

Case Study

Supporting the development of Land Trusts in Cape York



Background

One of the key organisations Jawun supports in Cape York is Balkanu Economic Development. Balkanu's mission is to support the economic development of the Aboriginal people of Cape York,¹ and one of the most important ways this can be achieved is through more effective management of Aboriginal land leading to the realisation of its full economic potential.

Between 2000-2010, Balkanu in negotiations with the Queensland State Government facilitated the transfer of 1,194,300 hectares valued in excess of \$10 million to traditional owners, of which 51% is Aboriginal freehold and the remainder is a jointly owned and managed National Park.

When Aboriginal people obtain ownership of land through a transfer, they become grantees of the land and a land trust automatically arises. The land trust, a body corporate of which the grantees are members, becomes the owner of the land. It holds the land on trust for the benefit of Aboriginal people, their ancestors and descendants. Generally, the title to the land is Aboriginal freehold and is subject to a very significant set of restrictions on dealings with it.²

Aboriginal freehold land can be used in the production of a good or service, such as farming, grazing and forestry and it can be improved with buildings or other infrastructure. However, Aboriginal freehold land cannot be sold and therefore cannot be used as security to raise capital for enterprise development. Aboriginal freehold land can be leased but currently, granting a lease is a highly complex legal process for which most land trusts do not have the resources to pursue. If an individual or family group wishes to start an enterprise on the land owned by a trust, often a lease is required.

Ownership of Aboriginal freehold land by a land trust presents many challenges. In the initial stages one of the challenges is in managing the sometimes divergent interests of traditional owners. With such focus on getting a claim off the ground, there is not enough emphasis on the effective ongoing management of the resultant land body when the claim is successful. Without adequate focus on ongoing management the land body is unlikely to meet the needs of its traditional owners.

The rules and regulations applying to any business operating in Australia are complex and land holding bodies operating on the Cape York Peninsula are no exception. However, where most non-indigenous businesses will appoint an external accountant or lawyer or employ a dedicated resource to help them manage their regulatory obligations; this is not the case with many indigenous businesses and organisations due to:

- lack of general business knowledge

¹Balkanu Annual Report, 2006

² Agreements, Treaties and Negotiated Settlements Project website, <http://www.atns.net.au/agreement.asp?EntityID=674>

- poor understanding of their obligations
- excessive and impractical cost given the economics of their business
- inability to access professional services given geography and lack of telephone and email facilities

The key to the future development and financial independence of Aboriginal people in Cape York is tied to the ability of traditional owners to leverage enterprise and jobs from their land. It is critical for land trusts to be “organisationally ready”.

Approach

Balkanu has identified that in order for traditional owners to achieve economic outcomes from land holdings, the trusts need to start at the beginning and build their individual and collective capabilities so that eventually they can operate successful businesses and consider decisions relating to joint venture opportunities in order to maximise the use of their lands.

Since 2009, Jawun has sourced 34 secondees from Westpac, KPMG, IBM and Allens Arthur Robinson Lawyers who have worked with Balkanu to support the development of the land trusts in Cape York. In this period the land trusts benefited from the wide variety of skills brought by the secondees who worked directly with traditional owners to assist with:

- Conducting feasibility studies for potential businesses (cattle mustering, car hire, horticulture, alcohol and drug rehabilitation facility, a ‘housing cooperative’ for members to live on trust land, fisheries)
- Assisting establish basic office functions,
- Website development and IT support/training,
- Setting up bank accounts and insurance for corporations associated with the trust,
- Business planning and reviewing business plans,
- Leasing arrangements,
- Writing funding submissions, and
- Governance support

“Negotiating the compliance and governance issues associated with operating a corporation is complicated and often the land trusts do not have access to professional services. It was really satisfying to be able to apply my skills in a tangible way to assist and I firmly believe that the work done by secondees plays a vital part in helping the traditional owners to achieve their goals. ”

- Jessica Corley, Secondee, Westpac Group

Outcomes

The Jawun secondee program has supported a number of land trusts in the past three years. The success of the Land Trust Program have been due to the motivation of the land trust members and in part due to the assistance and skills provided by Jawun corporate secondees. Two land trusts in particular stand out as examples of what can be achieved with motivation and the right type of support:

The Yuku Baja Muliku Land Trust, Cooktown/Archer Point

This land trust currently has a federally funded 'Working on Country' land management program that employs several traditional owners on and around the land trust lands. The group are also negotiating a 'Traditional Use of Marine Resources Agreement' and have several business opportunities arising from the fact that they are a well-functioning and compliant land trust. Among these is a large proposal to develop a wind farm.

The Coordinator, Larissa Hale, publicly attributes the functionality of the Yuku Baja Muliku Land Trust to the assistance provided by the Jawun secondees.

The Toolka Land Trust, Coen

In 2009 Kalan Enterprises Aboriginal Corporation was established and the Kalan Rangers "Working on Country" program was started with federal government funding delivering conservation initiatives on the ground and employing 8 traditional owners. The ranger program is currently administered by Balkanu on an interim basis, with the longer term intent of transitioning this directly to Kalan Enterprises to manage as capacity is built to allow self-management to evolve.

"My secondment to Cape York enlightened me to the massive changes that are occurring within many of the land trusts. Some are just starting to develop whilst others have matured to a point where they are making significant progress with clear goals for the future. My work with Lama Lama and Toolka Land Trusts led to good base structures for both the Lama Lama and Kalan Rangers websites plus planted the seed for thinking about content and to support future development.

- David Rowley, Secondees, IBM

Next Steps

In 2011, Balkanu has engaged a full-time Land Trust Support Officer to work with four land trusts on Cape York. These trusts are: Toolka, KULLA, Apudthama and Munburra.

The challenges facing land trusts when they begin down the road of economic development are large and varied. It will take people with a range of skills and experience working on a number of different levels to assist the traditional owners of Cape York in this capacity. It is proposed that Jawun secondees will continue to provide the skills and expertise relating to conducting feasibility studies, writing funding submissions and researching business models that are relevant for land trusts. It is also proposed that the secondment program will assist in developing a framework for streamlining the leasing arrangements for land trusts which will enable individuals and families to take up enterprise opportunities on their land.