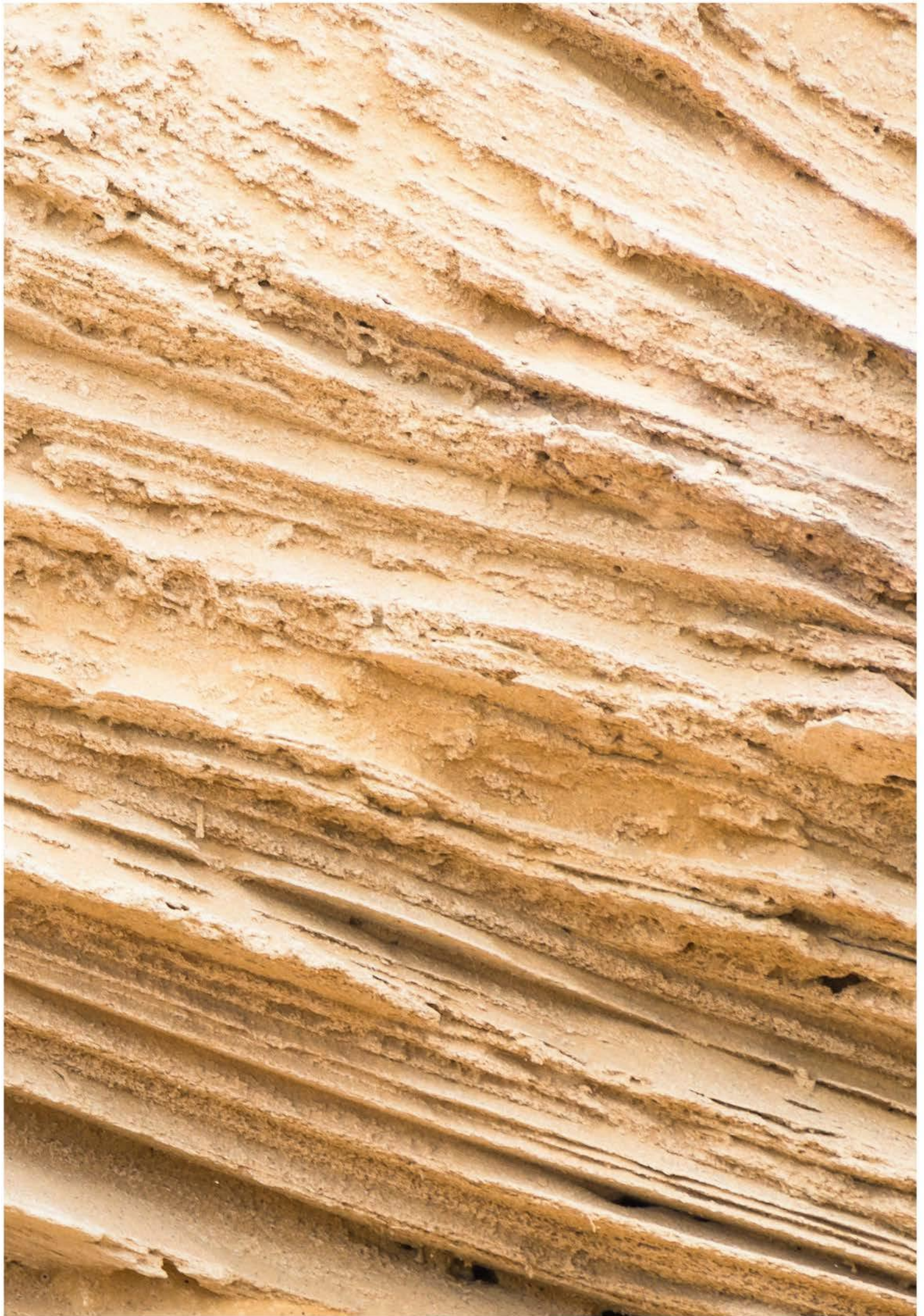
The leaseholder Gwalwa Daraniki Association Incorporated has developed an Indigenous business opportunity by subleasing commercially desirable land to create long term cash flows. The rent derived from the lease is collected by Gwalwa Daraniki Association Incorporated on behalf of the Town Camp residents. This is a real success story for the use of Indigenous land for

commercial opportunity however it should be noted that only a handful of Town Camps are situated on commercially desirable land.

This development is not currently resulting in employment for any of the Town Camps residents. This is an example of where commercial opportunity is not contingent on the employment of local residents.

The establishment of this option for economic development would require tapping into an investment pool, such as IBA, to obtain the necessary physical capital to get the business started, or investment and partnership with the private sector. Where investment is made by the private sector in partnership with Indigenous organisation and individual's, the use of local labour must be mandated. Agreements must be formulated with set parameters to impart lasting skills onto local residents.

It is also important to acknowledge the need to support Indigenous businesses with back office support and governance training. This will ensure that individuals are given the tools to succeed in business. For a full discussion on the support that can be provided through governance structure see the Governance Section of this report.



Governance

Introduction

This section of the Report examines existing governance structures for selected Town Camps across the Territory. Findings have been identified at a consolidated level and strategic recommendations to address these findings have been outlined in detail below.

It should be noted that the general themes identified below do not speak for every Town Camp but rather provide an overall view. For detailed commentary on each region or specific Town Camp, refer to relevant part of this report.

Summary of Findings

There are a number of governance findings that are hampering the development of Town Camps and their residents. These findings are outlined below:

- There is no one agency or organisation that provides direction, support and funding to Town Camps
- There is a lack of formal roles and responsibilities which is creating uncertainty for all parties
- Governance structures give no ability to Town Camps residents to control and take ownership for the space in which they live
- There is no enforcement or compliance with lease conditions
- Land ownership organisations are typically ineffective
- There is a lack of support for land ownership organisations especially when incorporated under the Associations Act

Summary of Recommendations

Holistic reform of Town Camp governance is required to effect lasting change to the living conditions of Town Camp Residents. To do this we recommend the following:

- An central division charged with supporting the development of Town Camps across the Territory
- Long term funding agreements that consolidate funding to the central division that will assist Town Camps to implement long term pathways to development
- Empowering Town Camps residents by facilitating:
 - The Establishment of active representative ownership groups
 - Securing the Town Camp's space by taking control
 - The pursuit of development opportunities as decided by the Town Camp
 - Constant support mediums
 - Enforcing localised contracting

Context

The origin of the term 'governance' can be traced to the classical and ancient words for the steering of vessels at sea.⁵⁶ Over time this meaning has evolved to be applied to civilisations and political systems to define the ability to 'steer' societies and organisations.⁵⁷ Essentially, governance is the way people collectively manage themselves to pursue and achieve the outcomes that matter.⁵⁸ Different cultures have applied different governance structures to the societies in which they participate, for tens of thousands of years. This has seen the evolution of guiding principles and rules that give societies unique identities and dictate how individuals behave, relative to each other.

Like other continents, the Australian landscape was home to a myriad of different Indigenous groups who each applied their own cultural based approaches to governance. Despite this, many Indigenous societies shared common cultural values and traditions to effectively organise themselves, connect with each other, and achieve the things that mattered.⁵⁹

The evolution of the governance of Indigenous cultural groups continues today. This is evidenced by the different Indigenous communities and organisations that currently exist, each with their own governance arrangements. Across Indigenous governance models the deep cultural traditions associated with governance have endured. There continues to be high value placed on family connections, the authority of elders and the sharing of resources.⁶⁰ These deep cultural values continue to be placed at the heart of governance frameworks which in turn continue to influence the behaviour of associated individuals.

Governance structures are absolutely vital to the success of any society, organisation or country. Without good governance the right pursuits will not be effectively sought and most importantly, the outcomes that matter will not be realised. This is highly relevant in an Indigenous context. Long term reform cannot be implemented or achieved without strong governance frameworks that empower inclusive and responsive decision making platforms. Enabling a transparent and agile governance framework is the most direct route to better decisions that achieve the outcomes that really matter for Town Camps across the Territory.

Findings

The governance of the Town Camps selected as part of this review is characterised by confusion, uncertainty and limited oversight. A myriad of leasing structures and lack of responsive decision making platforms in many Town Camps is perpetuating a host of problems that is significant constraining the development of the residents therein.

There is a distinct lack of agreements in place formalising relationships, responsibilities and the rights of owners, occupiers and service providers. This is causing confusion and uncertainty for all parties involved and limits any options

⁵⁶ Smith, D. (2005). Researching Australian Indigenous Governance: A Methodological and Conceptual Framework (Working Paper No.29/2005). Retrieved from Centre for Aboriginal Economic Policy Research website:

<http://caepr.anu.edu.au/sites/default/files/Publications/WP/CAEPRWP29.pdf>.

⁵⁷ Ibid.

⁵⁸ Australian Institute of Aboriginal and Torres Strait Islander Studies, Governance and Public Policy (n.d.) < <http://aiatsis.gov.au/research/research-themes/governance>>.

⁵⁹ Indigenous Governance Toolkit, Indigenous Governance and Culture (n.d.) <http://toolkit.aiigi.com.au/toolkit/2-1-indigenous-governance-and-culture>>.

⁶⁰ Ibid.

for investment and independent funding. Where formal agreements exist, they tend to be overly complex, causing yet more confusion.

Varying degrees of responsibility are taken for different Town Camps by a host of different parties. There is clearly no distinct agency or organisation that is providing systematic direction to the Territories' Town Camps. Support and funding comes from a variety of channels, each with different agendas which is producing a haphazard approach to the development of Town Camps. Funding is spent by different parties, all with different strategies about how to make the best of the funding they receive. This uncertainty around governance has created an environment where residents have no control over the space in which they live. This combined effect has led a systemic failure across the Territories' Town Camps.

There is an apparent failure in the overall administration of Town Camps in that special purpose leasing and crown lease conditions do not appear to have ever been enforced. Rules and requirements for leasing exist, but if there is no consequence to non-compliance, there is no impetus to comply. As a result compliance with lease conditions appear to have never been monitored, resulting in long-standing complacency by all parties. This lack of administration and coordinated oversight has a trickle-down effect whereby the effectiveness of the owner associations is allowed to flounder through a lack of effective oversight or support which contributes to the sense of complacency.

In many Town Camps there is an inherent difficulty in finding an effective land owner organisation to engage with. One view, from senior individual actively involved in Town Camp management, was that many of the original land owner organisations ceased being effective some time ago, which has created a void that has been filled by unrelated service providers or associations. This is resulting in decisions by local organisations, albeit well-meaning, that are not representative of the Town Camp community. But in the absence of clear decision making frameworks what choice do they have? This raises the question whether this de-facto model represents the best interests of the Town Camp community going forward.

There is a strong sense that owners of special purpose leases and crown land do not feel like owners of the land, but rather the tenants of the Northern Territory Government. Consequently funding, maintenance, repairs and construction are considered a Commonwealth or Northern Territory Government responsibility.

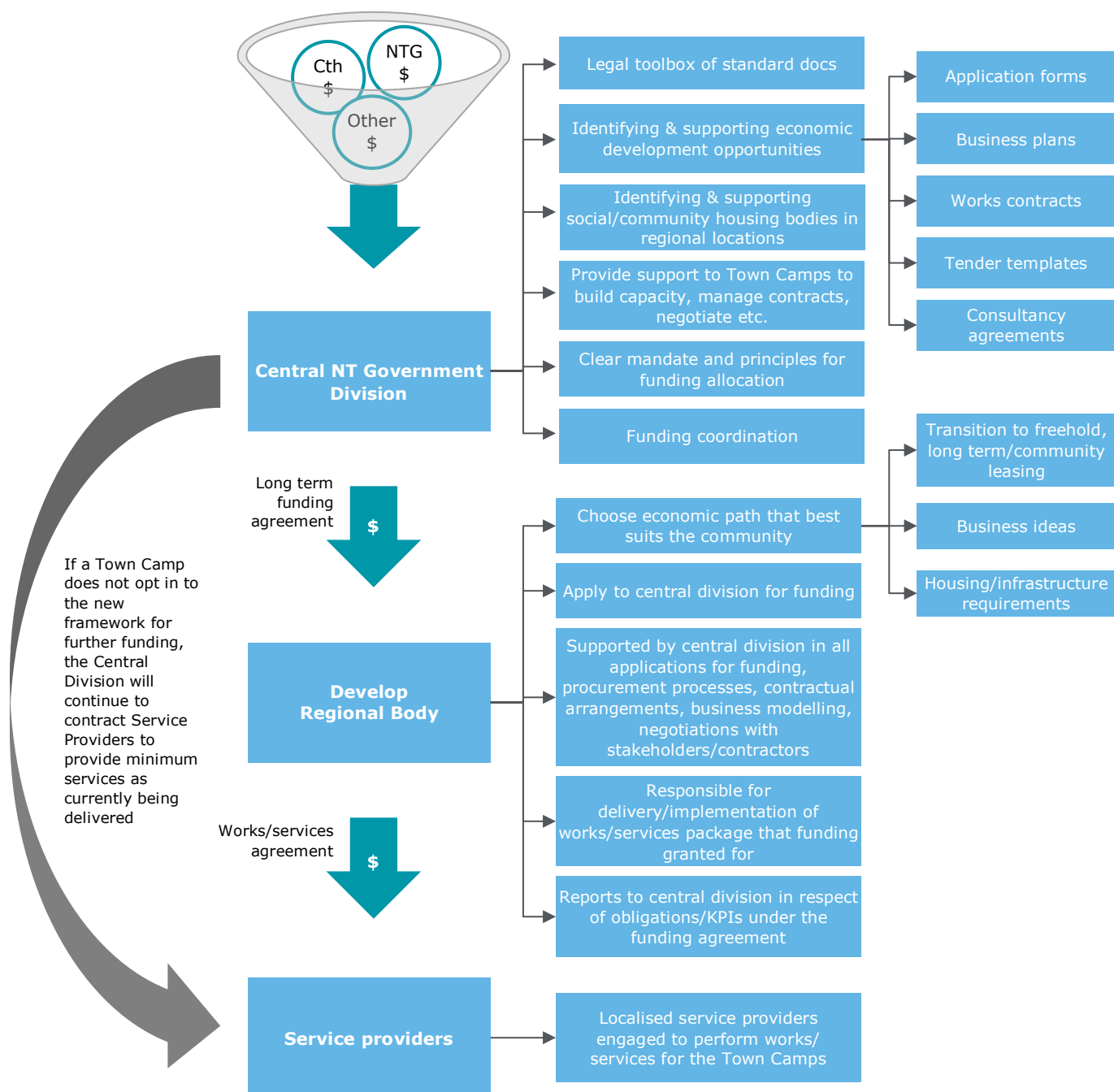
The regulatory framework under which most Town Camp owners are incorporated, the NT Associations Act, is not equipped or funded to provide the level of specific support that is required by Aboriginal associations operating in this space. As a result where association have ceased to be effective it makes it very difficult for more pro-active members who wish to re-engage in the system. Re-engagement in a system that has complicated tenure arrangements, and where the various participants legal roles and responsibilities are unclear and in some instances misleading, presents a considerable obstacle to any but the most informed and astute.

Without effective governance structures it is nearly impossible to imagine how holistic change can be effected in Town Camps

Recommendations

In considering strategies for change, it was clear that a piecemeal approach to reform would result in the continued proliferation of many of the issues identified in this Report. Instead a holistic approach is needed which addresses (or has the scope to address) as many of the identified issues as possible.

A clear and co-ordinated pathway to achieving improvements in living conditions is required across the board. In the following pages we outline a future pathway to holistic reform that specifically targets the issues prevalent in Town Camps across the Territory.



Central NT Government Division

Establishing a Central NT Government Division is the first step to addressing issues that permeates throughout the existing system; confusion and inconsistency about who is responsible.

We envisage the Central Division being the focal point of everything related to Town Camps including funding, support and guidance, monitoring and compliance. This division should be given the authority and the mandate to improve living standards in Town Camps.

All funding will be directed through the Central Division which will act as the funding coordinator, but also the support body for Town Camp owners. The key to this Central Division is a strong governance structure including a clear mandate and principles for funding allocation to Town Camp owners. Similarly, funding to this Central Division will be through a robust funding provision model. A strong mandate for the Central Division is paramount to hold parties accountable, give surety to the funding parties and drive the development of Town Camps in a co-ordinated manner.

We envisage the Central funding allocation will be an accessible full-service organisation for Town Camp Owners with its focus to support and assist Town Camp owners to take the steps they want to improve living standards and initiate economic opportunities. This may include assistance in identifying potential opportunities, providing information, advising on processes, capacity building, assisting with any applications for funding and assisting with contract negotiation and management.

Central to this information and support service, is a legal toolbox of standard documents to make the processes more simplified and consistent, as well as ensuring the required level of protection is applied to any expenditure of funding received by Town Camp owners. No more ad-hoc agreements.

The Central Division will be equipped with a suite of contracts that Aboriginal corporations will be able to use for their management activities from procurement templates to standard form notices, purchase orders reporting frameworks, service level agreements and consultancy contracts. This suite of support documents should be in plain English with easy to understand guidelines explaining which document to use and how to use them effectively.

The more robust the initial legal toolbox, the greater benefit to both Aboriginal corporations and the Central Division. It will provide less guesswork and variability in approach for corporations and allow the Central Division a consistent understanding of what contracts are being used.

A streamlined and uniform approach to the legal framework in establishing, operating and maintaining the corporations, their land and assets will also enable the Central Division to more efficiently monitor compliance. Further it will actively facilitate direct assistance to Town Camps allowing representative bodies to actively pursue the strategic outcomes that matter.

A Central Division will require substantial up-front investment but if done properly, it has the potential to deliver lasting long-term benefits. The structure for the Central Division should have the following features:

- independent advisors made up of experts in the field of funding program delivery, together with Indigenous community leaders;

- a clear set of principles to guide the decision making process on the allocation of funding to Town Camps and key strategic outcomes to be achieved.

Long term funding

Once a Central Division is established the next step is to consolidate and streamline funding through the Central Division. Short term funding streams with different parties creates uncertainty for the funding parties and recipients. We envisage that Town Camp lease holding groups would need to apply to the Central Division for funding and ultimately enter into a long term funding agreement with the Central Division. Long term funding has a host of benefits including:

- enabling the Central Division to plan and implement long term funding agreements with Town Camp Owners for the delivery of the funding to Town Camps to achieve strategic objectives;
- provides Town Camp Owners with a single line of sight to where the funding for their land and projects will come from;
- provides surety in funding amounts for Town Camp Owners, enabling forward planning and mutually agreed targets;
- efficiencies for both funders and recipients as there is one funding Central Division and one application point. There will no longer be the requirement for Government agencies to run multiple grants/procurement processes and less red tape for Town Camp Owners in accessing funding;
- ensure accountability in the application of the funding by Town Camp Owners; and
- securing funding to the fulfilment of important stakeholder interests including the payment of essential service bills as a condition of continued funding.

Further, the intention is that this amalgamation of funding will streamline the different types of funding currently being spent on Town Camps, including capital expenditure, repairs & maintenance and municipal & essential services. This will facilitate flexibility to use one pool of funding to deliver relevant infrastructure and maintenance programs.

Under this suggested reform model, the Central Division will offer long term funding agreements to Town Camps. This will facilitate the implementation of place specific, long term strategies, representative of the Town Camps residents and supported by the Central Division. These long-term strategies can then be effectively monitored by and actively championed by both the Town Camp and the supporting Central Division. Certainty of funding will enable the communities to invest in planning ahead, and get out of the current cycle of short term dependency on disparate and varied funding streams.

The funding agreement would identify both capital funding components and operational funding components. The evidence is abundant that providing capital assets to Town Camps only delivers half of what is required. The responsibility for ongoing repairs and maintenance of the capital assets is an essential component for ensuring that Town Camp communities take control of their space to achieve their economic potential.

Responsibility for repairs and maintenance rests solely with the Town Camp Owner, and working with the Central Division, the Owner can develop a repairs and maintenance plan that will form part of, and be funded under, the funding agreement.

Empowered Town Camp Owners

The suggested reform model proposed puts the power and decision-making back in the hands of the Town Camp Owners with the necessary support to realise the action required.

Establishing active representative Owners

For the reasons noted earlier, the level of inactive lease holding groups presents a practical difficulty for the implementation of this suggested reform model. As one insider told us during consultations, it will be essential for a number of owners to be shut down and replaced by new, more representative, organisations comprised of members of the Town Camp community. However, it is difficult to say whether the level of inactivity is because of deliberate cessation, or merely symptomatic of the general level of inactivity in the current system.

However, given the current concerns that the existing level of Town Camp representation is either non-existent through the lease holding group, or is undertaken by organisations that are not necessarily representative of the residents of the Town Camps, it is suggested that a renewal of Town Camp Owners would be a desirable outcome.

Future reform should include not only the re-establishment of associations that are representative of Town Camp communities (through new revived membership and governance bodies), but also the incorporation of those associations under a more appropriate and support framework better suited to meet the needs of Aboriginal corporations.

Securing the Town Camp space by taking control

A critical by-product of empowering Town Camp Owners will be the ability for Town Camp residents to control their space. It is a desired outcome of the suggested reform model that Town Camp Owners become active guardians of the space that is the Town Camp. This is not only from an economic perspective through taking ownership and responsibility for physical assets, but equally important, from a social perspective through setting and enforcing the rules governing the social order requirements that Town Camp residents desire.

Controlling drug and alcohol use, social disorder and housing allocation and use will be key indicators for the improvement of conditions in Town Camps and from the feedback received will make a substantial improvement to the living conditions of residents in Town Camps.

Part of the consideration of the Town Camp Owners under this suggested reform model will be to re-assess the need or desirability of the long-term leases (particularly in Alice Springs and Tennant Creek) remaining in place. This would need to be assessed by the Town Camp Owners and negotiated with the relevant holder of those leases.

Supported all the way by the Central Division

The key, and important, differentiator with this suggested reform model is that the Town Camp Owner would be able to refer to the Central Division for support throughout the entire process, including applications for funding, procurement

process, contractual arrangements, business modelling, negotiations with stakeholders/contractors and contract management.

It is not that the Central Division takes on responsibility for these activities, and it will be important to ensure that Town Camp responsibility isn't incrementally devolved to the Central Division over time, rather it is purely a support role to build capability and capacity.

Localised contracting

By empowering Town Camp Owners to take control of the contracting in Town Camps, the servicing and works can be tendered for in a localised manner creating the potential for jobs for the Town Camp and surrounding community. The Town Camp owner would be responsible for entering into agreements with the service providers as well as the delivery and implementation of the work and services packages that funding is granted for. This function is to be supported by the Central Division through the legal toolbox and advisory support which would assist in ensuring the involvement and upskilling of the Camps residents.

It is the specific expectation of this suggested reform model that any works undertaken within the Town Camp will be managed and led by the community leadership, with the support and assistance of the Central Division. Unlike in the past where capital works and services were provided by external tradesmen with minimal input from the community residents, the empowered Town Camp Owners will be encouraged and supported to see their capital projects delivered as much as possible by their community to benefit their community.

Working with the Central Division, Town Camps can put in place strategies for the development of local skills, enabling residents to take advantage of work being undertaken in the Town Camp to learn new skills and develop work habits that will enable them to take advantage of opportunities presently unattainable to many.

The legal toolbox would contain standard tendering and works contracts for the organisations to adopt.

Maintaining the status quo

The suggested reform model is based on an opt-in requirement, so the Town Camp Owners choose to commit to engage in the process and are not being directed to doing so. It is reasonable to assume that over time, if the reform is shown to deliver better outcomes for participating Town Camps, other Town Camps will seek to participate in the reform process.

For those Town Camps which do not opt-in to the model outlined above, the Central Division will continue to provide funds on a similar basis as is currently provided. However, the services will be more streamlined than the current structure with all funding and contracting done by the Central Division. This will still deliver a benefit to the non-participant Town Camps through having a single Central Division to deal with.

Bringing it all together

This report considered a range of other governance models in formulating the proposed governance reform model. It is important to address these other options and the reasons we do not believe they are appropriate. These other models considered where:

- where the Central Division was structured to perform all the tenancy management, services management and decision-making for the Town Camp Owners. The limitation of this model is that it would only enlarge the divide between the residents and any sense of ownership they may have with the Town Camp land. Further, it is likely that any attempt at a location specific response for each Town Camp would be lost to bureaucratic processes and procedures that would inevitably be required for such a large scale management role;
- the Central Division is not created and the Town Camp Owners are given 'ownership' of the obligations and rights. The limitation of this option is the lack of guidance and assistance provided to the Town Camp Owners, many of which will require substantial capacity building and training to re-engage in the system and effect the changes they desire.

The suggested reform model identified in this report puts a properly functioning and representative owner at the core. It outlines a structure to provide certainty of funding and structured support, at all levels. It necessitates a re-focus on core responsibilities and roles throughout the whole of the system. A system which needs to provide the necessary tools to enable, encourage and incentivise a change in behaviours.

There are no quick fixes. For this model to work we need everyone to take a seat at the table and engage with this issue together. We need to roll up our sleeves and agree to take actions now that will have lasting benefits not just for Town Camps and their residents but for all Australians.