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LAND PLANNING,
DEVELOPMENT AND
MANAGEMENT

LESSONS FROM THE AUSTRALIAN
CAPITAL TERRITORY

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Key Points

- By looking at the land administration system of the Australian Capital Territory, analysing the thinking behind the system, and applying it to the Papua New Guinea context, it becomes clear that the problems in PNG are not necessarily PNG-specific. Rather, the land system has not been working in PNG for a range of reasons relating to its design and implementation.
- The ACT experience makes it clear that overcoming the problems with the PNG land system is not an insurmountable task. Policy initiatives inspired by the ACT system would be relatively straightforward to implement, so long as the political will can be secured.
- While drawing lessons from the ACT, PNG should not simply adopt the current ACT system, because its economic and social contexts are very different.

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LAND PLANNING, DEVELOPMENT AND MANAGEMENT: LESSONS FROM THE AUSTRALIAN CAPITAL TERRITORY

By T. Levantis

This report contributes to the ongoing quest of the National Land Development Program to improve the way land works in Papua New Guinea (PNG) using insights gained from the experience with land administration of the Australian Capital Territory (ACT). There, the land system is efficient and effective and backed up with excellent governance. At the time of PNG's independence, the land systems in the ACT and in PNG were much the same, because the ACT system was used as a model for PNG. Today, the performances of the two systems could not be more different; the PNG system is largely dysfunctional.

By looking at the ACT, analysing the thinking behind the system, and applying it to the PNG context, it becomes clear that the problems in PNG are not necessarily PNG-specific but that the land system has not been working in PNG for a range of reasons relating to its design and implementation. While the ACT system has undergone changes to improve the way it works, the PNG system has been largely static—at least until the Government of PNG, following the Land Summit of 2005, initiated the National Land Development Program.

The ACT experience also makes it clear that overcoming the problems with the PNG land system is not an insurmountable task. Policy initiatives inspired by the ACT system would be relatively straightforward to implement, so long as the political will can be secured. PNG should not simply adopt the current ACT system, because its economic and social contexts are very different. PNG's land system incorporates customary land tenure and applies nation-wide, while the ACT is a territory with all land owned by the state.

The next section explains the rationale for looking at the ACT system. After that, the report draws out lessons for PNG related to the leasehold system, the planning framework, the land administration system, the system linking physical planning with lease conditions, the planning and implementation of land releases, and the marketing of residential land.

Why look at the Australian Capital Territory for pointers?

The ACT was formed in the early part of the last century to host Australia's capital city, Canberra. From the beginning, every aspect of Canberra was planned, including the formulation of a long-term visionary plan for the city. In this regard, the contrast with Port Moresby and other urban centres in PNG is sharp; it is further sharpened by the fact that Canberra is one of the most affluent cities in the world, while PNG cities are amongst the least affluent. Security of land tenure in Canberra is absolute; in the urban centres of PNG, large parts of the population occupy land illegally. It would be almost impossible to find a dwelling of low quality in Canberra; most in PNG are of low quality and not properly connected with utility services.

One key area of overlap is that all land in the ACT is leasehold—freehold titles are not available. In PNG, the majority of the state-owned land is administered under state leases. Going forward, the leasehold land system will become an increasingly important mechanism: As state land runs out, customary land will need to be accessed for urban expansion, and access to it will be strictly through the leasehold system. Another important similarity is a legal and government framework with shared British roots; the system PNG adopted at independence in 1975 was based on the ACT system.

Almost all other aspects of land administration and the functioning of the land system are different. This is the key reason for looking at the ACT system. Land administration and the overall land system in PNG are barely functional; the opposite is the case in the ACT. There are therefore many powerful lessons to be learned by studying the ACT land system and identifying elements that could improve the functioning of the PNG land system. This paper identifies numerous such elements that could be implemented at little cost and with little effort, as well as shortcomings in the ACT land system that PNG can learn from and avoid.

The leasehold system of land tenure

The ACT has adopted a leasehold system of land tenure that

is unique in Australia. All other states and territories have a freehold system of outright and permanent ownership of land. As established under the Constitution and under Commonwealth and Territory legislation, the Commonwealth Government owns all land in the ACT, and the ACT Government manages the land on behalf of the Commonwealth. Under this arrangement, 99-year leases are provided by the ACT Government on behalf of the Commonwealth.

When a lease is granted in the ACT, the lessee is granted certain rights, including the exclusive enjoyment and use of the leased land for the duration of the lease. However, the ACT Government reserves the right to acquire all or part of the leased land for public purposes. This provision is no different to what is normally allowed under the freehold system. Towards the end of the 99-year lease, the ACT Government will automatically grant a new lease to the holder of the old lease without payment (other than administration fees), giving the lessee continuing security of tenure.

Thus, land leases in the ACT are effectively granted in perpetuity. Moreover, all benefits associated with increases in land values accrue to the holder of the lease, just as they would for freehold land. In practice there is little difference between the ACT leasehold system and a freehold system. It is true that the government reserves the power to change these arrangements in the future, but it is difficult to see this ever happening, given how well the land system works and the alignment it now has with the rest of Australia.

But the leasehold system did not always work this way. The original intention was for it to be completely different to the freehold system. Upon the establishment of Canberra as the capital, the Commonwealth Government held the view that all land in Canberra should be owned by the Commonwealth for the benefit of the Commonwealth. Edmund Barton, Australia's first Prime Minister, made this clear: "we shall be able to get the land on fair terms, lease it on fair terms and still make a profit for the Commonwealth" (Fitzgerald, 2008).

Thus, the leasehold system was established with the intention that any increase in the value of land as a result of the growth of the city should benefit the government and hence the community as a whole. The rationale was that increases in land value would not occur as a result of the efforts of the land owner, but as a result of the efforts of the government in building the city and its associated infrastructure and amenities. This philosophy sits at the other end of the spectrum to freehold title, where increases in land value accrue entirely to the holder of the rights over the land.

The way the leasehold system originally worked was for the Commonwealth to "sell" crown leases at a low and affordable

price to those who wanted to build houses or commercial properties. The landholder would pay rent to the Commonwealth every year based on the value of the land, which would be regularly reassessed; as the value rose, so would the rent. A clear benefit was that the low up-front cost of securing land would help attract people and businesses to Canberra. Another benefit was that by removing opportunities for people to profit from increasing land values, it was thought that the leasehold system would prevent speculative land dealings.

As it turned out, the original leasehold system was a failure, and in the early 1970s, it was amended to resemble the freehold-like system seen today. The charging of rent for land was abolished, and the income lost was made up by increased "rates" (ie, annual land service charges) (Fitzgerald 2008). A key reason for the failure was that there were no regular valuations of the land, which meant that the revenue did not rise as the value of the land increased. In any case, properly valuing land was beset with difficulties, not least of which was that the market would adjust land values inverse to the amount of lease rentals. So if the government did raise rents, the value of land would decline. As a result, the original intention that the government should benefit from any increases in land values became lost and confused. Where land rents were not appropriately adjusted, the holders of the land leases benefited both from low rents and higher capital value that resulted from the low rents. Once this happened, any attempt to reverse the widespread gains in wealth that accrued to the residents of Canberra would be futile.

There was also the concern that if land rentals did indeed reflect a true market rate, then upon retirement people would not be able to afford the land rent on their own homes. This was not a concern in the early years, when Canberra had a young and mobile population, but as the city matured, this anomaly when compared to the rest of Australia became significant.

While it is true that holders of leases in the ACT effectively have a freehold title, the leasehold system does have advantages that justified its retention. The main benefit is the ability to lock in planning restrictions into lease purpose clauses, providing a solid basis for the orderly, planned development of the city. This point will be elaborated upon later.

A second benefit is that the system offers flexibility in the way the government makes land available. For example, in recent years the government introduced a Land Rent Scheme enabling low income earners to rent land rather than buy it, retaining the option into perpetuity of buying the land at market value. Rents are based on the market value of land, and unlike in the past, the active market for land makes valuations straightforward. Access to the scheme is limited with

strict conditions relating to occupation. For example, the property cannot be rented to a third party, and in the event the lessee no longer qualifies as having a low income, the land must be purchased or passed on.

Lessons for PNG: Leasehold and tenure

The failure of the original leasehold system in the ACT is a reminder that great care is needed to get the system right in PNG. Two interrelated flaws in the original ACT system led to its downfall. First, pricing was dictated by bureaucratic discretion rather than by the market. Second, there was no clear and transparent mechanism for the Commonwealth to benefit from increases in land values.

These flaws came about due to the intention to regularly adjust rentals to capture any increases in the value of the land. If this could be done accurately, then the result would be that the capital value of the land would not rise and so improvements in the value of the land would accrue to the Commonwealth, not the leaseholder, via higher rentals. But the only way to price the rent accurately to achieve such an objective would be to use a market mechanism yet it is not feasible to establish a market mechanism for this when rental pricing for the entire market for land is controlled. In other words, how could a market-based rental be established when a rental market does not exist? Instead, the government only had the option of bureaucratic discretion—and with bureaucratic discretion would come a healthy degree of imprecision. This led to ambiguity about who would benefit from increased land values. So in the end, the first design flaw was the underlying cause of the second design flaw.

A key lesson for PNG, particularly for customary land, is that the conditions must be established to enable a robust market for leased land. Rentals could be included in land leases, but these would need to be set in stone from the outset, not subject to discretionary change.

This raises important questions about who should benefit from increases in land values. In the current ACT system, the leaseholder benefits in full from any increases in land value in the event of on-selling the land lease. But would this work for customary land in PNG? Is it feasible to have a system where a substantial gain in the value of land would accrue in full to the leaseholder and not to the customary landowners?

The way forward for PNG would be to develop a transparent benefit-sharing system. This would be a complex task, given that capital improvements to the land will need to be accounted for, but is feasible with a well-designed system.

Another ACT policy that is worthy of consideration for adoption in PNG in the context of customary land is the

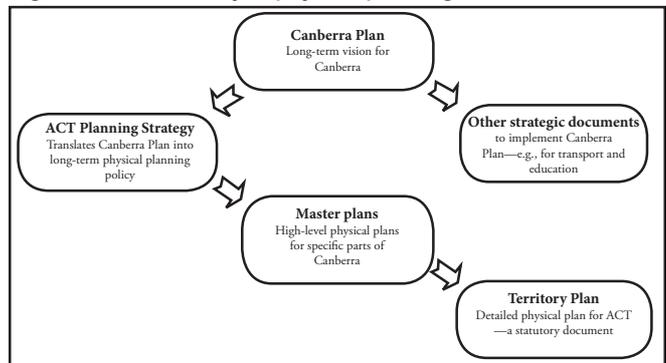
automatic lease renewal system, which is the reason that leasehold land in the ACT functions more like freehold land. The potential consequences are not clear, either for automatic lease renewals or for limiting leases to their 99-year terms, and the policy options are many. Further detailed research and analysis are warranted.

The planning framework

In 2010, the Government of PNG established a new framework for national planning and development. After three decades of muddling along, the new planning framework set in motion ambitious development plans designed to rapidly lift PNG toward middle-income status.

The ACT Government also has in place a planning framework that is quite similar in concept to that for PNG (Figure 1). At the top of the framework is a long-term plan, The Canberra Plan: Towards Our Second Century (ACT Government 2008). Its purpose is to provide policy guidance by articulating a vision of where the city should be in the far future, focusing on strategic themes including in health, education, community safety, economic development and sustainability.

Figure 1: The hierarchy of physical planning in the ACT



Under the Canberra Plan are a number of strategic implementation plans based on key themes. For example, Transport for Canberra: 2012–2031 provides detailed strategies for public transport and transport infrastructure. There are also detailed plans for health, education, and law and order.

PNG's Vision 2050 is much like the Canberra Plan. Implementation is directed by the PNG Development Strategic Plan 2010–2030 and the five-year medium-term development plans that sit under it. Beyond that there are detailed thematic plans in areas such as education and transport as well as provincial and district development plans. But a key point of difference is that, unlike in the ACT, there is no clear link to physical planning.

ACT Planning Strategy: Planning for a Sustainable City (ACT Government, 2012) converts the policy guidance and vision set out in the Canberra Plan into physical planning concepts and objectives. It begins by translating the Canberra Plan into five broad outcomes targeted for achievement by 2030. Broadly speaking, these correspond to the themes of sustainability, amenities, economic development, quality, and natural resource management. Nine broad strategies are articulated for achieving the outcomes, and indicators are identified to monitor progress towards them. As an example, the Canberra Plan emphasises sustainability, and this is captured as one of the outcomes in the ACT Planning Strategy. The implementation strategies then capture the sustainability outcome in a number of ways, including more compact and efficient use of land and improved building standards.

The first step in implementing the ACT Planning Strategy is the formulation of master plans for specific parts of the ACT slated for development or redevelopment. A master plan will be the first step in the planning of a new suburb. Master plans have also been prepared, or are in the process of being prepared, for the redevelopment of existing town centres. Master plans for redevelopment go through a process of public consultation.

The master plans are not detailed but are higher-level plans that provide layout and design principles for the area under consideration. These then provide guidance in the formulation of the detailed physical plan for the whole of the ACT, known as the Territory Plan (ACT Government, 2015). This is a statutory document governed by the Planning and Development Act and is essentially the town plan. It provides detailed zoning and land use maps and physical planning details associated with the zones. There are defined core zones—for example, residential, commercial and recreation zones—and more detailed sub-zones, such as for high-density residential areas or for detached housing. The specific characteristics of these zones are spelled out in the Territory Plan, which also incorporates a Statement of Strategic Direction outlining the policy guidance drawn from the ACT Planning Strategy.

The details of the Territory Plan, including the detailed maps, are easily accessible on-line. This honours the principle of transparency and takes away any scope for discretion or dispute.

The ACT has an added complication in its planning system as a result of the nationally significant aspects of Canberra as the capital city of Australia. The National Capital Authority (<http://www.nationalcapital.gov.au>) is a separate Commonwealth Government entity with responsibility for land that is in the national interest. This encompasses all of the land where the national institutions are located, including the Par-

liament House, the High Court, the War Memorial, and other government buildings. It plans and designs the nationally significant parts of Canberra, and in doing so, has planning authority over the ACT Government planning institutions. The Territory Plan is obliged to be consistent with the National Capital Plan.

Lessons for PNG: The planning framework

The ACT system of linking physical planning with the overall development planning framework has merit and needs to be considered for PNG. However, caution is needed before copying the ACT system, because it also has important flaws. The Canberra Plan is a rhetorical visionary document, much like PNG's Vision 2050, which is fine. However, the ACT Planning Strategy is similarly rhetorical and lacking in substance. The result is that it is difficult to understand the underlying strategic directions in the document, leaving it open to a range of interpretations.

If PNG is to establish a link between development planning and physical planning, it should do so without such an intermediary document. Government administration in PNG is difficult enough as it is without adding another bureaucratic layer that would both confuse and delay town planning. Instead, the link may be established in two ways. First, future medium-term development plans could incorporate policy on physical planning, outlining how it will be aligned to national development planning. Second, the ACT concept of master plans could establish the link by articulating the way national development policy is incorporated into the master plan.

The formal community consultation process associated with master plans is another important lesson for PNG. This is especially appealing for peri-urban development on customary land. Like in the ACT, the consultation process would involve first formulating a draft master plan followed by extensive community consultation to arrive at a final approved master plan.

Another crucial lesson is that of transparency. For example, draft master plans are posted on-line for all to see, as are the outcomes of community consultations. Add to this the posting on-line of the town plan in full, and the result is that there are no surprises in urban development.

The land administration system

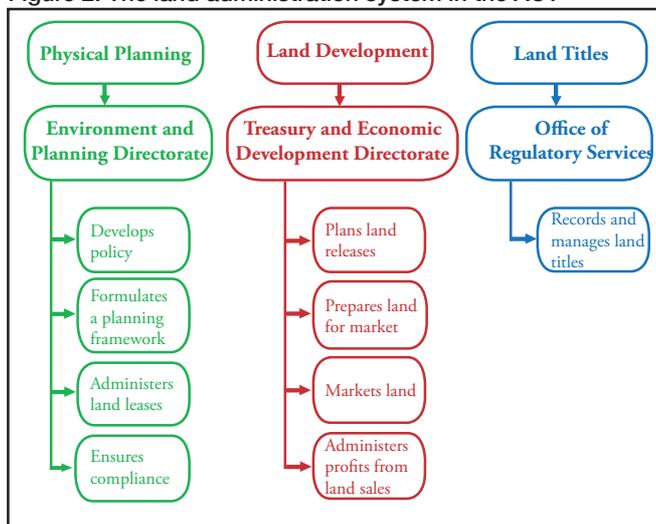
The administration of land in the ACT is separated into three core elements—physical planning, land development and land titles (Figure 2). All aspects relating to physical planning are administered by the Environment and Plan-

ning Directorate. The Treasury and Economic Development Directorate—a super-directorate under the Chief Minister—has overall responsibility for land development but delegates most functions to the Land Development Agency, which is within its portfolio. Land titles are the responsibility of the Office of Regulatory Services, which falls under the Justice and Community Safety Directorate and operates as an independent body. The core elements of land administration are therefore located under different ministries. The Planning and Development Act establishes the separation of the planning and development functions of land administration.

The third function, land leases administration, includes both granting and administering land leases but not the maintenance of a land title register.

The fourth function, compliance enforcement, is carried out through a development application process. This ensures that all proposals to develop plots of land comply with physical planning before approval is granted. The compliance function for land administration fits into a broader range of compliance activities at the Environment and Planning Directorate, including compliance with building regulations.

Figure 2: The land administration system in the ACT



Physical planning

Broadly, there are four functions relating to physical planning: (1) policy development; (2) formulation of the physical planning framework; (3) administration of land leases; and (4) ensuring compliance. All four are administered by the Environment and Planning Directorate.

Policy development refers to the translation of the government’s policy agenda into physical planning policy, as discussed earlier, and consists mainly of two steps: the articulation of higher-level policy (the ACT Planning Strategy) and the development of master plans at the level of suburbs and town centres.

The physical planning framework consists mainly of the Territory Plan—the physical plan for Canberra. This encompasses all the required technical work, including surveying and mapping and the maintenance of a cadastral database. The Territory Plan restrictions are also translated into lease purpose clauses.

Land development

Due to the powerful connection of land development to the economy, it is logical that responsibility be located in the Treasury and Economic Development Directorate. The scope of land releases each year for residential and commercial purposes is outlined in the annual Indicative Land Release Program (ACT Government, 2015). This document ties in the planning of land releases to economic analysis and forecasts of demand for land. In this way, land is released to the market in an orderly way to match demand, thereby underpinning stability and confidence in the market and ensuring sufficient housing is available to accommodate the population.

The Land Development Agency is a commercial agency of the ACT Government that has three key functions: (1) to prepare the orderly release of land to the market in accordance with the Indicative Land Release Program; (2) to commercially engage with the land market and the private sector by marketing land and participating in large-scale land developments where appropriate; and (3) to manage costs and revenues associated with developing land.

As the Land Development Agency operates on a commercial basis, revenues and costs are handled independently of the government and the agency’s accounts are audited. The profits from its operations are remitted to the government by way of dividends. The underlying land does not belong to the Land Development Agency, so as part of its operations it buys the land leases from the ACT Government. Revenue from land sales therefore flows to the ACT Government through two main channels: the sale of land to the Land Development Agency, and dividends from the operations of the Land Development Agency. These account for about 5 per cent of all ACT Government revenue, with the split between the two channels roughly even.

Land titles

The Office of Regulatory Services is responsible for all matters relating to licensing and registration. The scope of its

responsibilities for land title registration are clear and limited to the safekeeping of land title records. This involves the electronic storage of these records and the recording of title transfers.

Lessons for PNG: The structure of land administration

Land dealings involving the government are notoriously vulnerable to corruption due to the potential financial rewards. This is the experience the world over, even in Australia. Unfortunately, land administration in PNG has a long record of corruption, alleged corruption, and administrative failure. A close analysis of how the ACT land administration system operates reveals much about why the system in PNG is not working. There are some powerful lessons from the ACT system that would be straightforward to implement in PNG and would make a tremendous difference to the integrity of PNG's land administration.

The immense task of countering corruption begins with an administrative system that, to the greatest extent possible, (1) removes scope for discretion—so long as there is discretion, there is scope to coerce officials in their decision making—and (2) decentralises power. The system of land administration in the ACT appears to do both very well, which would explain why allegations and findings of corrupt practices are rare.

The integrity of the ACT land administration system is built on a solid base where the three core functions—planning, development and registration—are handled by three different ministries. By removing centralised power and separating responsibilities, the scope for high-level corruption is reduced. Any attempt to push through a land deal without due process may be blocked by one of the three arms of the administration.

For example, suppose someone wished to buy a land lease and develop it for profit in a way that breaches the planning conditions. Where power is concentrated in a single department, a bribe of a senior official might be enough to allow the non-compliant development to occur. But where the powers are separated, corruption becomes difficult. First, officials at the Land Development Agency would not be able to guarantee the developer that they could get approval for the non-compliant development at the Planning Directorate before selling the land to them. Second, officials in the Planning Directorate would not be able to guarantee passage at the Office of Regulatory Services for the lease purpose clauses on the land title to be made compliant with the development. Crucially, even if a corrupt deal managed to get through, a planning appeals system exists that allows decisions to be challenged by third parties.

The structure of land administration in PNG is very different from that in the ACT. Instead of a clear separation of the functions of physical planning, land development and land titles, in PNG these are combined in the Department of Lands and Physical Planning. Power is therefore concentrated in a single ministry, providing scope for corruption that does not exist under the ACT system. The way forward for PNG would be to reorganise the land administration system in a way that reflects what the ACT has achieved.

The litany of failures with regard to land titling in PNG—such as unauthorised changes in land titles and duplicate titles for a single parcel of land—can mostly be traced to the issue of corrupt practices in a department where powers are concentrated. But a second important cause is a lack of institutional competence in maintaining a land register. In the ACT, locating responsibility for land titles at the Office of Regulatory Services makes sense, not only because it is in a separate ministry, but also because that office has the expertise to manage licence and registration records, including births, deaths, marriages, business registrations, and liquor licenses. Unlike in the ACT, responsibility for land titles in PNG is not held by an organisation with institutional expertise in licensing and registration, but at the Department of Lands and Physical Planning. The result has been many years of failure to maintain the land title system at an even rudimentary standard.

Discretion is prevented in the ACT land administration system in four key ways: (1) by using the market in a competitive way for land dealings, (2) by having in place a detailed physical plan (the Territory Plan) before undertaking any land development, (3) by placing a high priority on transparency, and (4) by having an appeals system in place. Transparency is enhanced by making the complete Territory Plan available on-line, and by detailed on-line notifications by the Land Development Agency of land releases and instructions for participating in the process of acquiring land.

The contrasts with land administration in PNG are powerful. First, there is a failure to engage the competitive market for land dealings. Second, detailed physical plans are not sufficiently developed. Third, transparency is almost non-existent, and fourth, there is no appeals system. Action is needed in PNG on all four fronts for discretion to be broken down and for opportunities for corruption to be removed. The first and third issues in particular are straightforward to deal with, and the ACT system helps point the way forward.

While it makes sense for PNG to have in place a commercial arm of government, like the Land Development Agency, to manage the release of land, it would be best to confine its activities to state land. The Land Development Agency pur-

chases land from the state. The development and marketing of customary land presents a different set of challenges, and the experience around the Pacific as well as in indigenous Australia is that once this function is centralised by government, it fails. A key part of the failure is the encouragement these arrangements create for bureaucratic bloating and rent seeking that waste a large portion of the proceeds. The Land Council system in Australia and the Land Trust system in Fiji are good examples of this.

Lease conditions and the connection with physical planning

The original leasehold system in Canberra was largely deemed a failure, resulting in the reforms that led to the present land system resembling freehold. However, one characteristic of the original system that was retained is the provision for lease purpose clauses, that are found in each crown lease. These outline the permitted use for the parcel of land—for example, whether it may be used for high-density housing, detached housing, retail shops, professional offices, or industrial plants. They also provide details of any development restrictions, such as where on the land parcel building is permitted, restrictions on the height or appearance of the building, types of fencing, and landscaping responsibilities. In addition, there are conditions associated with the maintenance and repair of buildings with the purpose of preventing eyesores. The ACT Government has a good record of enforcing lease conditions and has threatened leaseholders with termination due to noncompliance or disrepair (for example, excessive rubbish kept on properties).

Lease purpose clauses have supported the planned development of the city and its clean and orderly appearance. They provide a clear link to the Territory Plan, allowing it to be implemented on a plot-by-plot basis in a straightforward and transparent way. This function of the lease purpose clauses has provided continued justification for the leasehold system in the ACT.

It is possible for leaseholders to apply for changes in their lease purpose clauses. So long as the Territory Plan is adhered to, the government often allows minor changes. A common change is allowing dual occupancy, whereby a single dwelling is demolished and two homes are built in its place. Where such changes are permitted, the leaseholder is normally required to pay a betterment tax to reflect the added value to the land. The betterment tax is calculated according to market prices for land and results in the ACT Government securing the bulk of the benefit of the change in the lease purpose clause, rather than the leaseholder.

Lessons for PNG: Lease conditions

Some important lessons from the lease purpose clause system could be applied to PNG. The direct connection of lease clauses with the town plan would prove invaluable for PNG, particularly for the development of urban customary land. While many of the lease conditions on customary land would affect only the lessee and lessor, in PNG, lease purpose clauses that reflect the land use condition in the town plan should be compulsory. There could also be compulsory conditions relating to keeping properties in good order—a good way to prevent properties falling into unsightly disrepair, for the benefit of the town and the customary landowners.

The betterment tax system is another good lesson for PNG. There is no real justification for the leaseholder being the sole beneficiary of any changes to lease purpose clauses—whether the lease is for customary land or state land. Instead, a benefit-sharing system through betterment taxes should be implemented. So long as there is an active market for leased land, the impact on market prices can easily be determined and a tax rate established to split the benefits. The betterment tax, in conjunction with lease purpose clauses compliant with the town plan, can make an important contribution to an improved land system in PNG.

Planning land releases

The planning of undeveloped greenfield land releases is formalised in the ACT with the publication of the Indicative Land Release Program, prepared by the Treasury and Economic Development Directorate. The program is updated each year, but is prepared over a four-year planning horizon.

The key function of the program is to analyse and forecast demand for land over the four-year horizon and plan for the orderly release of supply to meet demand. This is crucial for maintaining a stable market where price volatility is kept in check. It is also a crucial community service obligation that sufficient land for housing is available to accommodate the population.

Four drivers of demand are considered in formulating the forecasts: economic growth, interest rates, population growth and employment. Understanding economic growth is especially important for forecasting business growth and hence demand for commercial and industrial land. Interest rates are an important demand driver because borrowing is heavily relied upon to finance property purchases. The low interest rates experienced in 2014 and 2015 were therefore considered a stimulant for demand. Population growth is the core driver of demand for residential properties. It is also linked closely to employment growth as a result of the ACT's mo-

bile population. For example, the weak employment market in 2015 as a result of sharp cuts in public-sector employment will lead to people migrating to other states in search of employment, hence to low population growth.

In calculating how much residential land to supply, the government faces a conflict. A strategy of restricting supply so that it is exceeded by demand would result in increased land values and so increased returns for the government from land releases. But at the same time, increasing land values come at a cost to the community-service obligation of housing the population. Higher land values mean housing is more expensive to buy and so more expensive to rent, rendering it unaffordable for the less well off in the community.

The particularly high cost of housing in the ACT is a symptom of a bias in place for decades towards holding back supply to increase land values. For example, the cheapest three-bedroom homes cost upward of Aus\$350,000 (K700,000) and rent for above Aus\$1500 (K3000) a month—a big challenge for those earning the minimum wage of about Aus\$2750 (K5500) a month. Despite being a small city with no physical barriers to expansion (such as the harbour in Sydney), Canberra is one of the most expensive cities in Australia. As a result of the elevated prices in the ACT, new cheaper housing developments have emerged just across the border in Queanbeyan in the state of New South Wales. The cross-border competition has helped prevent even higher increases in land values.

Current policy recognises that the objective of economic returns has been pursued too far. As a result, the current Indicative Land Release Program aims to shift the bias towards community service by increasing the supply of residential housing beyond demand and so bringing down the cost of housing.

A conflict also exists regarding making land available to private business. While limiting supply increases land values and hence returns for the government, it also has the effect of increasing the cost of doing business, thereby having a negative impact on private-sector development and economic growth. Again, the bias has been towards increasing land values by holding back supply. The evidence for this is the concentration of much cheaper commercial and industrial land across the border in Queanbeyan.

The Indicative Land Release Program breaks down its analysis of business land to the markets for office space, retail, tourist accommodation, and industry, and plans for land releases accordingly. The office market is assessed in terms of the volume of vacant office space (in square metres) and an analysis of future demand. The supply of land for retail is mainly

considered according to localised population growth—for example, retail land is released mostly in new suburbs and suburbs with high population growth. Land releases for tourist accommodation are based on forecasts of demand. For example, the Indicative Land Release Program of 2014 points to little scope for land releases for tourist accommodation as a result of declining demand and forecasts of continued weak demand. Demand for industrial land is limited in the ACT, but the Indicative Land Release Program arranges for the availability of industrial land should the demand arise.

Land releases for community services are also anticipated in the Indicative Land Release Program. The analysis of demand for community land considers both government demand (for example, for schools), and private demand (for example, for child care facilities and churches). Land releases for community services are often allocated on concessional terms rather than at market prices.

Lessons for PNG: Planning land releases

Land releases in PNG are not planned in a coherent way. The legacy of many decades of failure by the government to release land in an orderly way is the proliferation of illegal settlements, and the extremely high cost of legitimate registered land for housing or business. The cost of buying or renting a basic home on a legitimate parcel of land in Port Moresby rivals that of inner-city Sydney—the most expensive place in Australia and one of the most expensive in the world.

Fixing this will take decades of concerted effort and effective policy. But as in any situation where the circumstances are so bad, making rapid improvements is not difficult. Following the ACT approach of preparing an Indicative Land Release Program every year would be a big step in the right direction. The program would formalise a crucial bridge between town planning across PNG's urban centres and the release of land to the market. The absence of this bridge until now has led to chaotic and ill-thought-out preparation for the supply of land, leaving low- and middle-income earners unable to live in a home on legitimate, legally occupied land, and businesses unable to exploit business opportunities.

Through analysis of the economies and population trends of the main urban markets—especially Port Moresby and Lae—an Indicative Land Release Program would estimate the demand for land each year. This alone would provide a breakthrough for policymakers in understanding the needs for land. The program could then attempt to identify land releases sufficient to accommodate growth in demand. At first this would be a challenge as it would require discipline in town planning to prepare and formalise the land to be made available for release.

Especially challenging will be the process of formalising access to customary land for urban development to fill the gap left by the shortage of state land. This is a separate issue requiring a separate process that is outside the scope of this study. However, the process will need to be linked with the town plan, and once ready to proceed, the release of land to the market will need to be incorporated in the Indicative Land Release Program. This is important to ensure that land from all sources is released to the market in an orderly way to meet demand.

Implementing land releases

In the ACT, the release of all land for housing, business and community purposes is delegated to the Land Development Agency. The preparation of land for all three purposes must comply fully with the Territory Plan. Roads, paths, street lighting, storm-water drainage, sewerage, water supply, electricity supply and telecommunications must all be built in accordance with specifications such as road width and pipe diameters and must be completed within a strict timeline. The land is then marketed and sold strictly within the bounds of its intended use, as specified in the Territory Plan. The lease conditions discussed earlier formalise the scope and nature of development permitted on each parcel of land.

Land for private business is normally prepared and sold by the Land Development Agency through a competitive process—usually by auction. However, when a business seeks a large parcel of land, it is not unusual to see direct negotiation where the parties identify suitable land and settle on a price. A good example of this is the recent sale of a 78,000 square metre block to Ikea, a large retail/wholesale operation. Introducing a competitive process for this type of land is difficult because the market is so thin. Instead, price negotiations are based on professional and independent land valuations.

The purpose of land for community services varies significantly, ranging from businesses such as medical centres, to non-profit organisations such as churches and community halls that have very limited scope for generating revenue. The release of land for community services is therefore very targeted with a narrow scope in their lease purpose clauses. In this way, land for non-profit operations such as churches are able to be sold on concessional terms without the risk that they would be converted into businesses. Land for viable community businesses such as medical centres are sold at auction in the same way as other business land.

The Land Development Agency may bring land for housing to the market in three ways: (1) greenfield land sold to private developers; (2) fully serviced land developed by the agency; and (3) joint venture developments with the private

sector. Of these, fully serviced land is the most common.

Private developers buy greenfield (also known as englobo) land from the Land Development Agency through a competitive process. The developers then build the service infrastructure for the land and on-sell it for a profit. For example, if a developer purchases a greenfield parcel for \$10 million and it costs another \$10 million to add infrastructure, then the developer might look to collect \$25 million from sales of parcels of land to return a \$5 million profit. The developer might retain some or all of the land parcels to build and sell homes. Engaging the private sector creates the incentives to improve the land at the lowest cost possible, while the strong regulatory system ensures that quality is not sacrificed. The competitive nature of the process helps ensure that the most efficient developers get the job.

Although the Agency is a public-sector institution, potential inefficiencies associated with public-sector enterprises appear to be largely overcome. The evidence for this is that most residential land is developed directly by the Agency, indicating that this mechanism tends to provide better returns than direct greenfield sales. In other words, any losses in cost efficiency compared to private developers are more than made up for by retaining the profits that the private sector would otherwise secure. The key to this success is that the construction of infrastructure, by far the main cost, is competitively tendered to the private sector.

To tap into private-sector efficiency, the Agency has also pursued joint ventures with the private sector, but this strategy is used sparingly. A key issue is that private-sector developers tend to add a premium, when working with the Agency, to compensate for potential inefficiencies as a result of government involvement.

Lessons for PNG: Implementing land releases

Given the large sums of money at stake, effective implementation of land releases is difficult. Money attached to the public sector attracts rent seekers, fraudsters, and corrupt officials. A land-release system therefore needs to minimise exposure to such problems.

The integrity of the ACT system is strong as a result of the extensive use of competitive processes for selling land and for contracting the private sector to build infrastructure. Underpinning this is the high degree of transparency. The public sector in the ACT is stronger and better established than its counterpart in PNG. This points to the need for PNG to go beyond the ACT in developing a system for implementing land that relies on competitive processes and eliminates discretion as far as possible.

As discussed earlier, the land administration system in PNG is in a poor state of integrity as a result of the institutional structure, the lack of transparency, and over-reliance on discretion. Until these problems are resolved, retaining a degree of public-sector involvement and discretion similar to that in the ACT system is dangerous.

As a result, while PNG could have an agency like the Land Development Agency, it would be advisable to limit its scope to selling greenfield land directly to private developers through an auction process. Attempting to copy the approach of the Land Development Agency in developing land itself would create far too many opportunities for inefficiency and corruption.

For this approach to be successful, it will need to be backed up by strong town planning with strict conditions on the way the land is developed, including detailed specifications for the construction of infrastructure. This approach should apply to land for both business and housing. ACT-style direct negotiation for larger parcels of industrial or commercial land needs to be avoided in PNG to reduce opportunities for corruption.

Community land (for example, for schools and churches) may continue to be allocated on concessional terms, but strict conditions should be imposed through lease purpose clauses so that people do not use this as a loophole to secure cheap land for business or housing.

Marketing residential land

For the purposes of marketing, residential land can be thought of as belonging to one of two categories: low-density blocks for detached housing, and medium- and high-density blocks for semi-detached housing and apartments.

The Land Development Agency normally markets individual blocks for low-density housing directly to the public using three marketing mechanisms: ballots, auctions and “over the counter”.

The ballot method is a non-competitive mechanism where buyers register their interest in buying land leases at a predetermined (normally below-market) price and successful buyers are chosen at random. For example, the Agency might offer 50 blocks at a site, for which 200 prospective buyers might register, from which 50 winners are drawn. The order in which those winners choose their blocks is assigned by the ballot which means that those highest on the list get to choose the best blocks, and so are the biggest winners. The rationale for this mechanism is to enable first-home buyers and low-income earners access to more affordable land, and thus it is used mainly where land is designated for low-cost

housing.

When the Agency misjudges the market and is unable to sell land leases through the ballot system, it may then revert to auction. However, it often takes the approach of “over the counter” sales where a lower price is offered and buyers can secure land directly from the Agency. The auction mechanism is normally used for land at the higher end of the market. Builders often secure land in this way and then offer house-land packages with a custom-designed home.

Blocks of land developed by the Agency for medium- and high-density residential developments are normally sold to builders by auction. Land is normally prepared for sale on the basis of either a specific range or a maximum for the number of dwellings permitted, which in turn is governed by the Territory Plan. For example, the Agency sold a 13 100 square metre block in February 2015 with a maximum of 131 dwellings allowed, a 13 000 square metre block in March 2015 with up to 240 dwellings permitted, and offered a 3600 square metre block permitting 15–21 homes. After securing the land, builders design residential complexes and submit the designs for approval.

Lessons for PNG: Marketing residential land

Like any scheme where Government funds or property become available in a non-competitive way, the ballot scheme for marketing residential land in the ACT has opened up opportunities for unscrupulous builders to exploit the system by recruiting and placing eligible buyers in the ballot to improve their chances for success. The lesson here for PNG is clear. A ballot system is vulnerable to abuse even in the ACT. For PNG, any mechanism other than a competitive process for selling land leases will inevitably lead to fraudulent and corrupt practices and hence is best avoided.

Conclusion

Valuable lessons for PNG’s National Land Development Program can be gleaned from the well-functioning land system of Australia’s ACT. One of the most important is the need for a robust physical planning system that is linked to national planning and places the highest priority on transparency.

Land administration needs to be broken up into its three arms—physical planning, land development and land titling—each under a separate ministry. Without this, there is little chance that land administration in PNG will improve. In the ACT, the independence of these three functions is backed up by stringent mechanisms that remove the scope for bureaucratic discretion. In PNG, major improvements in efficiency and corruption in land administration are possible

if the basics for removing discretion are implemented, including the following:

- relying to the greatest extent possible on competitive, market-based processes;
- having in place a detailed physical plan before undertaking any land development;
- placing the highest priority on transparency; and
- having in place an effective appeals system.

Land releases, including of customary land, need to be planned formally and many years in advance. Implementing land releases in PNG will be challenging, so the best approach is a simple and transparent one, auctioning greenfield land to private developers with predetermined specifications for land development.

Lessons learned from the ACT's land management process can provide many valuable contributions to the quest of improving the way land works in PNG.

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