Research Statement

Title: A valuation methodology proposal for the Torres Strait Regional Authority ILUA template 2011
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Research Background

While the principles of native title were established in the Mabo and Wic High Court decision more than a decade ago the practical application of that continue to be under development in a number of areas of property. One of the outstanding matters relate to the installation of publically funded infrastructure on lands that demonstrably include existing native title.

Research Contribution

This research involves a collaboration between the Torres Strait Island Commission, their legal representatives and the property professor from USC and an Adjunct Professor with a similar background. It established a methodology by which constructing authorities could secure as higher level of certainty and security of tenure to allow delivery and maintenance of their assets even though normal freehold tenure and rights of way were not available. This required a balance between the rights of compulsory acquisition that were available to constructive authorities elsewhere in the state, while being sympathetic of ‘concept of rights’ under native title and the need for community involvement in such dealings. The level of assessment payable in such remote locations where no normal property market existed was also investigated and recommendations were provided.

Research Significance

It is a common misunderstanding that further dealing with native title is settled. Cases such as this have generic importance given that there are a large number of unresolved cases involving the compulsory acquisition of land under state legislation and its interface with native title laws. This work has been recognised as making a significant contribution to how those matters might be reasonably addressed in the future and now have practical application in dealings in the Torres Strait area and potentially across other mainland areas affected by native title.