

99 YEAR LEASE AGREEMENT EXECUTED IN NGUIU

Parties signing the agreement: Tiwi Land Trust, Commonwealth Government

Location signed: Nguiu, Tiwi Islands, Northern Territory, Australia

Date signed: Memorandum of Understanding Agreed to May 2007, lease executed 30 August 2007

In May 2007 the Nguiu people of the Tiwi Islands became the first Indigenous community to agree to the terms of a Memorandum of Understanding ('MOU') for a 99-year lease with the Federal Government. In August 2007 the Tiwi Land Trust (on behalf of traditional owners of Nguiu) and the Executive Director of Township Leasing (on behalf of the Federal Government) executed the 99-year lease agreement pursuant to the previous MOU.

The lease between the Nguiu and the Government was granted under section 19A of the *Aboriginal Land Rights Act 1976* (Cth). It will expire in 2106. Under the head lease the Executive Director of Township Leasing has the authority to grant sub-leases to Government, housing organisations, individuals and families wanting to buy or build their own homes, business and community organisations. The structure of the lease is a marked contrast to the proposed lease under the Memorandum of Understanding between Galarwuy Yunupingu and the Commonwealth of Australia, which, according to Patrick Dodson, 'leaves the Gumatj holding the head lease and the Crown obtaining the necessary subleases'.

In consideration for the granting of the lease the Commonwealth will provide \$5 million in funding over the first 15 years of the lease, along with \$1 million for health initiatives, the construction of 25 houses in the next two years and repairs to existing houses in the community. Traditional owners or representative of Nguiu must also be consulted about land developments and non-Tiwi residents will be capped at 15 percent of the total population.

The Federal Government argues that the scheme and leases such as that between it and the Nguiu will encourage Indigenous Australians to take increased responsibility for their homes through greater private ownership, consequently

creating conditions that will increase the prosperity of those communities involved. Private ownership will be facilitated by flexible, subsidised low-interest loans of up to 30 years duration. According to Minister Brough the scheme will alleviate the need for the Government to spend up to \$500 000 at a time replacing properties damaged by neglect and overcrowding.

The lease and the scheme as a whole have been the subject of trenchant criticism from Indigenous bodies. Jon Altman, Director of the Centre for Aboriginal Economic Policy at ANU and Tom Calma, Aboriginal and Torres Strait Island Social Justice Commissioner have expressed concern that in communities such as Nguiu, where unemployment is high, welfare dependence is widespread and economic activity is at a virtual standstill, citizens will face significant difficulties in realising mortgage payments and even qualifying for loans. Altman argues that the focus on private ownership is misguided because of the endemic problem of overcrowding; indeed, he suggests that the lease scheme has the potential to worsen this situation because of the need for families to group together to afford the mortgage repayments required by private ownership.

Full details of the agreement to execute a 99-year lease over Nguiu are available at the website of the Agreements, Treaties and Negotiated Settlements project: <<http://www.atns.net.au/>>.