

Addendum

Practicality of maintaining active Native Title with development., or allowing traditional owners to act as the owners.

Native Title, like most aboriginal lands is a single title that is communally owned. British planning and property laws, as imposed here, presumes a need for sub-division prior to development occurring.

This is not necessarily the case, but there are a couple of steps to realise an alternate model. The communal ownership of Native Title needs to remain owned by a single legal entity, and The Crown needs to stay out of planning approvals, etc. Thus, Limited Partners are suggested to join into the PBC, and The Crown set up a Shell Company.

For Native Title lands to remain intact, and with development occurring thereon, third parties, be they government landlords, private homeowners, or entrepreneurial and/or venture capital investors, can each become limited liability partners within the ownership entity of the Native Title, thus, even with private homes, shops and commercial enterprise within a Native Title, the whole area can be owned by one legal entity. Of course, various leases, codes of conduct, grievance procedures will be required within this ownership entity. These can be written into the Partnership Agreements.

This arrangement is viable for any communally owned lands, Native Title or not, and offers greater flexibility for siting of buildings, etc, without the constraints of separate sub-divisions for each part. It also maximises opportunities for sharing of infrastructure, such as grey water reuse systems, energy generation by neighbourhood, and the like.

Specific to Native Title Lands, is the issue of extinguishment whenever the Crown interferes. This seems especially offensive considering that first nations peoples used to live in houses on their communal lands, but are now being required to have their lands sub-divided prior to any housing being allowed. It's a legal/planning form of cultural genocide via the built environment, best described as dispossession by ethnocracy .

Thus, the need for The Crown to establish a "shell company" to act in a manner agreeable to the crown, but not be The Crown, when granting planning approvals for lands under freehold Native Title. The ambit of this shell company best be limited to those specific actions which would otherwise require extinguishment via the Futures Acts.

A separate "shell company" will be required for operations in each state or territory. Separate "shell companies" may be required for each individual Native Title parcel, but once a template has been established, replication into a string of shell companies is not likely to be too complex. Certainly no more complex than the Futures Acts, ILUAs, etcetera, where all the "giving" is by traditional owners, and all the "taking" is by The Crown.

Since the High Court of Australia has determined that Native Title exists, and is presumed to have existed prior to 1788, natural justice dictates that any modifications to the usual practices of governance should be the responsibility of our governments, rather than the onus of responsibility falling to the traditional owners, who then face the extinguishment or no development dichotomy of the Futures Acts.

This proposed legislation appears designed to extend the taking of more land, in exchange for some public housing estates. I trust that you can ascertain from my submission, and from the comments above, that a more respectful and beneficial way forward is both possible and practicable.

I do hope that these concepts can be given due consideration by the senate, and thank you for your time, thus far.

In good faith
Graeme Taylor

PS My apologies for the less than formal layout of my submission, and this addendum. After submitting to various reviews on matters of Native Title, and having written to the governor general in September, I only learned of this Senate review on Friday, 27/11, a date later than close of submissions, thus my haste in formulating and preparing my comments, so as to present an alternative option to move forward.