



Australian Government

## EXECUTIVE DIRECTOR OF TOWNSHIP LEASING

Annual Report 2008-2009



“Tiwi people are for the first time in a position to own their own home, realising the ‘great Australian dream’ that the rest of Australia takes for granted.”

Walter Kerinaiaua, senior Mantiyupwi land owner



**Australian Government**  
**Office of Township Leasing**

The Hon Jenny Macklin MP  
Minister for Families, Housing, Community services and Indigenous Affairs  
Parliament House  
Canberra ACT 2600

Dear Minister,

I am pleased to present to you the Annual Report of the Executive Director of Township Leasing for the financial year 2008–09, for your presentation to Parliament in accordance with sub-section 20R(1) of the *Aboriginal Land Rights(Northern Territory) Act 1976*.

Yours faithfully

A handwritten signature in black ink that reads 'Pat Watson'.

Pat Watson  
Executive Director

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Images from Heide Smith's book 'Portrait of a people' © Heide Smith

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A photograph of two young Indigenous children, likely from the Tiwi Islands, smiling broadly. They are shirtless and have dark skin. The child on the left is slightly behind the one on the right. A white, wavy graphic element is on the left side of the image.

## Executive Director's Review

The financial year 2008-09 was the second year of operation of the Executive Director, Township Leasing.

While the first year focused on implementation issues including the settling of various legal and regulatory arrangements, the second year has provided the opportunity to commence negotiation of broader subleasing arrangements, to manage the transfer of existing community housing to the public housing environment and to establish procedures to enable home ownership.

The Office has continued to work with the Traditional Owners and residents of Nguiu to implement land-tenure arrangements within the community. We finalised a complete cadastral survey of the township which commenced in 2007-08. This involved the surveying of some 300 individual lots to a standard acceptable to the Northern Territory's Surveyor-General. This is the first time an exercise of this magnitude has been undertaken in a remote Indigenous community in the Northern Territory.

While the surveys were underway negotiations were undertaken with the existing occupiers in an effort to finalise subleasing arrangements. To date agreement has been reached on more than 60 per cent of the available lots, including those

lots associated with the community housing sublease negotiated with Territory Housing.

Negotiation of subleases with existing occupiers has progressed steadily. However, the transition to a whole of township lease environment has meant a significant shift for many occupiers, including the Northern Territory Government and the Tiwi Shire Council. While better progress would have been preferred this has not been possible for a number of reasons:

- Very few occupiers have previously paid any rent in respect to the land or buildings they occupied despite these having been built on land owned by the Tiwi Island Land Trust for the benefit of traditional owners of the land.
- Very few occupiers have previously been party to any formal lease arrangement even though many recognise that acquiring secure tenure over the land and buildings they occupy is a desirable and worthwhile outcome.
- A number of occupiers have sought to be excluded from the leasing arrangements by claiming they were providing an "essential service" to the community.
- Other occupiers have sought recognition by way of a rent offset for significant capital improvements which they have made to buildings they occupy.

- This Office has sought to implement the new arrangements with as little disruption to occupiers, facilities and service delivery as possible

Notwithstanding the complexity, considerable progress has been made in negotiating the subleasing arrangements. In particular, local Indigenous community organisations have largely embraced the concept and signed up to long-term commercial leasing arrangements with this Office. We remain confident that the remaining occupiers will agree to terms on subleasing arrangements in the near future.

While the finalisation of the subleasing arrangements has been delayed, we are nevertheless encouraged by Traditional Owners' significant interest in and enthusiasm for the revised land-tenure arrangements. For example, there is strong Traditional Owner representation on the Consultative Forum which advises this Office on a range of matters including land-use decisions, building design, issues associated with broader sublease negotiations, home ownership and potential opportunities for economic development.

The concept of home ownership has raised significant interest among local residents. To date we have had more than thirty expressions of interest from residents at Nguuu wanting to purchase their own homes, including two residents who are seeking to construct houses. A number of these purchases were nearing completion at the time of finalising this report.

In December 2008 three communities on Groote Eylandt agreed to terms with the Commonwealth over a long-term lease covering the communities Umbakumba, Angurugu, and Milyakburra.

The implementation phase is well advanced in these three communities. The cadastral survey work has been largely completed as has the land and building valuations of lots where sublease negotiations are required. Contact has been made with all existing occupiers and initial sublease discussions have commenced. Interim subleasing arrangements have been put in place as necessary with some occupiers while the cadastral survey and valuation work is completed.

Initial indications are that the prospect of home ownership is also proving to be popular with residents of the three Groote communities. Indigenous Business Australia (IBA) has begun providing information sessions on home ownership to local residents.

A Consultative Forum has also been established for the Groote communities and meetings will rotate between the three communities.

The Office will continue to look for ways it can provide a 'value added' approach to the management and operation of long-term leases in Indigenous communities in the Northern Territory. It will facilitate opportunities for economic development to help transition communities to a more market-based environment, encourage home ownership and build communities' capacity to manage leasing opportunities at an appropriate pace.

We look forward to continuing our association with our current communities and to engaging with more communities over time.







# Report of the Executive Director of Township Leasing for the year ended 30 June 2009

## Annual Report

Sub-section 20R(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (the Act) provides that the Executive Director must, as soon as practicable, after the end of each financial year, prepare and give to the Minister, for presentation

to the Parliament, a report on the operations of the Executive Director for the year. This report has been prepared and given to the Minister for Families, Housing, Community Services and Indigenous Affairs in compliance with sub-section 20R (1).

# Establishment of the Office of Executive Director of Township Leasing

The Office of Executive Director of Township Leasing was established by the *Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Act 2007* which came into effect on 1 July 2007. Under the Act, the Executive Director is appointed by the Governor-General for a period not exceeding five years. The *Indigenous Affairs Legislation Amendment Act 2008*, agreed to by Parliament in June 2008, allows the Executive Director to be appointed on a full-time or part-time basis.

During the year under review, the office of the Executive Director was occupied on an acting basis by Mr Pat Watson.

## Functions of the Executive Director

Township leases are provided for in section 19A of the Act. Section 19A allows land trusts to grant a lease of a township on Aboriginal land to an approved entity. The Commonwealth is an approved entity for this purpose.

The functions of the Executive Director are set out in section 20C of the Act. These functions are to enter into township leases on behalf of the Commonwealth and to administer such leases including administering subleases and other rights and interests derived from such leases.

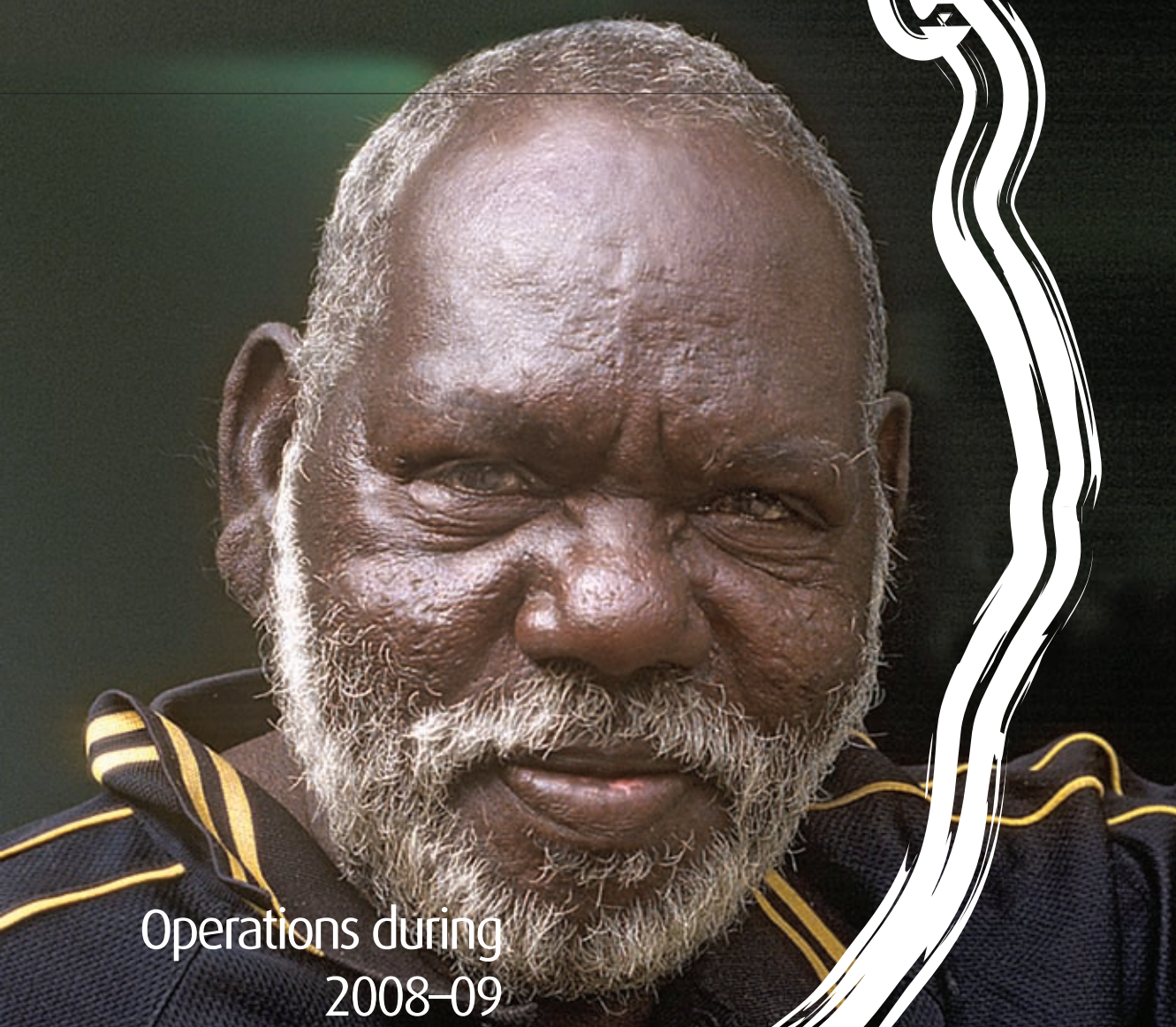
The aim of the township leases is to regularise land-tenure arrangements in the townships and to facilitate economic development opportunities for the benefit of Aboriginal land owners and residents of the townships.

The *Indigenous Affairs Legislation Amendment Act 2008* gives the Executive Director additional functions. The Executive Director is able to hold other types of leases or subleases over land held primarily for the benefit of Aboriginal people in the Northern Territory. This provides Aboriginal people with a further option in considering whether to grant leases over their land.

The amendments also provide additional flexibility in relation to the term of township leases by providing that township leases can be granted for a minimum of 40 years and a maximum of 99 years. Leases of less than 99 years will be able to include provision for the extension of the original term of the lease to a maximum of 99 years.

## Administrative Arrangements

The Executive Director and one member of staff of the Office of Township Leasing are located in Canberra. A further four staff are based in Darwin to manage the day-to-day operations of the Office.



## Operations during 2008-09

### Nguiu

#### Background

The first township lease, over the town of Nguiu on Bathurst Island, was signed on 30 August 2007. The township lease is constituted by a head lease agreed between the Tiwi Aboriginal Land Trust, the Executive Director of Township Leasing and the Tiwi Land Council. The term of the head lease is 99 years. Annexed to the head lease is a template township sublease and

template township licence both of which include mandatory and discretionary terms.

The community of Nguiu is located on the south-east corner of Bathurst Island which is one of the Tiwi Islands, 70 kilometres north of Darwin. The town of Nguiu has a population of approximately 1600 and includes residential areas, government facilities such as a police station, health centre, swimming pool and airfield, a non-government school and a store. The majority of these premises have not previously been covered by any formal land-tenure arrangements.

## Year in Review

After the first year of developing preliminary arrangements for the implementation of township leasing, the second year of operation has seen some significant progress in providing suitable land-tenure arrangements to meet the needs of residents and occupiers within the community.

### **CADASTRAL SURVEY**

The cadastral surveys necessary to delineate individual lots for the issuance of a sublease have largely been completed. Only minor adjustments remain to be made to enable the reconfiguration of lots to meet community planning considerations associated with new housing construction. I would like to extend my appreciation to the Northern Territory Surveyor-General and his staff for the assistance and guidance extended to this Office in developing an approach which is flexible enough both to accommodate existing land-use arrangements and to meet the associated professional and technical standards required.

### **PROPERTY VALUATIONS**

During the year, this Office engaged the services of valuation professionals to provide advice as to the improved, unimproved and annual rental estimates of each commercial or government property in the township. These valuations were then used as the basis for negotiating the level of annual lease rental to be paid by each occupier. The amount of lease rental to be agreed depends on a number of factors, including the age and condition of the property, any capital improvements made to the property, the nature and capacity of the organisation to pay and the

extent of any ongoing repairs or maintenance required to the property.

### **NEGOTIATION OF SUBLEASES**

Discussions with many occupiers of commercial and government properties in Nguiu over the terms and conditions of subleases have been complex. In the majority of cases, occupiers of land and/or buildings have not paid any rent in the past and are yet to fully accept the new environment under which a financial return is expected to be obtained by this Office in recognition of the underlying ownership of the land on behalf of the traditional owners. Some occupiers have pointed to the significant capital expenditure which they have invested over time in the properties they currently occupy. These occupiers have sought recognition of this contribution by way of a concessional lease rental and/or a rental free period. As a result, negotiations with some occupiers have tended to be slower than this Office would prefer.

Negotiations are ongoing with the two largest occupiers of land within Nguiu, namely the Northern Territory Government and the Tiwi Islands Shire Council. This Office sees the conclusion of leasing arrangements with these occupiers as a key priority in order to ensure the integrity of the whole of township leasing arrangements and to implement the terms and conditions set out in the head lease between the Australian Government and traditional owners.

In general the Office accepts that after the signing of a head lease there will inevitably be a transition period during which negotiations over subleasing will take place. However, we have now indicated to all occupiers of land, regardless

of whether they have a formal sublease in place with this Office, that all rents will be due and payable from 1 July 2009.

Local Indigenous organisations including the Tiwi Island Land Council, the Bathurst Island Housing Association and the Mantiyupwi Association have demonstrated leadership in the transition. These organisations have secured subleases over properties including staff accommodation, workshops, and tourism and office facilities.

To date approximately 66 per cent of the available lots in Nguiu have been included in sublease agreements.

### **PUBLIC HOUSING**

Following extensive negotiations with Territory Housing, a sublease covering all community housing in Nguiu has been agreed. This Office has agreed to forgo the payment of rent associated with this sublease on the understanding that all available funds need to be applied to improving the standard of community housing for residents of the Nguiu. Improving housing standards to that enjoyed by other public housing tenants in the Northern Territory is seen as a priority for Nguiu residents.

### **HOME OWNERSHIP**

From the outset local community members in Nguiu have shown significant interest in purchasing their own homes. Approximately 30 expressions of interest have been received by residents interested in purchasing their existing homes, including two residents who have sought access to vacant land to construct new homes.

This Office has worked closely with IBA in putting in place appropriate procedures and



loan arrangements to facilitate home ownership not only at Nguiu but more broadly across communities where a long-term township lease is in place. The first sale of existing homes in Nguiu is expected to be completed early in 2009–10.

The valuation and proposed sale price placed on existing homes is provided by registered valuers in the Northern Territory under contract to this Office.

### **CONSULTATIVE FORUM**

The Nguiu Consultative Forum met on seven occasions during the year. Representatives of the Traditional Owners take a strong interest in the business of the forum.

Issues discussed include land use decisions, building design, issues associated with broader sublease negotiations, home ownership and potential opportunities for economic development.

## Community Benefits Package

As part of the original township leasing agreement, the Commonwealth agreed to fund a number of measures under a Community Benefits Package.

All work under this package has now been completed. The package included:

- the construction of 25 houses—now subleased to Territory Housing to provide additional housing for community members
- a major upgrade of the community football oval to NTFL standards—the oval was the venue for the Tiwi Football Grand Final
- an upgrade of the cemetery precinct with shade areas
- the commissioning of a baseline study to provide data to monitor community health, and
- the construction of a health and wellbeing centre to provide appropriate accommodation for the delivery of mental health and ancillary services.

## Economic Development

The priority of this Office is to progressively move each of the townships from a situation where the community is almost totally reliant on Commonwealth and Northern Territory Government capital injections for economic development to one that more closely aligns to a market-based approach. In order to achieve this, we need to adopt a measured process to build capacity in the township so that individuals and

the community are able to take advantage of emerging economic opportunities.

This year we have enabled the enterprise arm of the Traditional Owners of Nguiu, the Mantiyupwi Association, to secure a sublease for land on which the accommodation for the Government Business Manager has been built. This arrangement will provide a direct financial return to the Traditional Owners through a tenancy arrangement with the Australian Government.

We have also assisted the Traditional Owners in taking a first step in property development. Negotiations are currently underway for the Mantiyupwi Association to develop an office/accommodation complex on a lease-back arrangement for Territory Housing. Territory Housing will deliver housing services to the residents of Nguiu public housing from the office/accommodation complex. The association is also exploring the development of motel-style accommodation and the potential for the construction of an office/small retail complex.

## Groote Eylandt and Bickerton Island

### Background

On December 2008, the Anindiyakwa Land Trust, representing the Traditional Owners of Groote Eylandt and Bickerton Island entered into a lease with the Executive Director, Township Leasing, acting on behalf of the Commonwealth of Australia, for the communities of Angurugu, Umbakumba and Milyakburra. The term of the lease is for an effective period of 80 years

comprised of an initial term of 40 years with an option exercisable by the Executive Director of Township Leasing for a further 40 years.

The Groote Eylandt archipelago is situated on the western side of the Gulf of Carpentaria, approximately 600 kilometres south-east of Darwin. Groote Eylandt is the largest island in the Gulf, with an area of 2687 square kilometres. The traditional owners are Warnindilyakwa, but are referred to by their language name Anindilyakwa.

## Year in Review

### **CONTACT WITH EXISTING OCCUPIERS**

During the period under review, staff of this Office have contacted existing occupiers of land on the need to establish subleasing arrangements, and on the appropriate method of securing tenure for their future occupation.

### **CADASTRAL SURVEY**

A firm of registered surveyors has been engaged to complete a comprehensive cadastral survey of the three townships to define the boundaries of lots over which subleases will be issued.

Such a survey has not been conducted previously and is necessary in order to implement land-tenure arrangements. Once completed, the survey will be submitted for approval to the Surveyor-General for the Northern Territory and will enable the formal recognition of interests in land occupied by organisations and individuals.

Meetings have been held with existing occupiers to determine the location of boundaries.

Wherever possible, existing fencing or the location of the accepted boundaries is to be



adopted for establishing cadastral survey boundaries in accordance with current town planning principles.

### **PROPERTY VALUATIONS**

Professional valuation advice has been sought on appropriate annual lease rental payments for properties under commercial leasing arrangements. This work has recently been completed and the report is expected to be provided shortly.

### **NEGOTIATION OF SUBLEASES**

The negotiation of subleases over properties at both Groote Eylandt and Bickerton Island has commenced. To date, several interim agreements have been issued in the lead up to the formal negotiation of subleases.

Formal negotiations will commence once valuations have been finalised.

Existing businesses in the townships have already expressed a keen interest in finalising subleasing arrangements as soon as possible.

## CONSULTATIVE FORUM

The head lease includes provision for the establishment of a Consultative Forum composed of nominees of the Land Trust and the Executive Director, Township Leasing. The purpose of the Consultative Forum is to facilitate communications and to provide advice on land use and issues arising from the head lease.

The Land Trust resolved that its nominees consist of two members from each of the three communities. The Office of Township Leasing facilitated a joint meeting of the Consultative Forums of Nguiu and Groote to discuss experiences to date and issues of interest to communities in implementing township leasing arrangements.

## HOME OWNERSHIP

While it is still early in the process there has already been significant interest from residents of the three communities in purchasing their existing homes.

To date, six residents have sought and been provided with valuations of their existing homes. It is anticipated that more requests will be received once IBA commence regular visits and provide detailed information sessions to residents.

## Economic Development

The three communities offer differing levels of potential to engage in opportunities for economic development. While recognising the different priorities of each community, some opportunities have already been identified from preliminary discussions with the communities on Groote and Bickerton.

This Office has already received a request from an existing store owner to construct a new building at Angurugu. The expansion of this building will allow for the employment of an additional four people.

Initial discussions have been held with four stakeholders interested in developing staff housing at Angurugu and Umbakumba. Three of the four stakeholders are local indigenous organisations employing local indigenous staff.

This Office is also working closely with local community organisations and the Economic Development Officer employed by Groote Eylandt and Bickerton Island Enterprises (GEBIE) to explore opportunities to develop local small business enterprises.

## Services Provided by Other Bodies

During the year under review the Executive Director engaged:

- the Australian Government Solicitor to provide legal advice on a range of matters associated with township leasing arrangements
- registered surveyors to prepare and lodge cadastral survey plans for the four communities
- registered valuers to provide valuation assessments for commercial properties in order to determine appropriate annual lease rental payments, and
- accounting and business services for the development of leasing business protocols.

No consultants were engaged during the year.



## Expenditure Statement

Under sub-section 64 (4A) of the Act the activities of the Office of Township Leasing are funded from the Aboriginals Benefit Account (ABA). Full financial details of the ABA can be found in the financial statements of the Department of Families, Housing, Community Services and Indigenous Affairs which is submitted to the Minister under subsections 63(2) and 70(2) of the *Public Service Act 1999*, and to the Finance Minister under s 50 of the *Financial Management and Accountability Act 1997*. The statements are subject to scrutiny through the Senate Estimates Committee process.

Details of expenditure arising from the activities of the Office for the year ended 30 June 2009 are provided below.



	(\$'000)
Employee expenses	519
Travel-related expenses	192
Contractor services	340
General administrative expenses	39
<b>Total expenditure</b>	<b>1090</b>





EXECUTIVE DIRECTOR OF TOWNSHIP LEASING  
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