

How can Community Land Trusts provide accessible and stable tenure options for Indigenous Australians?

COMMUNITY LAND TRUSTS (CLTS) REPRESENT AN OPTION FOR PROVIDING ACCESSIBLE TENURE FORMS FOR INDIGENOUS COMMUNITIES. CLTS RESONATE WITH INDIGENOUS HOUSING ASPIRATIONS, CAN PROVIDE STABILITY FOR INDIVIDUALS AND COMMUNITIES, AND REDUCE FINANCIAL VULNERABILITY THROUGH SHARED EQUITY OR LONG-TERM LEASEHOLD MODELS.

KEY POINTS

- A Community Land Trust (CLT) is a not-for-profit organisation that purchases or leases property to provide affordable housing and community benefit. There are different CLT models, but most allow households to buy into the CLT and enter affordable home ownership.
- Community Land Trusts (CLTs) are an innovative mechanism that can enhance tenure choices and support Indigenous land ownership aspirations and values.
- Three CLT operating models are identified as potentially workable in Australia. Each has potential to provide affordability, modest equity gain to households and appropriate models of stewardship; however, the operational implications for each vary greatly.
- In order to initiate and maintain successful operation of CLTs in Australia, policy and program implications will need to be acknowledged regarding economic development, legal mechanisms, financing, public subsidy and government assistance.

This bulletin is based on research conducted by Dr Louise Crabtree, Associate Professor Vivienne Milligan, Dr Hazel Blunden, Professor Peter Phibbs and Professor Carolyn Sappideen at the AHURI UNSW-UWS Research Centre. The research examined the potential relevance of models based on CLTs for the Australian Indigenous housing sector.

CONTEXT

Community Land Trusts (CLTs) have been operating in the United States of America (USA) for over 40 years and have been more recently established in the United Kingdom (UK) (see AHURI Research Report 70639, *Principles and practices of an affordable housing Community Land Trust model*). Evidence suggests that they can act as a successful intermediate tenure form in Australian Indigenous communities.

In 2004, Indigenous Australians represented 16 per cent of all clients of the Supported Accommodation Assistance Program (SAAP) although they comprised only 2.3 per cent of the Australian population. In 2006, households with at least one Indigenous member had a home ownership rate of 34 per cent, compared with non-Indigenous households at 69 per cent (Australian Bureau of Statistics 2006). Indigenous home ownership has increased slowly but steadily from 19 per cent in 1991.

As a result of the 2008 Council of Australian Governments (COAG) National Indigenous Reform Agreement (NIRA) there is strong support from the Australian Government to 'close the gap' between Indigenous and non-Indigenous Australians. This includes a strong intergovernmental commitment to further expand home ownership among Indigenous households in urban, rural and remote areas.

RESEARCH METHOD

Phase 1 of the research involved analysis of CLT models in the USA and the UK and an overview of Indigenous land tenure systems in Australia. This included specialist input from the Australian Institute for Aboriginal and Torres Strait Islander Studies (AIATSIS) on Indigenous land tenures.

The second phase focused on three case study locations in New South Wales and Queensland, involving in-depth interviews with Indigenous housing providers, community members and additional stakeholders such as financing bodies. In order to ensure Indigenous guidance and advice in this process, an Advisory Group was established with Indigenous leaders and representatives from Indigenous organisations.

KEY FINDINGS

Defining CLTs

Community Land Trusts (CLTs) are private non-profit organisations that hold title to land and/or housing to provide affordable rental and ownership options. Residents' property rights are inheritable, and where residents have put equity in, their property rights can be bought and sold at prices determined by a resale formula. As with other affordable housing providers, CLTs can 'salt and pepper' their stock throughout their service area.

The financing, pricing and regulatory arrangements of CLTs are designed to improve housing affordability for residents, while also protecting the long-term affordability of the housing for future generations. This arrangement can offer many of the benefits of home ownership including resident control over a dwelling, security of tenure, transfer of occupancy rights and the potential for asset wealth building.

Application of CLTs in Australia

The research found strong associations between the principles and mechanisms of CLTs and existing Indigenous housing aspirations. Core principles of CLTs were identified as:

- Aiming to balance the rights and responsibilities of the householder with those of the community.
- Stewardship of community assets.
- Householder wellbeing.

These principles are translated into diverse CLT operating models that all work to:

- Retain affordability.
- Provide modest equity gain to households.
- Develop appropriate models of stewardship.

Challenges in Indigenous home ownership

Although Indigenous housing aspirations are not uniform, stability, autonomy and the ability to transfer secure residence to family or kinship groups through inheritance are common. In many Indigenous communities, asset accumulation and wealth creation did not figure as strongly in attitudes towards home ownership.

Increasing the rate of Indigenous home ownership involves a number of core challenges:

- Existing Indigenous land tenure arrangements may not enable mainstream forms of home ownership, especially where land is held collectively. Ongoing recognition of the cultural significance of Indigenous lands requires models that allow collective or community ownership.
- Mortgage-backed home ownership exposes individuals to unreasonable risks, as many Indigenous communities experience low incomes or high unemployment.
- The market for any Indigenous home ownership scheme will consist of culturally or geographically distinct populations. Particularly in remote areas, this may create smaller markets.
- In locations such as mining areas and tourist towns, there are complex situations with land ownership and market conditions, which could displace Indigenous people and inhibit affordable home ownership.

Benefits of CLTs in responding to Indigenous housing challenges

The research identified potential for CLTs to provide a range of housing choices that are not currently available or necessarily appropriate for Indigenous Australians. For example, CLTs may address the gap for households who are seeking greater stability and longer-term housing security, but are not eligible for social rental and are unable to achieve independent home ownership.

In the context of persistent low income and unemployment among Indigenous communities, home ownership may present unacceptable levels of financial risk and maintenance responsibilities for households. CLTs can potentially provide a more workable and sustainable solution through sharing the responsibility with a partner organisation or utilising models that do not require significant equity outlay on the part of the household.

A CLT approach can potentially reduce the overall cost of owning a home, provide a safety net and maintain future affordability by applying conditions to resale. A CLT model can provide for limited capital

gain upon sale, without creating an inflationary effect that may preclude the sale of the house to another lower-income Indigenous household. This is particularly important in areas where market pressures are driving up the cost of housing through sea-change and tree-change population movements or mining operations.

Community Land Trusts (CLTs) offer a possible means of protecting community assets in markets experiencing strong demand. Community ownership of land through CLTs can be highly beneficial where community ownership of land represents a significant legacy.

Models of CLT tenure

In applying international evidence to the NSW and Qld case studies, the research team proposed three models for CLTs; the 'classic' model, a long-term leasehold model and a shared equity scheme.

The 'classic' CLT model involves the separation of fixtures from land and a long-term ground lease between the resident and the partner organisation. This might work best where organisations have existing land, where there is a strong desire to retain this in community ownership, and where the retention of affordability is a core concern. Currently the separation of fixtures from land is challenging under Australian law, this model operates in the United States in those jurisdictions where this separation is legally possible.

A long-term leasehold model provides a long-term lease to both housing and land. In this model the householder can buy a long-term lease, with the partner organisation holding title to the land and house. The lease price and ongoing charges can be set as high or low as appropriate, and their calculation spelt out in the lease. This may be more readily implemented under current law, but does not confer 'ownership' in the sense that the classic CLT model might.

A modified shared equity scheme represents a split of the entire house and land package 'down the middle' between the resident and the CLT. This scheme would carry conditions regarding eligibility, resale restrictions etc., similar to the leasehold

model. This may be readily implemented on freehold land, although it would require careful oversight to ensure that conditions are upheld.

Considerations

The project highlighted a set of legal and financial questions that will need to be addressed to achieve the successful operation of CLT models in Australia.

Currently the separation of fixtures from land is unfamiliar as a housing model in Australia. Greater flexibility may be achieved through the use of long-term lease arrangements, which can allow a form of secure ownership and assignment of both leases and fixtures.

Home ownership entails different responsibilities to being a tenant. Households may require additional support and training to ensure that the transition can be managed and that risks are minimised.

POLICY IMPLICATIONS

The type of CLT model being considered will have policy implications in relation to the local context and legal mechanisms for implementation.

The capacity for small and remote communities to create wealth and stimulate economic development is limited. However, this may not be the primary motivation for many Indigenous communities who value stability and inheritability over wealth creation.

Existing governance structures and ownership arrangements need to be considered and respected in establishment of CLTs for Indigenous housing and the appropriate stewardship for CLTs.

Government assistance in future Indigenous home ownership schemes is a consideration in the establishment of CLTs. Investment in a CLT pilot program would assist in determining viability of specific models.

FURTHER INFORMATION

This bulletin is based on AHURI project 70639, *Community Land Trusts and Indigenous housing outcomes*.

Reports from this project can be found on the AHURI website: www.ahuri.edu.au or by contacting AHURI Limited on +61 3 9660 2300.

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