

CROWN LAND POLICY AND  
MANAGEMENT FOR THE TURKS AND  
CAICOS ISLANDS

FINAL REPORT

Presented by:  
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in association with TERRA INSTITUTE LTD.

MAY 2005

**CROWN LAND POLICY AND MANAGEMENT FOR  
THE TURKS AND CAICOS ISLANDS**

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**NOTES**

Throughout the consultancy to date the Consultant Team has heard 'Crown Land' referred to as the 'Heritage Asset of the People of the Turks and Caicos Islands'. We believe this terminology quickly and properly captures the importance of the resource. The Consultants have kept the goal of balancing the economic, social and environmental use of this 'Asset' as the guiding principle in this study and the presentation of the final recommendations.

Any factual errors are the full responsibility of the Consultant Team. Data presented are best estimates based on the data sets provided to the Consultant Team.

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## I. SUMMARY OF RECOMMENDATIONS

### FOR CROWN LAND POLICY AND MANAGEMENT IN THE TURKS AND CAICOS ISLANDS

- 1.1 The Crown is the largest landholder in the Turks and Caicos Islands. This makes Crown Lands the Government's most valuable tangible asset, and places an obligation on Crown Land Policy and the government agencies responsible for Crown Land management to address both immediate and medium to long term planning prerequisites. The potential value of Crown Land as a whole has risen dramatically over recent years and this increase is likely to continue over the next five to ten years. It is important that the policy, administrative rules and standard practice concerning Crown Land allocation, pricing and management, which have been evolving over the years, be consistent with addressing the investment needs of economic and social development and provide long-term benefit to Belongers, both in terms of increasing their role in commercial land development and helping them gain access to land for residential use.
- 1.2 The general objective of the Consultancy Team was to examine current Crown land policy and practice, working together with the Government Appointed Panel to gather wide views from government agencies, land professionals and other stakeholders and to produce recommendations for a future comprehensive approach which maximizes sustainable revenues from Crown Land, takes account of competing economic, social and environmental factors, benefits the long term economic and social interests of the Belonger Community and ensures transparency and openness in the administration of Crown land
- 1.3 As has been repeated numerous times to the Consultant Team, 'the Government of the Turks and Caicos Islands has a Crown Land Policy'. This has never been in question. The stated goal of using Crown Land to empower Belongers to play an active role in the ongoing economic and social development of the Islands seems quite practical. However, it is felt that the current policy, which has its origin in the mid-1990's, now requires 'modernization' in substance to be fully responsive to the current land-based development pressures on this 'Heritage Asset'.
- 1.4 Equally important is ensuring the consistent and measurable implementation of the 'modernized' policy. As a result of various Executive Council decisions and altered practices over the years, the written documentation guiding the application of the policy is not cohesive and in many cases is obsolete. Crown Land allocations fall into three main categories, these are; (i) residential; (ii) small-scale commercial; and (iii) large-scale commercial. Oftentimes the rules and procedures for these three categories become muddled in practice which in turn casts uncertainty on the process and opens the way for charges of cronyism, favoritism and corruption. Therefore, formal documentation comprising a full policy statement, supporting legislation, administrative procedures and operational manuals are required to ensure the implementation of an open, transparent and accountable process.

- 1.5 A brief summary of the seventeen main recommendations of the Consultant Team is presented as follows. These recommendations are grouped into three categories: (1) policy; (2) legislative and documentation; and (3) institutional.
- 1.6 The Crown Land Policy is not readily understood by government agencies, private sector stakeholders or the public at large. Therefore, as a general recommendation, the Government should take the necessary steps to increase public awareness and seek public reaction to Crown Land Policy and issues. This should be done by convening a series of ‘Town Hall Meetings’ in the islands to disseminate information on the existing Crown Land policy, gather stakeholders’ opinions to the policy in general and to present some of the Consultant’s recommendations for improving the management of Crown Land. The opinions gathered during these meetings should then be taken into consideration in the preparation of the ‘modernized’ Crown Land Policy. Given the development pressures on Crown Land in Grand Turk, Providenciales and North Caicos, Public Meetings should be held on these three islands. The Belonger Panel should play the primary role in these meetings supported, as required on a technical and operational basis by the Consultant Team and heads of Government agencies.

A. Policy Recommendations

- 1.7 **REVENUE GENERATION THROUGH SALE OF CROWN LAND FOR COMMERCIAL PURPOSES:** The outright sale of Crown Land for large-scale commercial developments to finance the capital budget is not a sustainable long-term revenue strategy. This practice is neither called for, nor implied in the Crown Land policy, and selling a ‘Heritage Asset’ to finance the capital budget should not occur.
- 1.8 **GENERATING PREDICTABLE REVENUES FROM REAL PROPERTY:** Over the past five years Stamp Duty has generated on average approximately 20% of total annual government revenues. This revenue is directly tied to fluctuations in the land market and to the sale of Crown Land. Therefore, although revenues from Stamp Duty have increased over the years, a more reliable source of continued revenue – and not directly related to the disposal of Crown Land – should be sought to finance capital improvements especially for infrastructure and social projects. Government should complete a more rigorous analysis of the revenue flows to be generated from instating a ‘real property-based infrastructure levy’ on the unimproved value of real property owned by non-Belongers.
- 1.9 The fee should be designed to include the following key characteristics of an equitable real property tax system: (1) be set at an appropriate rate to not be regressive but also sufficient to generate a stable yield over a sustainable planning period in order to plan and complete needed infrastructure and social projects, a .01% levy is considered reasonable but this rate would need to further analyzed, compared with other rates around the Caribbean and most importantly adjusted to the fiscal revenue needs of the islands; (2) permit exemptions based on the value or use of the land, for example, property values under US\$250,000 could be exempted from the levy; (3) homestead and hardship reductions or exemptions should be included; (4) the value of the land should

be re-assessed every five years based on comparable property values gleaned from sales information registered in the Land Registry or on site-visits as required; and (5) ensures a predictable yield over a specific economic and development planning period.

- 1.10 The establishment of this levy would also have an impact on stopping land speculation and reducing underutilized land. As was presented in the Initial Report, if land is originally discounted and then remains 'free' once it is acquired, there is little incentive to dissuade individual land banking and speculation which in turn drives up property values and reduces land stock for other purposes particularly affordable housing and apartment developments for the non-tourists. While speculation and underutilization of land is obviously not limited to foreign-owners, it is expected that this undesirable practice among Belongers would be better confronted by a more robust enforcement of the conditions of the lease agreement itself by a Crown Land Department. Also, as presented in the legislative and institutional recommendations, the new Crown Land Ordinance should mandate a revised lease value assessment every three years with the lease conditions stating rent increases based on this periodic assessment. Information on comparable values can be readily compiled from the Land Registry once it is computerized and used by the Valuations Unit and the Crown Land Department to monitoring property values and lease payments.
- 1.11 **PREVENT TRANSFER OF BELONGER DISCOUNT TO NON-BELONGERS:** One of the major concerns of the current Crown Land policy is that discounts given to Belongers on Conditional Purchase Leases for large-scale commercial development are eventually transferred to Non-Belongers. It is clear that under the current policy, no discounts should be given to foreigners as they – as is standard practice in most Caribbean countries – are not eligible to receive Crown Land. The issue is the passing on of these discounts to foreign owners, a practice which is simply prohibited in the former Crown Land Policy and now requires that the Belonger pay the discount back if transfer is made to a non-Belonger. This process can only be prevented with specific legislation, enforcement of the legislation and establishment of systems to monitor the compliance with the legislation.
- 1.12 Crown Land policy should be revised so that no discounts are given for large scale development on commercial land. All allocations for large scale commercial development on Crown Land should be done through long-term leases. Previous allocations of Crown Land for large-scale commercial purposes and discounts given to Belongers in the context of the allocation of Crown Land for small-scale commercial purposes should be monitored and audited over the years by the Crown Land Unit so as to avoid the transfer of the discount to non-Belongers ('fronting'). As a condition of the allocation, the Belonger(s) and the investment companies that they form majority part of, should be required to file an annual affidavit as to share in the companies. Moreover, the design of a Crown Land Management System to be installed in the newly created Crown Land Department should include a specifically developed application to

link to information in the Companies Registry to help track changes in share holdings of Belongers and monitor compliance with the 'Belonger share' condition. Requirement of the annual 'share reports' could be effected by including specific conditions in the individual lease instruments, however, it would be preferable to include this directly in new Crown Land legislation.

- 1.13 **AN INDIVIDUAL BELONGER SHOULD BE "EMPOWERED" ONE TIME:** Under current policy Government uses discounts on Crown Land to 'empower' individual Belongers. It must be realized that the policy of providing a discount incentive on Crown Land is a fiscal measure of intervention into the land market and should be evaluated and justified on the grounds of its costs and its sustainability over time. As with any land policy instrument, the long-run advantages to the population as a whole should be accorded paramount importance in design and implementation of policy. Moreover, empowerment is in essence a binary concept. An individual either has been empowered or has not. Moreover, land (Crown Land in this case) is a finite resource, even more so in an island context. Repeated or frequent use of Crown Land to empower an individual Belonger, or groups of Belongers, is contradictory to the stated objective of the policy and does not stand-up to inspection from the point of view of fiscal responsibility, sustainability and full society benefit. Crown Land is to be disposed of to empower all Belongers, not specifically Belonger who are real property developers. Therefore, as a general provision, the Crown Land policy should be amended to allow for the granting and giving of discount of one parcel of Crown Land for small-scale commercial development and one parcel of residential land to each Belonger during his/her lifetime.
- 1.14 **MAKE CROWN LAND FOR LARGE-SCALE COMMERCIAL DEVELOPMENT AVAILABLE THROUGH LONG-TERM LEASE AGREEMENTS:** The 1994 Crown Land policy is clear that Crown Land for large-scale commercial developments (those over \$5million - now apparently redefined for administrative purposes as over 10 acres) is to be leased through long-term lease agreements. The 2004 modification to policy does not explicitly change this. Therefore, Government should continue to follow the existing policy and make commercial land for large scale development available through long-term leases of 'up-to' 99 years. All leases for large-scale commercial development should be given; (1) only after analyzing the results of a economic and social benefit study of the development; (2) only after an environmental and social impact assessment; (3) in accordance with the land use plans and specific development controls established by the Planning Department; (4) through an open tendering and bidding process; and (5) presented and fully debated at Legislative Council.
- 1.15 From a purely investment point-of-view, it is argued that investors (even North Americans) would not shy away from long-term leases. This is particularly the case if the leases have sufficient marketable characteristics such as transfer, extension and mortgaging, do no include overly cumbersome conditions that put the investor at disadvantage risk of losing the lease and that the development continues to generate

the expected amount of profit during the investment period. This issue continues to create considerable debate, but sides in the debate seem to be based more on personal opinion rather than objective observation.

- 1.16 **PUBLISH INFORMATION ON CROWN LAND ALLOCATIONS:** In a considered effort to make the Crown Land policy and process open, transparent and accountable, the Government should take the steps required to ensure the publication, on a monthly basis in the Gazette, of all allocations of Commercial and Residential lands. The published notice should include information on who (individual or company) received land, the amount of land allocated, where the land is located geographically (island and subdivision/community – not solely by parcel number), the instrument of allocation (Conditional Purchase Lease, Long-Term Lease), the valuation of the parcel and the amount of any discount given. Additionally, the Minister responsible Crown Land should make information on Crown Land allocations available on a monthly basis to the Legislative Council for their review and discussion.
- 1.17 **USE DISCOUNTED LONG-TERM LEASE AGREEMENTS TO STIMULATE LARGE-SCALE COMMERCIAL DEVELOPMENTS IN NEW AREAS:** The policy of offering discounts in the price of leases for large-scale commercial developments on Crown Lands should be utilized to encourage investments in areas not currently attracting new development projects. Given the fact that the island of Providenciales currently attracts large inflows of foreign investment to purchase private landholdings in which no discount is offered, it no longer seems necessary to offer any discount for Crown Lands on the island of Providenciales and it is recommended that this policy be ceased for both small-scale and large-scale commercial development. The discounts offered to attract investment on other islands should be capped at a specific level (50%), in order to ensure at least a minimum return to the Belonger community at large. The objective of ensuring the empowerment of Belongers in large-scale commercial developments on Crown Land will continue to be met by the regulations stipulating that only Belonger controlled entities (i.e. those with Belongers owning at least 51% of the shares) are eligible to receive and hold leases to Crown Land.
- 1.18 **ENSURE A LAND USE PLANNING FOCUS FOR CROWN LAND MANAGEMENT AND ENFORCEMENT OF PLANNING REGULATIONS:** The 2004 modifications of the Crown Land policy begin to steer the focus of Crown Land from directly encouraging physical development – which was needed in the 1990's – to the need for integrated land use planning to guide future sustainable physical development of the islands. Crown Land legislation should include as its guiding principle an integrated land use planning and development focus to ensure that the planning process determines the land development as opposed to the property developers determining the land use. The latter is typically not sustainable and will make the overall goal of the Crown Land policy difficult to achieve in the long-term.

1.19 Currently the Planning Department is playing a limited policing role in the enforcement of Crown Land management policies, through the enactment of demolition orders against illegally constructed properties on Crown Land. These demolition orders are being made under the Planning legislation, rather than the landlord (the Crown) asserting its property rights. Effective policing of Crown Land and the timely ejection of squatters (before construction takes place) and non-complying tenets will improve the use of Crown Land and the revenues generated from the resource. Additionally, the Government should complete the following:

- (1) upgrade and integrate the Development Control (DEVCON) database and integrate this into the land agency-wide parcel information management system (PIMS) to be developed. Upgrade the Planning Division GIS to assist in forward planning and decision-making;
- (2) ensure that the standard procedures for the consideration of new large scale development projects include early review and comment by the Planning Dept. and that these comments are incorporated into any development agreement signed between the Government and a developer; and
- (3) enact a public rights of way ordinance, including specific rights for beach access and public consultations on rights of way.

1.20 **PROTECT SIGNIFICANT ECOLOGICAL OR HISTORIC AREAS FROM FUTURE DEVELOPMENT:** The Government's intent is to not allocate significant ecological or historic areas for development. However, these areas are generally classified and registered as Crown Land and inadvisably in administrative terms fall within the general pool of 'available' Crown Land which opens the possibility that they could be acquired and developed in the future. The Government should legally and physically define these areas (parcels) so that they are not subject to unintended (or intended) development. The Land Register provides for a fairly straightforward administrative means of ensuring the protection of these areas from future transfer by registering a restriction on the parcel for a set duration in the Land Register. Government should invoke Section 132 of the Registered Land Ordinance to restrict transfer or dealings on these areas for a long period of time (e.g., 200 years). Any future lifting of the restriction should be subject to presentation to Legislative Council.

B. Legislative and Documentation Recommendations

1.21 **ESTABLISH CROWN LAND LEGISLATION AND REGULATIONS:** Given the important role Crown Land plays in the current and long-term economic, social and environmental development of the Islands, Government should take the necessary actions to draft and pass legislation to regulate the inventory, allocation, pricing and management of Crown Land. Elevating the regulation of Crown Land from policy to legislation would ensure that the current policy of equitable allocation and sustainable use of Crown Land is effective in the long-term and not easily modified by future Executive Council decisions

or future political mandates. Establishment of a Crown Land Ordinance, therefore, would go a long way to empower, sustain and protect the rights of the Belonger Community and fix the 'rules of the game' well into the future. It seems clear that without establishing specific legislation, the allocation, pricing and management of Crown Land could continue to be based on political expedience, changing policy directives and *ad hoc* administrative decisions that would not achieve the desired purposes. It seems to be not only reasonable, but also politically acceptable, that Government now takes the opportunity to finally establish legislation that regulates the allocation, pricing and management of Crown Land.

- 1.22 **INCLUDE SPECIFIC PERFORMANCE INDICATORS AND REPORTING MECHANISMS IN THE CROWN LAND LEGISLATION:** Any policy needs to be periodically evaluated to determine whether it is meeting the expected objectives and providing the desired benefits. Evaluating any policy requires that data related to a set of performance indicators be monitored over time. Are Belongers being empowered? Is the Heritage Asset being disposed of in an equitable manner? Is development occurring in a sustainable manner? Is Crown Land-based development out-pacing the ability of Government to provide services and infrastructure? Are the conditions of the lease being met? Are longer-term economic benefits flowing at the amount and rate expected from the initial subsidy? Are some individuals being 'empowered' repeatedly, or at the expense of others? These questions are reasonable and should be answered to determine the effectiveness of the policy; however, they cannot currently be answered due to the lack of specific performance indicators and data supporting the indicators. The regulations of the Ordinance regulating the allocation, pricing and management of Crown Land should include specific performance indicators and task the Director of the Crown Land Department with the responsibility for monitoring, measuring and periodic reporting on these indicators to Government.
- 1.23 **PREPARE A CROWN LAND APPLICATION, ALLOCATION AND MANAGEMENT PROCEDURES MANUAL:** In order to avoid ad hoc administrative decisions and ensure a more consistent implementation of the Crown Land policy, the Government should prepare, approve and disseminate a Crown Land Application, Allocations and Management Procedures Manual. This Manual should clearly document the specific procedures to be used in the five key government departments with responsibilities for Crown Land; Survey, Valuation, Planning, Land Registry and the new Crown Land Department. The Manual should describe the full integrated process, flows of information within and between departments, standard data entry, validation and security procedures and include standardized forms and correspondence format to be used in the process.

C. Institutional Recommendations

- 1.24 **ESTABLISH AN EFFECTIVE AND RESPONSIBLE CROWN LAND DEPARTMENT:** The existing Crown Land Unit in the Lands and Surveys Department is not staffed with experienced land management personnel and as a result coordinating the allocation of Crown Land

has become the duty of the Permanent Secretary of Natural Resources, the Director of Lands and Surveys and the Commissioner of Lands. The current 'fast-tracking' of primarily residential allocations has essentially converted Lands and Surveys Department into a 'Lands Department' to the detriment of the other activities of the Department – especially approving private sector surveys and maintaining the physical parcel information (cadastre) which supports the reliability of the Land Register. To address this unsustainable situation, the Government should establish and hasten the technical and administrative development of a proper Crown Land Department which would be separate from the Survey Department. This recommendation is directly tied to the next recommendation.

- 1.25 **ESTABLISH A STATUTORY BODY FOR LAND ADMINISTRATION:** In a broader institutional reorganization and strengthening effort, a 'national land agency' should be established as a Statutory Body to bring together the departments of Crown Land (to be established in #4), Surveys, Planning, Land Registry and Valuations. The specific purpose of the new national land management and administration agency would be to ensure a more effective, efficient and integrated implementation of the Crown Land policy, consolidate a land use planning approach to land development in the Islands and improve the provision of land administration services to the public and private sector. Given the clear importance of sustainable land use planning and enforcement of physical development controls to the future of the Turks and Caicos, this agency should be lead by a professional with an academic background and operational experience in land use planning. The CEO of the 'land agency' should report to either the Chief Minister or the Minister responsible for natural resources. The 'cross-cutting' and multi-disciplinary nature of land, however, may make it more effective to have the land agency fall directly under the portfolio of the Chief Minister so as to ensure cross-ministerial and cross-agency collaboration when needed.
- 1.26 **PUT IN PLACE MECHANISMS FOR THE REVIEW, ADVICE AND APPEAL OF CROWN LAND ALLOCATIONS:** In the majority of Caribbean countries the responsibility for allocating land rests with the ministerial representatives of the publicly-elected government. However the perception of unfairness or cronyism in land allocations can be significantly reduced with the establishment of means for public review and advice on land allocations and the publication of information on these allocations as described previously. In order to make the Crown Land process as fair, transparent and accountable as possible, the Government should appoint a Crown Land Advisory Panel to review allocation approvals and provide advice to the Minister of Natural Resources (residential) and the Executive Council (commercial) on residential and commercial allocations respectively. The Panel should be selected from respected members of the public sector, the private sector land professionals and non-governmental organizations. Two Panel members should be selected by the governing party, one representative should come from the opposition party, one representative should be appointed by the Governor and one should be selected by the private sector.

- 1.27 Additionally, as part of the Crown Land Ordinance, a Crown Land Appeals Tribunal should be legally established as a statutory body. This Tribunal would be responsible for hearing cases brought to it by aggrieved parties who see themselves negatively impacted by a decision dealing with their application for Crown Land, including, but not limited to a rejection of application, the valuation or the discount (in the case of small-scale commercial or residential land) or the conditions of the long-term lease (in the case of large-scale commercial land). The full role and responsibilities of the Tribunal would need to be presented as part of the drafting of the Crown Land Ordinance, but the Tribunal should be limited to three persons, one selected by the governing party, one by the opposition and one by the Governor.
- 1.28 **RATIONALIZE THE CROWN LAND LEASE APPLICATION AND APPROVAL PROCESS:** There is no demonstrably consistent method used to determine which applicants are granted approval for Crown Land and which applications are rejected. The application process is full of inconsistencies, innuendo and inability to properly track applications through the process. Multiple applications are taken for the same parcel, it is typical in subdivisions that more applications are taken than there are parcels to lease. Moreover, some 25–35% of lease approvals are never executed by the Lessee which causes a significant waste of already lean resources in the government agencies. The Government should rationalize the lease application and approval process to make it more consistent and to be able to defend the process and the results of the process. A small administrative processing fee for all applications should be established and charged by the Ministry of Natural Resources. This non-reimbursable administrative fee (\$20–25) on residential and small-scale applications will reduce the number of multiple and frivolous applications and begin to cull the seriously committed and capable applicant from the ‘lottery-seekers’.
- 1.29 Fees collected should be used to establish and support the Crown Lands Department. In regard to the approval process, the concern that a “points-system” is contrary to the under-lying concept of every Belonger being able to access a parcel of Crown Land is acceptable. It is also concerned too difficult to administer requiring background checks and interviews which are not the role of a Crown Land Department. Instead, in the case of applications for parcels in subdivisions, the Lands and Surveys Department should clearly advertise the opening of an applications acceptance period and accept applications (and application fees) up to the number of lots available in the subdivision. This would truly be a ‘first come, first served’ and equitable process.
- 1.30 **INCLUDE AN EXPLICIT STATEMENT OF CROWN LAND TRANSACTIONS AND VALUE OF DISCOUNTS AS AN EXPENSE ITEM IN GOVERNMENT FINANCIAL REPORTING:** Given that Crown Land is a ‘Heritage Asset’, when Crown Land is sold or discounted, the overall amount and current and future value of the asset is reduced. As is considered a best practice in accounting, the Government should include a valuation of its Crown Land asset and any discounted sales of this asset as part of its annual financial reporting as

an expense. This expenditure should be included in the Development Fund Section of the annual Appropriations Ordinance so as to allow its discussion in Legislative Council. Stating the full value of all Crown Land will be difficult without an inventory of all Crown Lands and this is where the recent aerial photography could be quite useful. Additionally, information on the value of land sold and discount given could be compiled from the Land Registry, however this compilation would be time consuming and unreliable unless the registry information was not fully computerized.

- 1.31 **ACCELERATE THE COMPLETION OF THE NATIONAL PHYSICAL DEVELOPMENT PLAN:** The current National Physical Development Plan (1987–1997) is seriously out of date as a tool to guide and control development. The majority of the economic, social and infrastructural issues on both private and Crown Land directly related to the lack of an up-to-date development plan. Government must take institutional and practical steps to accelerate the completion of the National Physical Development, including the contracting of some aspects of the preparation of the plan to private sector land planning consulting firms. Additionally, while the Plan is being prepared and approved, it is advisable that the Planning Department take measures under Section 20.b of the Planning Ordinance to prepare some geographic area specific local land use plans for areas currently under heavy development pressure – specifically North Caicos.
- 1.32 **PROVIDE THE MODERN LAND INFORMATION SERVICES EXPECTED BY BOTH BELONGERS AND FOREIGN INVESTORS:** Given the land-based nature of the economy and the importance of foreign investment in the real estate market, the land information services provided by the Government should be truly state-of-the-art. The Government must make the required institutional and technical investments required to change the Land Registry and the Lands and Surveys cadastre from archives of data, into useful and accessible land information systems. While each land agency, with the regrettable expectation of the Land Registry, have some land information management capabilities these systems are not integrated causing duplication of effort in data collections and limiting the broader usefulness of the data itself. The Government should and provide the financial resources required to:
- (1) complete an inventory of Crown Land based on the existing Block Maps and the relatively recent (2000) aerial photography and digital orthography/cartography of the islands, this inventory will enable a reliable determination of the current state of availability of Crown Land and will be an important layer in the development of an integrated Parcel Information Management System (PIMS);
  - (2) ensure that all land agencies convert all existing land records into digital format;
  - (3) develop a compatible, interoperable and integrated parcel information management system (PIMS) linking the land-related data of the Lands and Surveys department, Planning and Development Department, the Land Registry and the Valuations Office; and

- (4) provide formal education in land administration fields, technical training and career advancement opportunities (pay schedule increases) to Belongers so that the key land agencies can be managed by Turks and Caicos Islanders and that these department become desirable places for rewarding work and advancement.

**TABLE 1**  
**IMPLEMENTATION OF CROWN LAND RECOMMENDATIONS IN THE SHORT AND MEDIUM TERM**

<b>RECOMMENDATION</b>	<b>SHORT-TERM ACTION (3-8 months)</b>	<b>MEDIUM-TERM ACTION (8-14 months)</b>
<b>POLICY RECOMMENDATIONS</b>		
Disseminate Information on the Crown Policy and Capture Public Opinions	<ul style="list-style-type: none"> <li>✓ The Government Appointed Belonger Panel should plan and conduct a series of Town Hall Meetings on various islands (at least Provo., Grand Turk and North Caicos) to present the findings and recommendations of the Study and to solicit feedback and opinions of the public</li> </ul>	<ul style="list-style-type: none"> <li>✓ As recommendations are implemented the Government should use the Govt. Information Service to post Press Releases regarding the actions taken</li> </ul>
Revenue Generation Through Sale of Crown Land:	<ul style="list-style-type: none"> <li>✓ Modify Crown Land Policy to discontinue the practice of selling Crown Land for large-scale commercial purposes to generate revenue for budget shortfalls</li> </ul>	<ul style="list-style-type: none"> <li>✓ Debate and enact Crown Land legislation including rules on any freehold sales of Crown Land for large-scale commercial purposes</li> </ul>
Generating Predictable Revenues from Real Property	<ul style="list-style-type: none"> <li>✓ Building on the findings and recommendations of this Study, complete a rigorous economic, financial and property tax policy analysis to determine the proper rate to be used in any potential levy on real property owned by non-Belongers</li> <li>✓ Draft real property tax legislation</li> </ul>	<ul style="list-style-type: none"> <li>✓ Debate and enact real property-based tax legislation</li> </ul>
Prevent Transfer of Belonger Discount to Non-Belongers	<ul style="list-style-type: none"> <li>✓ Modify Crown Land policy to have all large scale commercial developments done through long-term lease</li> <li>✓ Modify Crown Land policy to end discounts on commercial land in Providenciales</li> <li>✓ Establish requirement that Belongers</li> </ul>	<ul style="list-style-type: none"> <li>✓ Include specific regulations and penalties and fines for transfer of property from Belonger to Non-Belonger in Crown Land legislation</li> </ul>

**TABLE 1**  
**IMPLEMENTATION OF CROWN LAND RECOMMENDATIONS IN THE SHORT AND MEDIUM TERM**

<b>RECOMMENDATION</b>	<b>SHORT-TERM ACTION (3–8 months)</b>	<b>MEDIUM-TERM ACTION (8–14 months)</b>
	getting discounts file an annual affidavit on their maintenance of 51% share in entity that was given discount	
An Individual Belonger Should be “Empowered’ One Time	✓ Modify Crown Land policy to explicitly state that Belongers are entitled to one parcel of land for small-scale commercial purposes and one parcel for residential purposes	✓ Include stipulation in Crown Land legislation
Make Crown Land for Large-Scale Commercial Development Available Through Long-Term Lease Agreements	✓ Modify Crown Land legislation and include regulations in drafting of Crown Land legislation	✓ Debate and approve Crown Land legislation
Publish Information on Crown Land Allocations	✓ Modify Crown Land policy to include a monthly publication in Government Gazette of all Crown Land allocations	✓ Include in Crown Land legislation
Use Discounted Long-term Agreements to Stimulate Large-scale Commercial Developments in New Areas	<ul style="list-style-type: none"> <li>✓ Instruct TCInvest, Planning Department, Chief Ministers Office, Ministry of Natural Resources and Land and Surveys to together to identify geographic zones for stimulating new development</li> <li>✓ Modify Crown Land policy to develop discounted lease terms and conditions to attract desirable large and small scale commercial and housing developments in the targeted areas</li> </ul>	
Ensure a Land Use Planning Focus for Crown Land Management and Enforcement of Planning Regulations	✓ Develop an organizational structure and transition plan to merge various land agencies into a National Land Management and Administration Agency	✓ Establish a National Land Management and Administration Agency with a mandate to ensure a land use planning focus

**TABLE 1**  
**IMPLEMENTATION OF CROWN LAND RECOMMENDATIONS IN THE SHORT AND MEDIUM TERM**

<b>RECOMMENDATION</b>	<b>SHORT-TERM ACTION (3-8 months)</b>	<b>MEDIUM-TERM ACTION (8-14 months)</b>
	<ul style="list-style-type: none"> <li>with a distinctive land use planning focus</li> <li>✓ Include early review and comment by Planning Department on large scale commercial developments and incorporate land use planning regulations in to the long-term lease agreements</li> <li>✓ Invest in the upgrading and integration of the Development Control DEVCON database into other land agencies through the development of a Parcel Information Management System</li> </ul>	<ul style="list-style-type: none"> <li>✓ Draft and enact a 'Public Rights-of-Way' Ordinance including rights for beach access and public consultation on rights of way</li> </ul>
Protect Significant Ecological or Historic Areas from Future Development	<ul style="list-style-type: none"> <li>✓ Invoke Section 132 of the Registered Land Ordinance to restrict the transfer or dealings of all areas designated as significant ecological or historic areas</li> <li>✓ Invest in legally defining (through survey and registration in the Land Registry) and physically demarcate (with monuments and plaques) the boundaries of ecological and historic areas</li> </ul>	<ul style="list-style-type: none"> <li>✓ A appropriate pass ownership and custodianship of selected ecologically or historic areas to the National Trust</li> </ul>
<b>LEGISLATIVE AND DOCUMENTATION RECOMMENDATIONS</b>		
Establish Crown Land Legislation and Regulations	<ul style="list-style-type: none"> <li>✓ Contract consultants to work with the Attorney Generals Chambers to draft a Crown Land Management Ordinance with accompanying regulations</li> </ul>	<ul style="list-style-type: none"> <li>✓ Debate and approve Crown Land legislation</li> </ul>
Include Specific Performance Indicators and Reporting	<ul style="list-style-type: none"> <li>✓ Contract consultants to work with</li> </ul>	<ul style="list-style-type: none"> <li>✓ Once established the National Land</li> </ul>

**TABLE 1**  
**IMPLEMENTATION OF CROWN LAND RECOMMENDATIONS IN THE SHORT AND MEDIUM TERM**

<b>RECOMMENDATION</b>	<b>SHORT-TERM ACTION (3-8 months)</b>	<b>MEDIUM-TERM ACTION (8-14 months)</b>
Mechanisms in the Crown Land Legislation	various land agencies to design a series of measurable and meaningful indicators of Crown Land policy and administration	Management and Administration Agency should publish an annual report reporting on the Crown land indicators
Prepare a Crown Land Application, Allocation and Management Procedures Manual	✓ Contract consultant to work with the land agencies to fully identify and develop procedures and write a manual to facilitate the effective and efficient application of the Crown Land policy and procedures	✓ Train all land agency personnel in the use of the Crown Land manual
<b>INSTITUTIONAL RECOMMENDATIONS</b>		
Establish an Effective and Responsible Crown Land Department	<ul style="list-style-type: none"> <li>✓ Separate the functions of lands and surveys and form a Crown Land Department within the portfolio of the Minister of Natural Resources or the Office of the Chief Minister</li> <li>✓ Contract an experienced estate management officer to be responsible for the daily technical supervision and administration of Crown Land</li> </ul>	✓ Enact legislation to form a statutory body for land management and administration
Establish a Statutory Body for Land Management and Administration	✓ Contract consultants to prepare enabling legislation, an organizational structure, business plan, investment and transition plan to establish a national land management and administration agency	✓ Enact legislation to form a statutory body for land management and administration
Establish Mechanisms for the Review and Advice of Crown Land Allocations	✓ Appoint a group of public and private sector individuals to form the Crown Land Advisory Panel (the current	✓ Include the role and responsibilities of the Crown Land Advisory Panel in the development of the Crown

**TABLE 1**  
**IMPLEMENTATION OF CROWN LAND RECOMMENDATIONS IN THE SHORT AND MEDIUM TERM**

<b>RECOMMENDATION</b>	<b>SHORT-TERM ACTION (3-8 months)</b>	<b>MEDIUM-TERM ACTION (8-14 months)</b>
	<p>Belonger Panel formed for the Study should be extended to serve this role)</p> <ul style="list-style-type: none"> <li>✓ Develop Terms of Reference and procedures for the working of this Panel</li> <li>✓ Contract consultants to draft enabling legislation to form a statutory body under the Crown Land legislation to serve as the Crown Land Appeals Tribunal</li> </ul>	<p>Land legislation</p> <ul style="list-style-type: none"> <li>✓ Establish the Crown Land Appeals Tribunal through the enacting of the Crown Land legislation</li> </ul>
Rationalize the Crown Land Lease Application and Approval Process	<ul style="list-style-type: none"> <li>✓ Modify Crown Land policy to establish an administrative fee for submitting applications for residential land</li> <li>✓ Advertise the opening of new subdivisions and provide for an application period up-to the amount of lots that are available</li> </ul>	<ul style="list-style-type: none"> <li>✓ Include application procedures in the regulations of the Crown land legislation</li> </ul>
Include Crown Land Transactions and Value of Discounts as an Expense Item in Government Financial Reporting	<ul style="list-style-type: none"> <li>✓ Instruct Chief Economist Office to develop a method for reporting on Crown Land transactions and developing accounting mechanisms for determining the value of Crown Land and the discounts given in the allocation of the asset</li> </ul>	<ul style="list-style-type: none"> <li>✓ Contract consultants to assist the National Land Management and Administration Agency to complete an inventory of all Crown Lands and to complete an initial valuation of all Crown Land holdings (using 2000 aerial photography) and site visits for valuations</li> </ul>
Accelerate the Completion of the National Physical Development Plan	<ul style="list-style-type: none"> <li>✓ Contract consultants to assist the Planning Department in preparation of a National Physical Development Plan</li> </ul>	<ul style="list-style-type: none"> <li>✓ Prepare a local land use plan for North Caicos</li> </ul>
Provide the Modern Land Information Services	<ul style="list-style-type: none"> <li>✓ Contract consultants to prepare an</li> </ul>	<ul style="list-style-type: none"> <li>✓ Contract consultants to manage,</li> </ul>

**TABLE 1**  
**IMPLEMENTATION OF CROWN LAND RECOMMENDATIONS IN THE SHORT AND MEDIUM TERM**

<b>RECOMMENDATION</b>	<b>SHORT-TERM ACTION (3-8 months)</b>	<b>MEDIUM-TERM ACTION (8-14 months)</b>
Expected by both Belongers and Foreign Investors	integrated plan and investment project to modernize the land management and administration services of the key land agencies - especially the Land Registry - taking into account the medium/long-term goal of forming a national land management and administration agency	administer and supervise the Implementation of the project to modernize land services within the national land management and administration agency ✓ Provide Government scholarship to universities in fields related to land policy, management and administration especially in managerial and technical fields related to information management

## II. BASIC INTRODUCTION TO TURKS AND CAICOS ISLANDS

### A. Historic and Geographic Overview

- 2.1 The Turks and Caicos Islands comprises an archipelago of about 40 islands, situated at the southern end of the Bahamas group of islands, some 900km south east of Miami and 145 km north of Haiti and the Dominican Republic (See Figure One). The country is formed by two island groups divided by the 35km Turks Island Passage a 35km. The western Caicos islands include Providenciales which is the main business, commercial and tourism center while the capital and government offices are found in Grand Turk on the eastern Turks islands. Eight islands are inhabited, with approximately 65% of the population found on Providenciales (37.4 square miles) and 20% on Grand Turk (7 square miles). The basic Geographic information for Turks and Caicos is presented in Table Two and the estimated surface area of the main islands is presented in Table Three.
- 2.2 Turks and Caicos Islands is an Overseas Territory of the United Kingdom. The Chief of State is Queen Elizabeth II as represented by His Excellency the Governor James Poston since December 16<sup>th</sup>, 2002, and the Head of Government is the Honorable Chief Minister Michael E. Misick since August 15<sup>th</sup>, 2003. The legal system is based on the laws of England and Wales, with a number of Ordinances adopted from Jamaica and The Bahamas. Turks and Caicos has a unicameral Legislative Council of 19 seats of which 13 are elected through popular vote and serve for a period of four years<sup>1</sup>.

FIGURE ONE  
LOCATION AND MAP OF TURKS AND CAICOS ISLANDS



SOURCE: Foreign and Commonwealth Office (FCO)



SOURCE: MAGELLAN Geographix

<sup>1</sup> CIA Factbook 2005.

**TABLE 2**  
**BASIC GEOGRAPHIC DATA OF TURKS AND CAICOS ISLANDS**

GEOGRAPHIC CO-ORDINATES	21 45 N, 71 35 W
TOTAL LAND AREA	430 km <sup>2</sup> 106,255 acres
COASTLINE	389 km 233 mi
TERRAIN	Low flat limestone, extensive marshes and mangrove swamps. Highest point is Blue Hills, on Providenciales at 49 meters.
LAND USE	Arable land: 2.3% Permanent Crops: 0% Other uses: 97.7%
POPULATION	19,956 (July 2004 est.)

SOURCE: CIA WORLD FACTBOOK 2005 [www.cia.gov/cia/publications/factbook](http://www.cia.gov/cia/publications/factbook)

**TABLE 3**  
**ESTIMATED SURFACE AREA OF INDIVIDUAL ISLANDS**

ISLAND	Mi <sup>2</sup>	ACRE
WEST CAICOS	9	5,760
PROVIDENCIALES	37.5	24,000
EAST CAYS	5	3,200
NORTH CAICOS	41	26,240
NORTH CAICOS CAYS	3	1,920
MIDDLE CAICOS	48	30,720
MIDDLE CAICOS CAYS	1	640
EAST CAICOS	18	11,520
EAST CAICOS CAYS	8.5	5,440
SOUTH CAICOS	8.5	5,440
SOUTHERN CAY	3	1,920
GRAND TURK	7	4,480
SALT CAY	2.5	1,600
TURKS ISLAND CAY	1	640

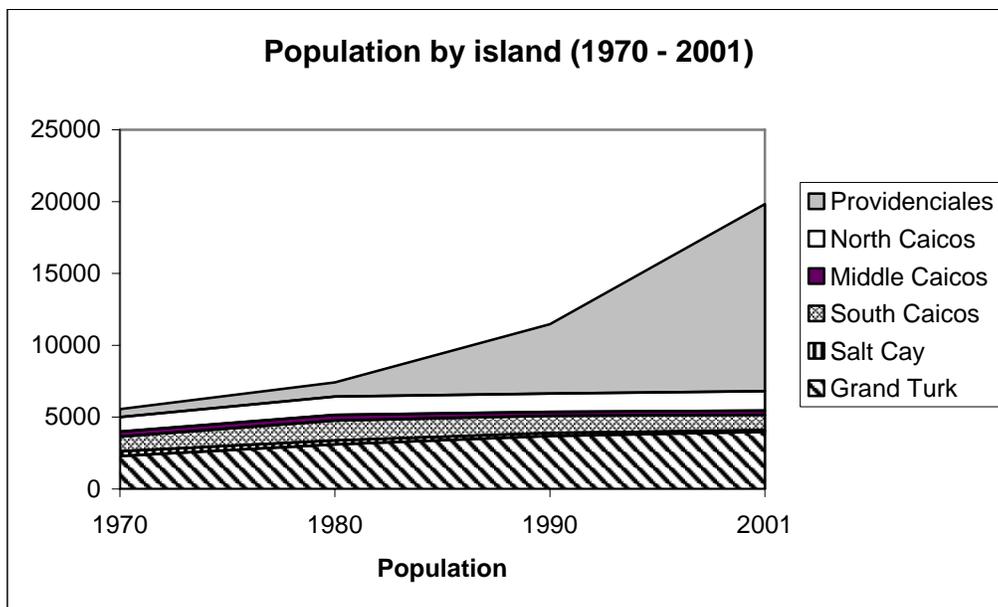
SOURCE: J.W. Wright, Chief Surveyor (10/22/77).

1:25,000 Scale Directorate of Overseas Surveys Maps

**TABLE 4**  
**POPULATION DISTRIBUTION BY ISLAND 1970-2001**

ISLAND	1970	1980	1990	2001
GRAND TURK	2287	3098	3691	3976
SALT CAY	334	284	208	120
SOUTH CAICOS	1018	1380	1198	1063
MIDDLE CAICOS	362	396	272	301
NORTH CAICOS	999	1278	1275	1347
PROVIDENCIALES	558	977	4821	13021
PARROT CAY				58
<b>TOTAL</b>	<b>5558</b>	<b>7413</b>	<b>11465</b>	<b>19886</b>

**FIGURE TWO**  
**POPULATION BY ISLAND 1970-2001**



**B. General Economic Information**

2.3 The economy of the Turks and Caicos is based primarily on tourism and offshore financial services with an annual rate of growth in Gross Domestic Product of 3.7% in 2002. Percentage contribution to GDP from tourism is approximately 34% (2002) of total. The percentage contributions to GDP from various sectors is presented in Table Six. The majority of goods and food are imported from the United States and the United States and Canada are the main source for tourism income. With a 2002 estimate of per

capita gross domestic product of US\$10,346, Turks and Caicos ranks toward the top in relation to other Caribbean countries (See Table Five).

TABLE 5  
PER CAPITA GDP COMPARISON OF SELECTED CARIBBEAN COUNTRIES<sup>2</sup>

COUNTRY	GDP US\$ (date)
The Bahamas	16,700 (2003)
British Virgin Islands	16,000 (2002)
Barbados	15,700 (2003)
Antigua and Barbuda	11,000 (2002)
<b>TURKS AND CAICOS</b>	<b>10,346 (2002)</b>
Trinidad and Tobago	9,500 (2003)
Saint Kitts and Nevis	8,800 (2002)
Anguilla	8,600 (2004)
Saint Lucia	5,400 (2002)
Dominica	5,400 (2002)
Grenada	5,000 (2002)
Belize	4,900 (2002)
Guyana	4,000 (2003)
Jamaica	3,900 (2003)
Montserrat	3,400 (2002)
Saint Vincent and the Grenadines	2,900 (2002)

SOURCE TCI DATA: Caribbean Development Bank & Department of Economic Planning and Statistics

TABLE 6  
PERCENTAGE CONTRIBUTION TO GROSS DOMESTIC PRODUCT 2002

SECTOR	%
Agriculture, Forestry and Fishing	4.69
Mining and Quarrying	4.57
Manufacturing	0.50
Electricity, Gas and Water	6.00
Construction	14.50
Tourism	33.89
Wholesale and Retail Trade	13.20
Transport, Storage and Communications	9.00
Government Services	9.00
Other Services	7.42

<sup>2</sup> CIA FACTBOOK 2005

C. TCI Government Revenue Structure

2.4 The recurrent revenues available to the Turks & Caicos Government reflect the extent to which the economy depends on external demand. The four highest ranking revenue items over the last five (5) years have been in order of magnitude, Import Duty, Stamp Duty, Accommodation Tax and Work Permits and Residency Fees. Import duties and accommodation tax are both related to the level of tourism and tourism-related construction activities in the country. Stamp duty level reflects the level of activity in the real estate market and Work Permits and Residency Fees reflect the level of construction activity and tourism jobs taken up by guest workers. These five items have consistently accounted for between 67% – 70% of total recurrent revenues. So the revenue stream stays alive so long as the economic activity feeding this stream continues to grow. The economic activity feeding this stream is to be found in major private sector construction of tourism facilities (Hotels, Condominiums, Resort facilities) and in the economic effects from tourism visits. Land will continue to play a major role in both of these activities, especially beach-front properties and particularly those currently owned by the Crown. Thus it may also be argued that Crown Land Policy has a major role to play in the sustainability of economic activity as well as the income stream feeding the recurrent revenue yields for the Government of the Turks & Caicos Islands

TABLE 7  
TOP FIVE REVENUE ITEMS IN RECURRENT REVENUES 1999–2001 (US\$million)

ITEM	1999	2000	2001	2002	2003
IMPORT DUTY	\$26,241	\$27,510	\$29,176	\$31,706	\$34,938
STAMP DUTY ON LAND PURCHASES	\$6,541	\$11,376	\$7,862	\$9,749	\$20,098
ACCOMMODATION TAX	\$4,692	\$6,747	\$7,735	\$8,922	\$10,165
WORK PERMITS & RESIDENCY FEES	\$4,163	\$4,369	\$6,359	\$8,198	\$8,180
TOTAL OF REVENUE ITEMS	\$41,637	\$50,002	\$51,132	\$58,575	\$73,381
<b>TOTAL RECURRENT REVENUES</b>	<b>\$62,253</b>	<b>\$71,997</b>	<b>\$75,310</b>	<b>\$83,617</b>	<b>\$104,313</b>
<b>REVENUE ITEMS AS % OF TOTAL</b>	<b>67%</b>	<b>69%</b>	<b>68%</b>	<b>70%</b>	<b>70%</b>

Source: Compiled from Report on Government Finance Statistics, 1999–2003, Statistical Office, Department of Economic Planning and Statistics

D. Historic description of Crown Land in Turks and Caicos

2.5 The Turks and Caicos Islands were annexed by The British government in 1799 and successfully petitioned to become self-governing under the supervision of the Governor of Jamaica in 1848. From 1874 to 1959, the islands were a dependency of Jamaica and again became linked to The Bahamas in 1962 and remained so until 1973 when the Bahamas became an independent nation. When the Turks and Caicos Islands came under British control, all the land present in the islands immediately became Crown Land

and was considered the Monarch's property, to be dispensed with as he saw fit. It could be converted to private land by means of a Crown Grant.

- 2.6 Crown Land is a 'Heritage Asset' administered by the Government of The Turks and Caicos Islands for the well-being of the people of the Turks and Caicos Islands. Generally, Crown Land is disposed of via issuance of a Conditional Purchase Lease for residential and commercial purposes for periods of three, five with some large-scale development being leased of via Long-Term Lease Agreements. While the tenant holds exclusive possession of the parcel for the leased period, the Government retains ultimate control and ownership and simultaneously derives an annual income. Leases are principally issued in respect of parcels within an existing subdivision and subject to rates based on property values set by the Valuation Department.
- 2.7 Leasehold and lease to purchase are appropriate forms of land tenure utilized throughout the world, especially in British Commonwealth countries and territories, that is mainly used to encourage desired development while at the same time avoid the speculative acquisition and hoarding of Crown Land. The other means of disposal of Crown Land disposal is by transfer of the freehold interest, which is always preceded by a lease and becomes exercisable once the tenant has satisfied certain preconditions. The freehold title and the lease preceding it are registered in the Land Register and the Government warrants against having made prior transfers or encumbrances.

### III. CROWN LAND STATISTICS AND THE ALLOCATION PROCESS

#### A. Crown Land Statistics

- 3.1 The following tables present statistics on Crown Land extracted primarily from the CLUDA and CRON databases of the Lands and Surveys Department, as well as data extracted from the volumes and files at the Lands Registry. It is important to note that the best available data, especially at the Lands and Surveys cannot be considered fully reliable. Data extracted from both the CLUDA and the CRON showed quite a bit of inconsistency in data fields, as well as in many cases missing information for many fields including land value, parcel size and lease execution and expire dates. This lack of consistency in managing the data related to Crown Land points to a significant need for upgrading the security and user interfaces of the information management systems, as well as training at the level of middle management, technical and administrative support at the Lands and Surveys Department.
- 3.2 The data from the Land Registry is considered reliable in that under the regulation of the Registered Land Ordinance, the registry it is the legal archive of real property rights in the Turks and Caicos Islands. However, the lack of computerization of the Land Registry (other than computers used to prepare correspondence) makes searching and extracting useful registry information a time consuming manual process. The lack of computerization of the land records at the Land Registry is difficult to defend from the point of view of:
- 1) the limited physical security of the paper records that have no 'back-up';
  - 2) the increased amount of storage space required to manage paper documents, parcel folders and bound volumes;
  - 3) the reduction in staff efficiency and productivity;
  - 4) the limited ability of the Land Registry staff to provide efficient services to the public and private sector users of the land registry system; and
  - 5) the loss of potential revenue that would be generated by expanding public access to land registry information through an internet web page or on-site computerized information kiosks.
- 3.3 Table Eight presents the number of Crown Land Lease registered in the Land Registry over the past six years. The data shows an increase in leases being registered over the past three years with the highest number of leases registered in 2003. Table Nine presents the number of registrable transactions including, among others; leases, lease cancellations, transfers and mortgages, registered in the Land Registry during the same six year period. The data indicates that registration of leases accounts for approximately 7% of all registrable transactions during the six year period, however this percentage is increasing since 2001.

**TABLE 8**  
**REGISTERED CROWN LAND LEASES: 1999–2004**

CALENDAR YEAR	QUANTITY
1999	134
2000	118
2001	208
2002	249
2003	447
2004	205
<b>TOTAL</b>	<b>1,361</b>

Source: Land Registry

**TABLE 9**  
**REGISTRABLE TRANSACTIONS 1999–2004**

FISCAL YEAR	# OF TRANSACTIONS	LEASES AS % OF TOTAL
1999–2000	2,868	5%
2000–2001	4,089	3%
2001–2002	2,136	10%
2002–2003	2,563	10%
2003–2004	3,070	15%
2004 through Feb. 2005	2,926	7%
<b>TOTAL</b>	<b>17,652</b>	<b>7%</b>

Source: Land Registry

- 3.4 Table Ten presents the number of leases registered by island during the past six years. As is expected the vast majority of new leases have been in Providenciales. Table Eleven presents the total number of Crown Land parcels and the approximate acreage of Crown Land per island. As mentioned previously the data in this table, especially the acreage figure, while being the best available is suspect due to various inconsistencies in the data base. Table Twelve presents a breakdown of number and acreage of Crown Land (alienated and unalienated) parcels by island.

**TABLE 10**  
**REGISTERED CROWN LAND LEASES BY ISLAND: 1999–2004**

ISLAND	1999	2000	2001	2002	2003	2004	TOTAL
Grand Turk & Salt Cay	21	30	57	49	60	40	257
South Caicos	8	8	13	11	8	11	59
East Caicos	-	-	-	-	-	-	-
Middle Caicos	4	2	2	-	2	-	10

ISLAND	1999	2000	2001	2002	2003	2004	TOTAL
North Caicos	9	6	14	15	32	33	109
Providenciales	92	77	122	174	343	121	929
West Caicos	-	-	-	-	-	-	-
TOTAL	134	123	208	249	445	205	1364

Source: Land Registry

So far in 2005 - January to end March there have been 60 leases approved.

**TABLE 11**  
**TOTAL CROWN LAND PARCELS AND ACREAGE BY ISLAND**

ISLAND	NUMBER OF CROWN LAND PARCELS	ACREAGE
Grand Turk & Salt Cay	1075	4,117
South Caicos	620	5,276
East Caicos	93	12,529
Middle Caicos	306	12,280
North Caicos	909	12,032
Providenciales	2,844	16,460
West Caicos	1	No Data
TOTAL	5,755	50,257*

Source: 'CRON' Database of Lands and Surveys Department

\* Due to missing acreage records this number is higher

**TABLE 12**  
**ALIENATED AND UNALIENATED CROWN LAND PARCELS AND ACREAGE BY ISLAND**

ISLAND	UNALIENATED CROWN PARCELS	ACREAGE	ALIENATED CROWN LAND PARCELS	ACREAGE
Grand Turk & Salt Cay	444	3,140	631	977
South Caicos	329	4,183	291	1,093
East Caicos	92	12,437	1	92
Middle Caicos	243	12,175	63	105
North Caicos	347	8,692	562	3,340
Providenciales	357	5,472	2,487	10,989
West Caicos	1	No Data	1	No Data
TOTAL	1,720 (30%)	33,662 (67%)	4,035 (70%)	16,596 (33%)

Source: 'CRON' Database of Lands and Surveys Department

## B. Crown Land Allocation Process

- 3.5 The current Crown Land application and allocation process for commercial and residential land includes a series of steps and interchanges of information that is considered overly complicated and time consuming. In general, the Lands and Surveys

Department administers the majority<sup>3</sup> of the process under the overall responsibility and coordination of the Ministry of Natural Resources, specifically the Permanent Secretary. Other agencies, however, including Planning and Development, Land Registry, Valuations, Attorney General's Chambers, the Commissioner of Land and the Treasury Department each have specific responsibilities and are directly involved in the process. TC Invest also plays a significant, if not leading, role in the granting of leases for large scale commercial development.

- 3.6 It should be noted that, although the application process requires interaction between the aforementioned TCIG departments and offices, no official manual of the full administrative process describing the roles and responsibilities of each agency is available<sup>4</sup>, and it appears that the majority of the operating procedures, regulations and norms are handed down through successive administrations through a combination of internal notes, verbal directives and accumulated common practice. The lack of an official procedures manual permits inconsistency in the process and makes it very difficult to track individual applications, monitor compliance with the policy and determine where 'bottle-necks' and 'time-lags' are located.
- 3.7 In addition to the application and allocation process being cumbersome, the lack of reliable information and querying ability make the job of developing, supporting and enforcing the Crown Land policy very difficult. This is especially the case regarding identifying and taking action on expired leases. As presented in Table Eleven, there are approximately 5,755 identified parcels of Crown Land on the main islands<sup>5</sup>. Of these parcels, approximately 1,720 parcels remain unalienated or are currently earmarked for specific government uses. The remaining parcels have been granted lease approvals over the years, however, the data from Lands and Surveys shows that approximately (1,110 parcels) 27% of these leases, representing a significant amount of the 'Heritage Asset', are currently expired.
- 3.8 Given the inconsistency of the information contained in the CLUDA data base this estimation of expired leases would need to be investigated more thoroughly in order to be reliable, but it is fair to say that a significant number of the leases that have been issued since 1999 are currently expired. While the lease documents are clear as to the implications to the lessee and the actions available to the Government in the event of the lessee allowing a lease to lapse, it appears that Government is not proactively acting on expired leases. This is a specific example where the Crown Land policy has to be supported by legislation – so as to limit the room for *ad hoc* decisions making in regard to expired leases.

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<sup>3</sup> According to the Director, Lands and Surveys is responsible for all residential lots and commercial lots up to 10 acres in size since the April 2004 policy modifications.

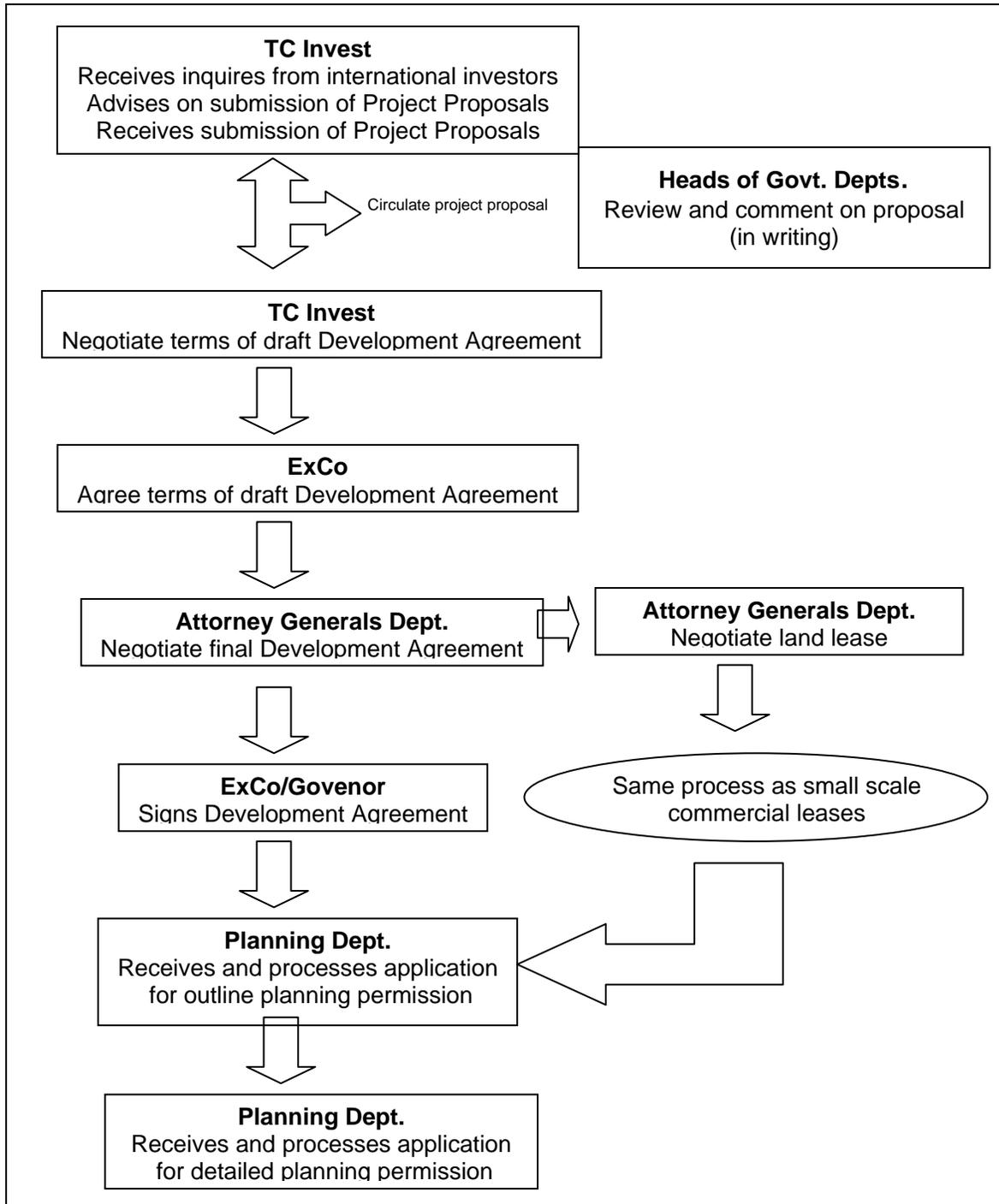
<sup>4</sup> Lands and Surveys has recently (September 2004) developed an in-house manual for processing Crown Land applications which is dedicated to help the staff in processing applications.

<sup>5</sup> Including, Grand Turk, Salt Cay, South Caicos, East Caicos, Middle Caicos, North Caicos, Providenciales and West Caicos.

- 3.9 Another significant issue is of the aforementioned 4,035 parcels to which lease approvals were given, a lease was never executed by the applicant on approximately 1,050 of these parcels (26%). This number of unexecuted leases points to a significant waste of already limited resources at the government departments involved as the vast majority of the effort occurs prior to a lease approval being granted. Implementing the recommendations presented should reduce the percentage of leases not executed primarily by ensuring that the applications process identifies applicants who are ready and able to make the investment required to actually execute the lease and perform the required physical development to apply for freehold title.
- 3.10 One of the major handicaps of the current system is that although it is intended to be a 'closed circuit' – where applicants for Crown Land come in and Conditional Purchase Leases and eventually freehold titles registered in the Land Registry go out – this 'circuit' is repeatedly 'shorted' by the lack of consistent procedures, standardized tracking and monitoring and systematic feedbacks of information between government agencies. A proper Crown Land Management System consisting of hardware, standardized data input, specialized querying and standard reporting applications is required. A proper data base with software applications to automate and monitor the flow of the application through the system should be developed and installed in the land agencies. These types of 'Estate Management' systems are readily available as 'off-the-shelf' software that can be customized for the specific context of the country. The Lands and Surveys Department of The Bahamas is currently implementing this type of system which is being customized by a specialized consulting firm for the specific needs of Bahamian Crown Land. It is suggested that once in place, the group from the Turks and Caicos should visit Nassau to see first hand the set-up and use of the system.
- 3.11 Figures Three to Seven present the steps in the process for the three main types of Crown Land allocations, as well as the leasehold to freehold transfer process. The figures show the various actions and actors related to each of the processes from the individual applying for lease to receiving a Conditional Purchase Lease or freehold title:
- 1) Process of allocating Crown Land for large-scale commercial projects;
  - 2) Residential Lease within an approved subdivision;
  - 3) Residential Lease outside of an approved subdivision;
  - 4) Commercial Lease within an approved subdivision; and
  - 5) transfer of Leasehold Crown Land to Freehold.

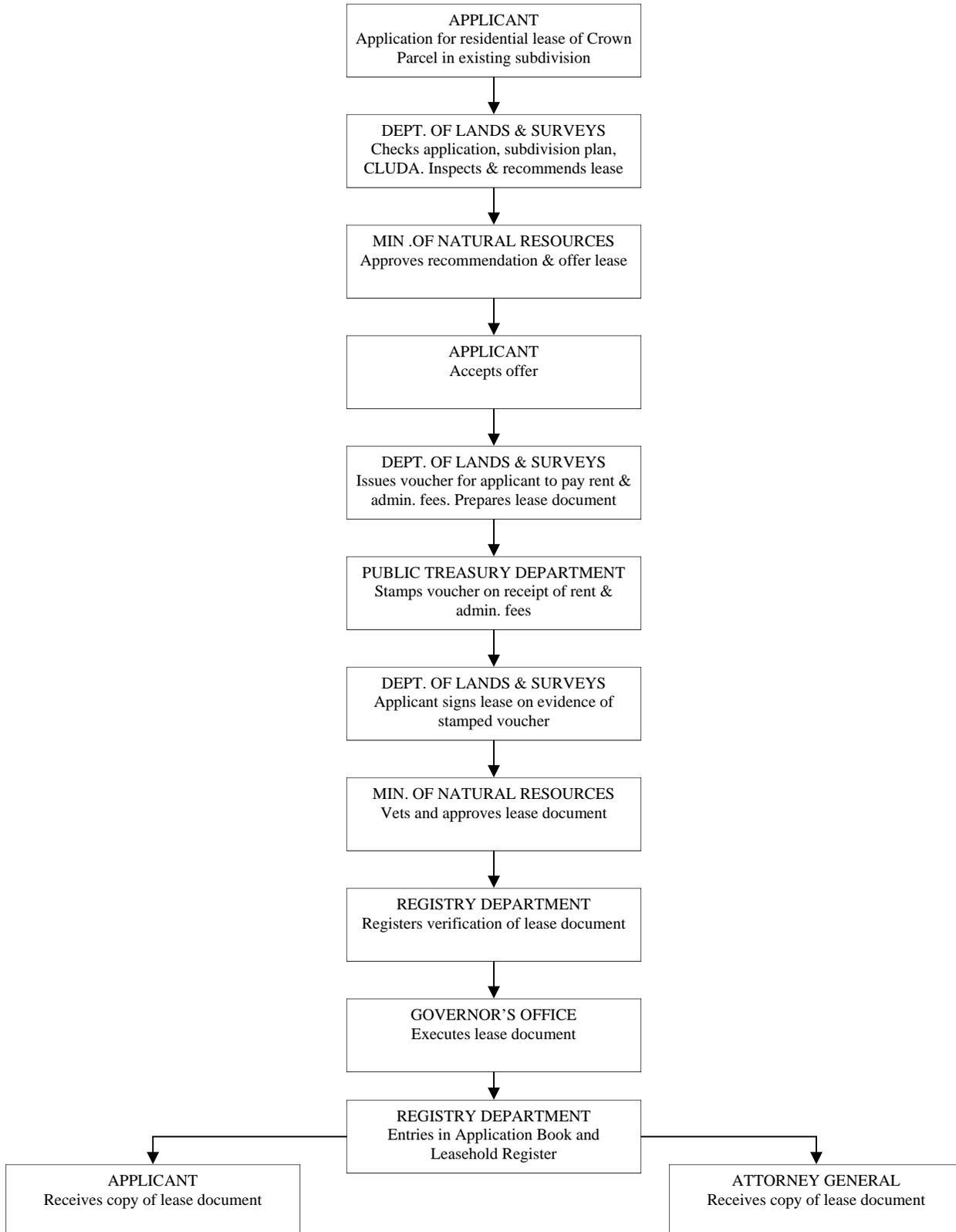
FIGURE THREE

PROCESS OF ALLOCATING CROWN LAND TO LARGE COMMERCIAL PROJECTS



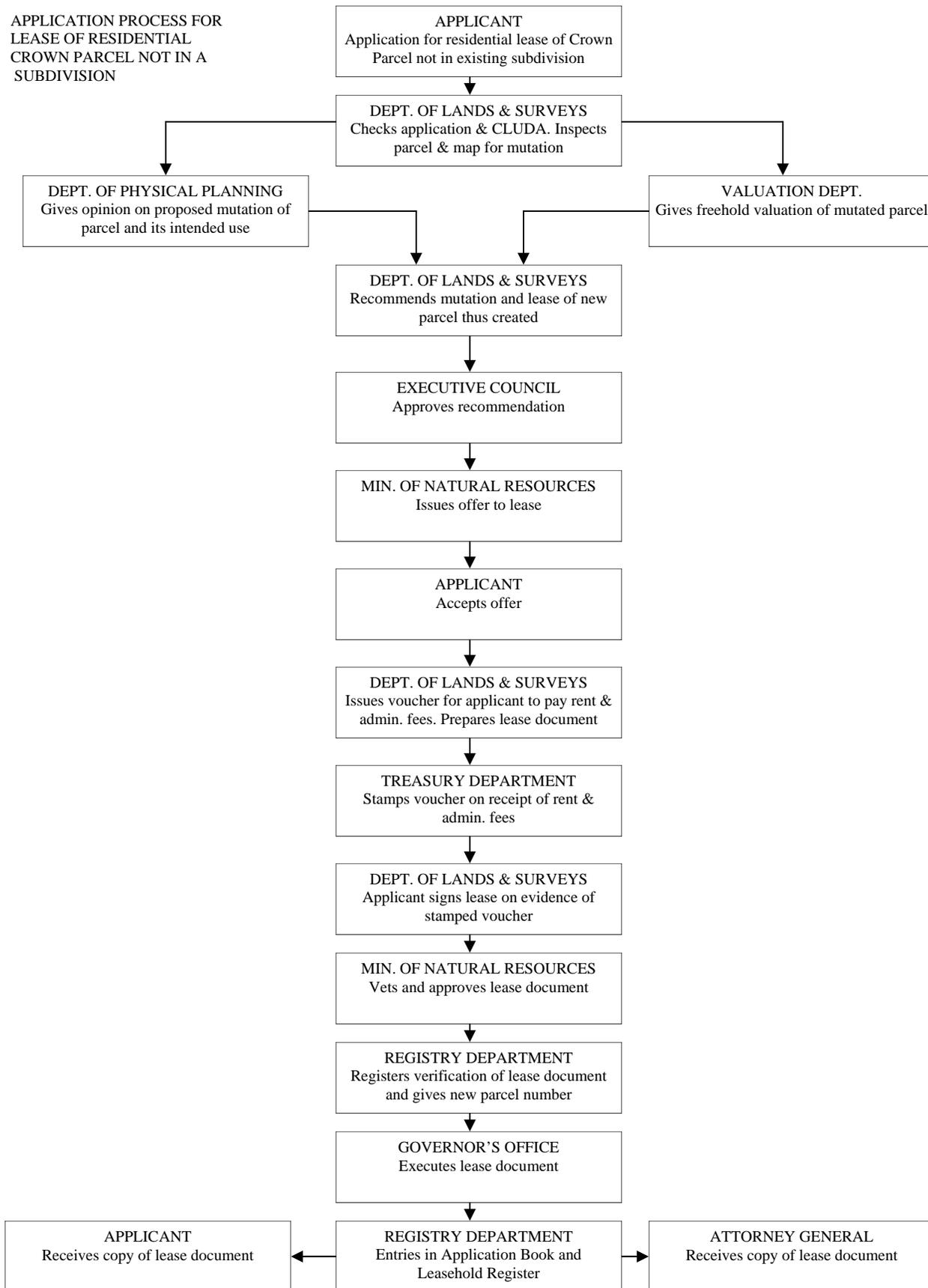
## FIGURE FOUR

### APPLICATION PROCESS FOR LEASE OF RESIDENTIAL CROWN LAND IN A SUBDIVISION



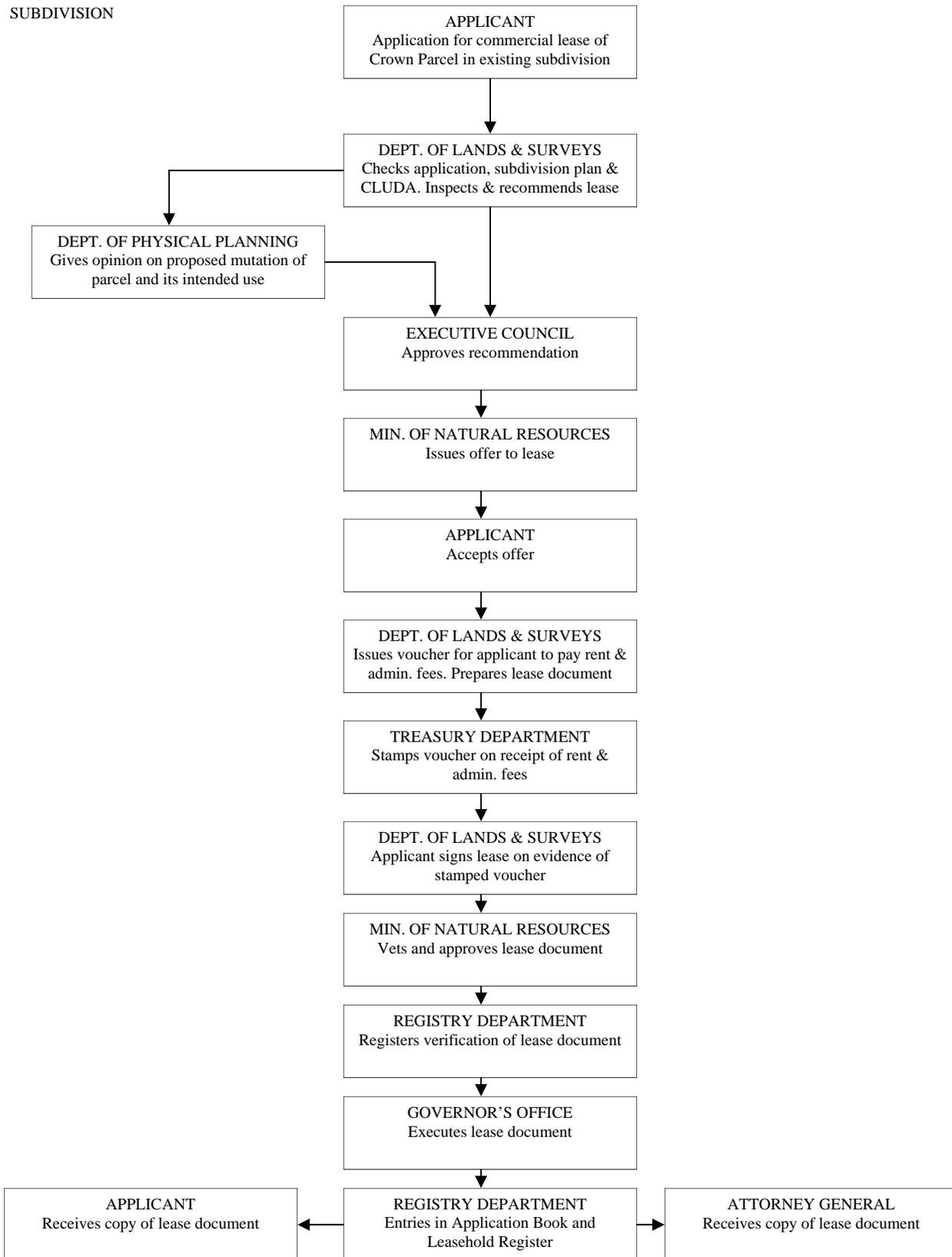
**FIGURE FIVE**

APPLICATION PROCESS FOR  
LEASE OF RESIDENTIAL  
CROWN PARCEL NOT IN A  
SUBDIVISION

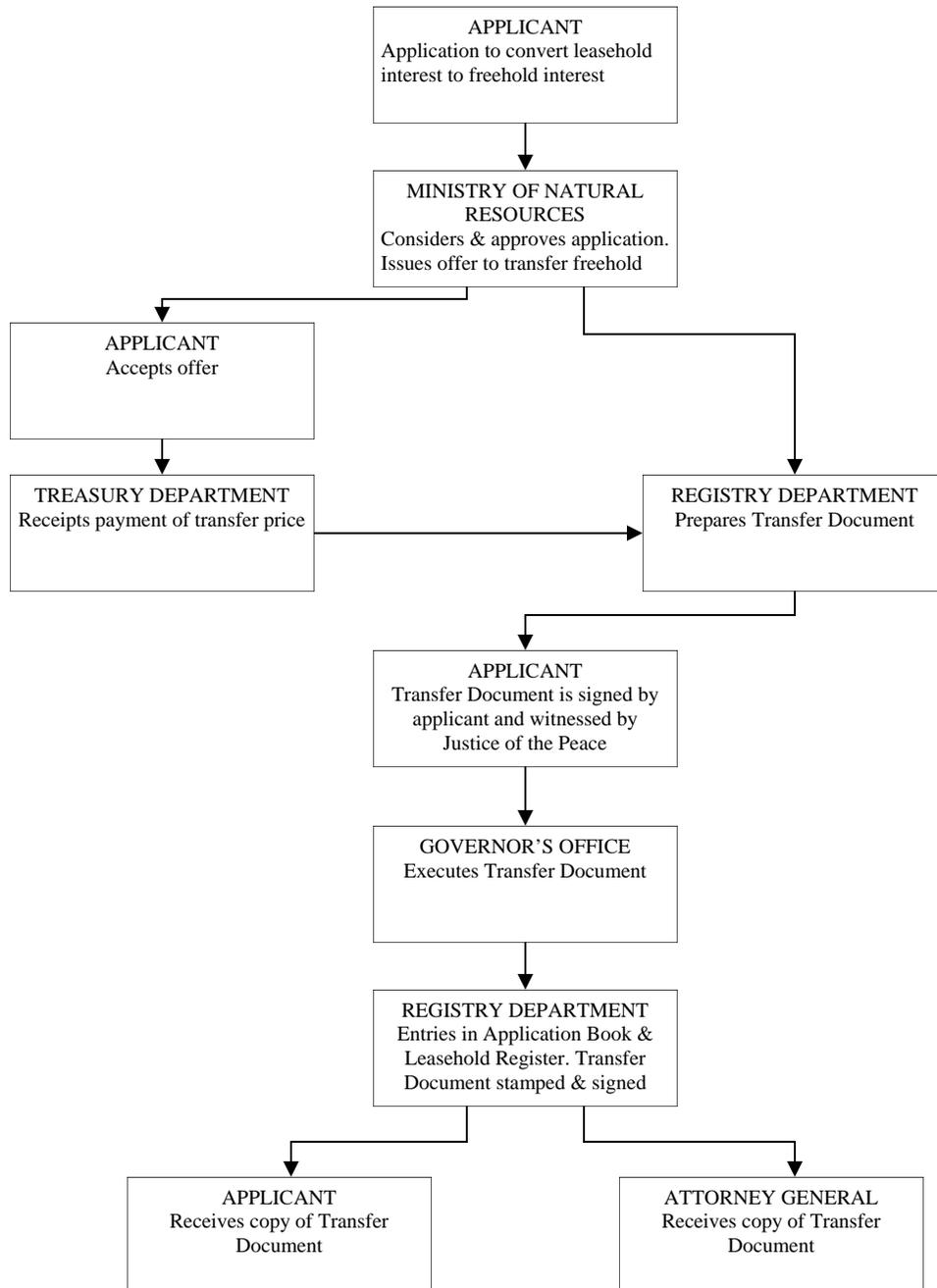


# FIGURE SIX

APPLICATION PROCESS FOR  
LEASE OF COMMERCIAL  
CROWN PARCEL IN A  
SUBDIVISION



**FIGURE SEVEN**  
**APPLICATION PROCESS FOR TRANSFER OF LEASEHOLD CROWN PARCEL TO FREEHOLD**



#### IV. CURRENT CROWN LAND POLICY

- 4.1 To review the current Crown Land Policy, the Consultant Team is using a combination of three documents provided by the Ministry of Natural Resources:
- 1) the sections relating to Crown Land in the mid-1990's document titled 'Doing Business in the Turks and Caicos Islands' prepared by Terry Smith; specifically paragraphs 4.1 to 4.46 of the document;
  - 2) the Government Press Release, "Crown Land Policy" of January 2005; and
  - 3) the TC Invest brochure titled 'Doing Business in the Turks and Caicos Islands', (document not dated), specifically Page 6 relating to Crown Land (See Figure Eight).
- 4.2 The Consultant Team requested additional documentation relating to the Crown Land Policy from the Ministry of Natural Resources and from the key land agencies. While all agencies, especially Lands and Surveys and the Attorney General's Chambers, have been very helpful and responsive in providing documents – there is a definite lack of formal written and readily available documentation on the policy, as well as the technical, economic, legal and social rationale that supports the policy.
- 4.3 As has been repeated numerous times to the Consultant Team, 'the Government of the Turks and Caicos Islands has a Crown Land Policy'. This has never been in question. In-fact, at first glance, the policy as presented in the three previously mentioned documents, is quite practical in its stated overall goal of using Crown Land to empower Belongers to play an active role in the ongoing economic and social development of the country. No one should argue against this policy objective. However, it is felt that the current policy, which has evolved since the mid-1990's requires 'modernization' in order to be fully responsive to the current pressures on the 'Heritage Asset'.
- 4.4 Some modifications to the mid-1990's policy were made in April 2004 (See Table Thirteen) for modifications to the residential leasing policy). These modifications are intended to streamline the allocation process by delegating some authority to the Minister with responsibility for natural resources and by increasing the direct role of Planning Department to begin to confront the significant land-based development pressures currently facing the islands. This move to a more land use planning and physical development vision is commendable and required as the observant visitor to Providenciales can readily see. But, it is still hard to quickly ascertain what exactly the Government's Crown Land policy is. To determine the current policy, and more importantly the rules, regulations and procedures for implementing this policy, one must analyze the three aforementioned documents as well as various internal agency documents to piece together the current policy and procedures. Given the current pressure on land resources being experienced in Turks and Caicos a clear, comprehensive and well-documented Crown Land Policy would better serve the Government and people of the islands. It is recommended that this policy should be

supported by specific legislation and related regulations to ensure proper implementation and administration of the policy.

**FIGURE EIGHT**  
**PUBLISHED DESCRIPTION OF THE CURRENT CROWN LAND POLICY <sup>6</sup>**

**CROWN LAND POLICY**

The TCI Government is committed to seeing the Islands used to enhance the living standards of Belongers by providing Crown Land for commercial and residential development. All development must encourage Belonger participation in the economy, benefit the Belonger population, facilitate development in the Islands and enhance the community as a whole.

The Government is prepared to provide Crown Land (other than national parks, nature reserves, sanctuaries and areas of historical interest) to qualified investors for approved development project. Available is Crown Land on various islands suitable for developments including hotels/resorts, light manufacturing, commercial and wholesale enterprises, agriculture and housing. The Government also has certain specific offshore areas that can be used for select and controlled mariculture projects.

No Crown Land for commercial purposes will be given unless a Belonger has a minimum of 51% in the entity that is given the land. The Belonger shall pay no more than 50% of the open market value of the land on Providenciales and a maximum of 25% of the value per acre in the other islands. In the event that the Belonger sells his/her interest in the land to a non-Belonger before 10 years, he/she would to pay the TCI Government the balance of the open market value of the land at the time of original inspection.

The allocation of commercial Crown Land must be approved by the Executive Council. Belongers are entitled to as many parcels of commercial Crown Land as possible but only on the basis of satisfactory performance for the previous allocation. All rents are calculated on the undeveloped site's value and do not incorporate any value for improvements made by the investor. As well, the Government includes an arbitration process in the lease agreements in the event that there is a dispute over property valuation between the government and the investor at a future date.

In cases where the merits of an approved project justify the need for further encouragement and where the project involves the investment of not less than \$5 million, the Government will consider the disposal of Crown Land on more favorable leasehold terms, lease rentals in this case may be reduced to as low as 2.5% for the first 5 years; 5% for the second five years and open market rental rates thereafter. In exceptional circumstances, the Government will consider granting freehold title to Crown property. To qualify for the acquisition of freehold Crown Land, the project must generate exceptional social and economic benefits for the country. In such special circumstances, the Government will grant the investor a conditional purchase lease which is a lease with the option to purchase the property if the development is completed to the satisfaction of the government and certain other conditions are met.

In cases where financial institutions have advanced money to fund a project and have secured a charge against the property, the Government will oblige them, in the event of forfeiture to either complete the project themselves or to fins anther developer to complete it. In addition, for development projects greater than \$2 million in value, the Government will require the developer to post a performance bind to ensure that the project can be completed.

4.5 As mentioned above, the recent modifications to the policy begin to steer the focus from directly encouraging physical development – which was needed in the 1990's – to

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<sup>6</sup> TC Invest brochure published in 2004 and made widely available to potential investors.

the need for integrated land use planning to guide future sustainable physical development of the islands. However, the policy is still made up of a set of individual documents and political and administrative decisions that do not provide a clear ‘road-map’ to guide the sustainable development of land in general and the use of Crown Land in particular. The policy needs to ‘modernized’ to achieve a more sustainable and integrated land use planning focus. An integrated land use planning and development focus will ensure that the planning process determines the land development as opposed to the property developers determining the land use. The latter is typically not sustainable and will make the overall goal of the Crown Land policy difficult to achieve in the long-term. Table Thirteen presents a summary of the policy modifications which were expected to take effect as of April 2004. It needs to be noted that a review of various example transactions by the Consultant Team identified that the new policy modifications were not being consistently applied.

**TABLE 13**  
**SUMMARY OF CROWN LAND POLICY MODIFICATIONS OF APRIL 2004**

RESIDENTIAL CROWN LAND		
CURRENT	FORMER	
1	Approval by Minister	Approval by Executive Council
2	Applications for land on Providenciales, North Turk and Grand Turk should be made to the Lands and Surveys office in these islands, on other islands applications are made to the District Commissioners	All applications for land are made to Lands and Surveys in Grand Turk
3	Belongers entitled to one piece of residential Crown Land per island but only after construction of a home on the previous island has been completed	Every Belonger over 21 years of age eligible to receive one CPL for residential land during his/her lifetime. Where there is exceptional need, he or she may apply for a second CPL within 10 years from the time of the grant of the original CPL
4	Only Belongers will get Crown Land for residential purposes	Residential allocations available to non-Belongers only if it is part of a commercial/residential development undertaken by a Belonger
5	Freehold Purchase Price set at 25% of Open Market Value <i>[NOT A MODIFICATION]</i>	Priced at 25% of undeveloped vale of the site at the time the lease is executed.
6	Rent at 10% of Freehold Purchase Price <i>[NOT A MODIFICATION]</i>	During the term of the lease, rent will be payable at the concessionary rate of 10% of the freehold purchase price
7	Lease must be executed in nine (9) months otherwise the offer will lapse	Lease must be executed within six (6) months otherwise the offer will lapse
8	Minister responsible for Natural Resources has authority to extend lease for a further 18 month period given that Lessee shows ‘sufficient and satisfactory cause’ for extension. In this case the annual rent is increased to 25% of Open Market Value <sup>7</sup>	Government <sup>8</sup> has authority to extend lease

<sup>7</sup> Part IV (1) of the Standard Residential Conditional Purchase Lease.

<sup>8</sup> Government is defined as Governor in Council.

RESIDENTIAL CROWN LAND		
	CURRENT	FORMER
9	Minister responsible for of Natural Resources has authority to cancel a lease or revoke an offer of CPL for reasons of not occupying parcels or non-payment of rent	Government has authority to cancel or revoke lease
10	All roads must be constructed and paved with all service lines installed before land is allocated and a building permit granted <sup>9</sup>	Not previously included
11	All private sub-divisions are required to have paved roads and services installed before a building permit is given and a parcel of land transferred	Not previously included
12	Subdivision approved by Executive Council	Not expressly included. Previous policy states (¶4.26 policy document, that areas of residential development “are designated on all islands”
13	‘Only Belongers’ will continue to get Crown Land for residential purposes – indicates continuation of restrict to transfer to non-Belonger	Lease conditions restrict transfer of land to a to non-Belonger
COMMERCIAL CROWN LAND		
	CURRENT	FORMER
1	Allocation is approved by Executive Council <i>[NOT A MODIFICATION]</i>	Executive Council approval
2	No Crown Land will be given for commercial purposes under Conditional Purchase Lease unless a Belonger has a minimum 51% share in the entity that is given the land <b>SMALL-SCALE COMMERCIAL DEVELOPMENT</b> ✓ Investment less than \$5 million ✓ Belonger share in entity must be a minimum of 51% ✓ Allocated on three year Conditional Purchase Lease ✓ Annual rent at 5% of Freehold Purchase Price on Providenciales and 10% on other islands <sup>10</sup> ✓ Freehold Purchase Price is 50% of open market value on Providenciales and 25% of open market value on other islands <b>LARGE-SCALE COMMERCIAL DEVELOPMENT</b> ✓ Investment not less than \$5 million ✓ Belonger share in entity must be minimum of 51% ✓ Allocated on Long-Term Lease <sup>11</sup> ✓ Annual rent at 5% of Freehold Purchase Price on Providenciales and 10% on other islands – it is assumed that the five year rent reviews from the	Crown Land will be made available to non-Belongers ‘normally’ only by Long-Term Lease (¶4.20) <b>SMALL-SCALE COMMERCIAL DEVELOPMENT BY BELONGER</b> ✓ Investment less than \$5 million ✓ Allocated on three year Conditional Purchase Lease (¶4.9) ✓ Annual rent at 5% of undeveloped site value (¶4.9) ✓ Freehold Purchase Price is 50% of undeveloped value of site at time of the lease is executed (¶4.10) <b>LARGE-SCALE COMMERCIAL DEVELOPMENT BY BELONGER</b> ✓ Investment not less than \$5 million ✓ Allocated on Long-Term Lease ✓ Annual rent at 2.5% of undeveloped site value for first 5 years, 5% afterwards with rent reviews every five years (¶4.6)

<sup>9</sup> No reference is made in the policy as to who is responsible to put in the roads and services and to what standard. Planning Department insists on asphalt roads in advices prepared as part of the allocation process. Putting in roads prior to allocation and occupation could lead to squatting.

<sup>10</sup> Standard formula for calculating rents is 1/40<sup>th</sup> of Open Market Value.

<sup>11</sup> The Crown Land Policy ‘Flyer’ (NEW POLICY) implies that all allocation for large-scale commercial development is done through Long Term Leases and not by Conditional Purchase Lease. However, no annual rent is stipulated for these Long Term Leases and it is assumed that they remain the same as the previous policy, 2.5% undeveloped site value for first 5 years, 5% afterwards with rent reviews every five years. This assumption will be verified with Lands and Surveys and Attorney General’s Chambers.

RESIDENTIAL CROWN LAND	
CURRENT	FORMER
<p>former land policy is retained</p> <ul style="list-style-type: none"> <li>✓ In cases where the merits of the project justify the need for further encouragement and where the project involves the investment of not less than \$5 million, the government will consider more favorable leasehold terms 2.5% for the first five years, 5% for the second five years and open market rents thereafter</li> <li>✓ In exceptional circumstances, the government will consider granting freehold title priced at 50% of open market value on Providenciales and 25% of open market value on other islands</li> </ul> <p>COMMERCIAL DEVELOPMENT BY NON-BELONGER</p> <ul style="list-style-type: none"> <li>✓ No longer applicable –any allocation of Crown Land for commercial purposes requires 51% Belonger share in entity</li> </ul>	<ul style="list-style-type: none"> <li>✓ In exceptional circumstance the government will consider granting freehold title priced at the greater of the full undeveloped site value at the date of the purchase of freehold, or the net present value of the remaining payments due under the lease (¶4.8)</li> </ul> <p>COMMERCIAL DEVELOPMENT BY NON-BELONGER</p> <ul style="list-style-type: none"> <li>✓ Allocated on Long-Term lease only (¶4.20)</li> <li>✓ Annual rent on Providenciales at full commercial rents (¶4.21)</li> <li>✓ Concesional leasehold terms on other islands to encourage development (¶4.21)</li> <li>✓ In cases of exceptional merit and investment over \$5 million the government will consider concessionary leasehold terms (¶4.21)</li> </ul>
<p>3 Belongers are entitled to as many parcels of Commercial Crown Land as possible but only on the basis of satisfactory performance of the previous allocation</p>	<p>No limit on number of lands expressly stated in policy</p>
<p>4 In the case that a Belonger sells his/her interest in the land to a non-Belonger before ten (10) years have passed, the Belonger will pay the Government the balance of the Open Market Value at the time of the original transaction</p>	<p>In the case of Conditional Purchase Leases on Crown Land for commercial purposes, the document transferring freehold title to the property will contain a restriction against sale to non-Belongers</p>

4.6 Unfortunately for both the Government and the people of the Turks and Caicos Islands, since the preparation of the 1994 document, the broad goal of the Crown Land policy and the recent modifications to the policy have not been rationalized and properly documented at a legal, administrative and technical level so as to ensure consistent implementation. Neither has the current policy emerged from a process of broad consultation with stakeholders and civil society. The Consultant Team was fortunate to have the guidance and support of the Government Appointed Panel (Belonger’s Panel) in completing the current work, however, a broader consultation process should be completed by Government to hear and pull together the concerns of the stakeholders and to achieve acceptance of the policy by civil society.

4.7 The sustainable use of Crown Land is being limited for the following reasons:

- 1) *Lack of understanding of policy and process*: the lack of widely known and understandable rules and procedures regarding the application, allocation and pricing of Crown Land;
- 2) *Lack of legislation regulating allocation and management of Crown Land*; the lack of specific legislation to support the consistent implementation and proper enforcement of the Crown Land policy over time;
- 3) *Inability to monitor the effectiveness of the policy*, the inability to systematically and objectively monitor the effectiveness of the policy in meeting the goal of empowering Belongers;
- 4) *Difficulty in implementing the policy by TCIG agencies*; the significant limitations of the current information management systems in enabling the government agencies to effectively implement the policy in an integrated and efficient manner; and
- 5) *Lack of access to information on Crown Land and its allocation*: the inability of government leaders, government agencies and the private sector to readily access information regarding the disposal of their 'Heritage Asset'.

A. Lack of understanding of Crown Land policy and process

4.8 Based on responses in the interviews, the current Crown Land Policy is not considered clearly defined and it is not widely known or well understood by government agencies, and equally important by the private sector land professionals or society as a whole.

B. Lack of legislation regulating allocation and management of Crown Land

4.9 The current Crown Land Policy is not regulated by specific legislation. As mentioned by some of the persons interviewed the Land Registry Ordinance does relate to Crown Land, but only in terms of the legal and administrative procedures for registering parcel of Crown Land in the Land Registry (primarily Part V, Division 2, Sections 44–63).

C. Inability to monitor the effectiveness of the policy

4.10 In conceptual terms the current Crown Land policy and its underlining objective to empower Belongers and facilitate the development of the Islands is equitable, however, equitable results are not achieved because there are institutional and systematic problems with the implementation of the policy. Applications are made at the Department of Lands and Surveys with no certainty that all applications will be handled equally. In the case of residential subdivisions, more applications are taken than the number of lots available and there are no clear procedures to determine which applications are selected to fill the number of lots. The lack of clear procedures can lead to claims of lack of transparency and favoritism. Since there is no publication of information on allocations (area, island, settlement, rent payable and purchase price and the name of the beneficiary) it makes refuting these claims, whether baseless or not, very difficult for the Government and the minister responsible.

4.11 Any policy needs to be periodically evaluated to determine whether it is meeting the expected objectives and providing the desired benefits. Evaluating any policy requires that data related to a set of performance indicators be monitored over time. Are Belongers being empowered? Is the Heritage Asset being disposed of in an equitable manner? Is development occurring in a sustainable manner? Is Crown Land-based development out-pacing the ability of Government to provide services and infrastructure? Are the conditions of the lease being met? Are longer-term economic benefits flowing at the amount and rate expected from the initial subsidy? Are some individuals being 'empowered' repeatedly, or at the expense of others? These questions are reasonable and should be answered to determine the effectiveness of the policy; however, they cannot currently be answered due to the lack of specific performance indicators and data supporting the indicators.

D. Difficulty in implementing and administering the policy by TCIG agencies

4.12 There is not a clear understanding or consensus at the land agency level about the policy, the recent policy modifications, administrative procedures for the processing of applications, allocation procedures or the timing of and requirements of inputs from the various agencies. As was mentioned more than once during the interviews - 'the left hand does not know what the right hand is doing'. This comment, while probably too general in its criticism, represents a feeling that there is a clear problem with the interaction, and primarily the absence of standard operating procedures and systematic information feed-back between the key land agencies.

E. Lack of access to information on Crown Land and its allocation

4.13 There is limited access to information on Crown Land. While the Lands and Surveys Department has developed a land Information system and new aerial photography and imagery maps have recently (2001) been prepared, the true quantity of Crown Land, the total number of parcels, both private and Crown, is not known. A rough estimate from existing data indicates there are approximately 14,500 total parcels on the islands, of which roughly 40% are Crown Land with the remainder being private property<sup>12</sup>. The Land Registry created under the Registered Land Ordinance is the legal repository of all property rights. The principle characteristics of the Land Registry are: (i) every parcel of real property has to be registered to prove ownership; (ii) government guarantees the property; (iii) the Register is conclusive; and (iv) all leasehold are registered. Therefore, information on all Conditional Purchase Leases can be found in the Land Registry once the leases are executed and registered by the lease. While the Registered Land Ordinance allows for public inspection of these records, on a practical basis this access is limited due primarily to the physical lack of space in the Land Registry and the non-computerized state of the land records. Also, the person requesting the information

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<sup>12</sup> Given the Land Registry system and the existence of Block Maps for all the islands, this information can be determined. However, the lack of computerized information management systems, particularly in the Land Registry, complicates the task.

would need to know the block and parcel number of the specific parcel of interest to them. In other words, there is no straightforward way to simply determine what Crown Land has been allocated and to whom it has been allocated.

- 4.14 Information on Crown Land leases is also kept by the Crown Land Unit of the Lands and Surveys Department. The data itself is inconsistent (will be discussed later in the report) and is not open to the public. The information management system has numerous security flaws that permit the entry of erroneous and inconsistent data, as well as unauthorized changing of information. There is no systematic way to track applications through the process and the no specialized querying capability. This information system was a good beginning when it was installed in 1999, but it is not robust enough to manage Crown Land data as needed in 2005. In general there is no public access to information on applications and approvals of leases. Information regarding final allocations as to who, where, how much land and what cost is not readily accessible, especially to those who require it to monitor the effectiveness of the policy.
- 4.15 To provide the modern land information services expected by both Belongers and foreign investors alike, the Government should take the necessary policy decisions and provide the financial resources required to:
- 1) complete an inventory of Crown Land based on the new aerial photography and digital orthography/cartography of all the islands, this cartography can provide the base for the development of an integrated parcel information management system – however the date of the photography is 2002 and with the constant physical development, especially in Providenciales, it is possible that new photography may be required;
  - 2) ensure that all land agencies convert all existing land records into digital format;
  - 3) develop compatible, interoperable and integrated land information systems, especially a system which links Land and Surveys, Planning, Valuations and the Land Registry; and
  - 4) provide training and career advancement opportunities (pay schedule increases) to Belongers so that the key land agencies become desirable places for rewarding work and advancement.
- 4.16 Table 14 presents the current rates on residential and small-scale commercial leases as modified in April 2004. Lease rates and conditions on large-scale development are typically determined by separate agreements and negotiations between the investor and TC Invest.

TABLE 14  
CURRENT RATES ON CROWN LAND LEASES

PROVIDENCIALES		
Residential	Freehold Purchase Price	25% of Open Market Value
	Rent	10% of Freehold Purchase Price
Commercial	Freehold Purchase Price	50% of Open Market Value
	Rent	5% of Freehold Purchase Price
OTHER ISLANDS		
Residential	Freehold Purchase Price	25% of Open Market Value
	Rent	10% of Freehold Purchase Price
Commercial	Freehold Purchase Price	25% of Open Market Value
	Rent	10% of Freehold Purchase Price
Standard Formula for the Computation of Rent		Open Market Value/40

## V. DISCUSSION OF KEY RECOMMENDATIONS TO IMPROVE THE ALLOCATION, PRICING AND MANAGEMENT OF CROWN LAND

### A. Generating Predictable Revenues From Real Property

- 5.1 As described in Section 1, the establishment of ‘real-property based infrastructure levy’ is a major, but much needed reform, to address the growing social service and infrastructure needs of the Turks and Caicos Islands. As this is a major reform, this study could analysis the positives and negatives of this reform from a fiscal, social, political and tourism/foreign investment point of view. As recommended, a fully study should be undertaken by TCIG to address this recommendation and provide specific policy options.
- 5.2 Also as presented in Section 1, the establishment of this levy would also have an impact on stopping land speculation and reducing underutilized land. As was presented in the Initial Report, if land is originally discounted and then remains ‘free’ once it is acquired, there is little incentive to dissuade individual land banking and speculation which in turn drives up property values and reduces land stock for other purposes particularly affordable housing and apartment developments for the non-tourists.
- 5.3 Land speculation is a phenomenon associated with rapid increases in land prices. Land speculators, sensing that the upward trend in land prices are likely to persist, are enticed into purchasing land and holding it in the hope of receiving a significantly higher price in the future. Essentially the incentive exist where the potential gains they expect to make in a future sale outweighs the cost of keeping the property vacant or “unimproved”.
- 5.4 There are two approaches to combat land speculation. The first is to direct the tax at the vacant property itself. One can establish two categories of property; Class A property which exhibits all the qualities associated with the pursuit of land development objectives of the property. This Class will not attract any taxes. Class B property will be a listing of property that have failed within a specified period (2 years) to exhibit any signs of development activity. These become “suspect” properties and are exposed to a potential anti-speculation tax. This is an administrative approach to Land speculation and can become very difficult and expensive to collect. Determining the “suspect” classification would require:
- 1) Defining what determines a suspect property;
  - 2) How long does the property have to be vacant for such designation;
  - 3) Determining the numerous exemptions; and
  - 4) Maintaining an inventory of such properties.

- 5.5 The second approach will be to direct the tax at the economic incentive to keep the land in an unimproved state. This approach recognizes that land values can increase as a result of value-added improvement in the land (built structures, private infrastructure) as well as changes in the value of adjacent properties. The latter situation is equivalent to the proverbial wave that raises all ships. The second approach seeks to identify situations in which the land price increases are following the trend set by adjacent properties in spite of a lack in value-added improvements. Such gains are viewed as speculative gains and attract the anti-speculation tax. An anti-speculation tax would seek to reduce significantly this incentive, by sharing in the gains from speculation in vacant property.
- 5.6 A tax on the economic incentive for speculation would require four (4) major considerations:
- 1) the objectives that would attract such a tax would be: (i) un-improved property; (ii) commercial property not being used for commercial purposes; and (iii) un-occupied property.
  - 2) The exemptions to the anti-speculation tax should include: (i) Property for “residential uses”; (ii) property for religious purposes; (iii) property to be used for social services such as Hospitals and Museums; and (iv) property to be used for educational institutions.
  - 3) to maintain Belonger-ownership advantages we would propose a “Split-Rate” approach<sup>13</sup>. Essentially the tax rate is may be set at 50% of the land value “above what is considered the natural economic increase throughout the country”. The rate can then be reduced based on a formula that grants a discount on the rate based on the established level of Belonger-ownership.<sup>14</sup>
- 5.7 It is recommended that an anti-speculation tax be explored as a tool for combating speculation in land. This split-rate approach can be used to maintain Belonger-ownership advantages. However it is proposed that Belongers who indulge in land speculation be targeted for taxation.
- B. Make Crown Land for Large-Scale Commercial Development Available through Long-Term Lease Agreements
- 5.8 Crown land is leased to large scale commercial developments only if Belongers control a majority (51%) of shares in the company undertaking the development. These Belonger controlled entities, eligible for leases on Crown Land, are also eligible for discounts on the annual lease rental and on the purchase price when the project is complete and the conditional lease is upgraded to a freehold title. However, the exact policy on

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<sup>13</sup> Generally the split-rate is a tool that applies a different rate to land and to buildings on land. We are proposing to adopt it to provide an advantage to Belonger- ownership.

<sup>14</sup> In commercially owned property the level of Belonger-ownership corresponds to the equity participation of Belongers in the enterprise financial structure.

allocations of Crown Land for large commercial developments is a little unclear from the published documents available.

- 5.9 The document “*Doing Business in the Turks and Caicos Islands*” provided to potential investors states:

*“No Crown land for commercial purposes will be given unless a Belonger has a minimum of 51% in the entity that is given the land. The Belonger [controlled entity] shall pay no more than 50% of the open market value of the land on Providenciales and a maximum of 25% of the value per acre in the other islands.”*

- 5.10 This statement is understood to mean that an entity in which 51% of the shares are held by a Belonger will be entitled to purchase Crown land (through a Conditional Purchase Lease arrangement) at *less than* 50% of the freehold value of the land in Providenciales and *less than* 25% in other islands. However, the document continues:

*“In cases where the merits of an approved project justify the need for further encouragement and where the project involves the investment of not less than US\$5 million, the government will consider the disposal of Crown land on more favourable leasehold terms, lease rentals in this case may be reduced to as low as 2.5% for the first 5 years; 5% for the second five years and open market rental rates thereafter. In exceptional circumstances the government will consider granting freehold title to Crown property... In such circumstances the government will grant the investor a conditional purchase lease.”*

- 5.11 This second statement suggest that the Government’s policy is to lease land, on long leases, for large commercial developments and only to transfer land through a CPL in exceptional circumstances (with no mention of a discount for Belonger controlled entities). There is clearly a degree of ambiguity in the policy on allocating large scale commercial developments which needs to be resolved.

- 5.12 The consultant recommends the following policy on Crown Land allocations for large scale commercial developments (defined as those projects that involve over US\$ 5.0 in capital development costs or which will occupy areas greater than 10 acres). Crown Land will be leased on a long-term leases to Belonger controlled entities (see below). The standard leases will be for 99 years, but the Government may negotiate a shorter lease if appropriate. The lease will attract a premium based on the open market value of the lease to be paid at the time of signing the lease agreement and peppercorn annual rents thereafter. A discount on the premium to be paid on the signing of the lease can be negotiated with the Government of TCI, to a maximum of 50% of the open market value, on a case by case basis. No discount will be given on leases in the island of Providenciales. A condition of the lease is that the lessee entity must remain a Belonger

controlled entity during the entire lease period. The terms of all large-scale commercial leases will be openly publicized in the TCI.

- 5.13 Given the recommended policy on competitive bidding for development projects the Government will be able to negotiate a reasonable discount if this is necessary for development to be attractive. Open publication of leases will enable the general population to determine whether the Government has done a good job of negotiating on their behalf. There has been widespread support expressed for ceasing the current practice of selling Crown Land as freehold and the use of leases in order to manage the development large developments. Belonger empowerment is maintained in this new policy by ensuring that it is only Belonger controlled entities that can lease Crown land. Given the huge demand for land on Providenciales, a discount on any lease on that island can not be justified as there is no need to stimulate further investor interest. Indeed there is currently an extremely high level of international investor interest in private landholdings on Providenciales for which no discount is offered, indicating that the discount is no required in order to stimulate investment on that island.
- 5.14 In order for this policy to be implemented effectively there needs to be a clear definition of what constitutes a Belonger controlled entity. Currently the policy states that a Belonger entity is one in which individual Belongers own shares equal to 51% of the equity of the company. This policy does not take into account the possibility of shareholder agreements whereby a substantial part of the companies net profits accrue to the non-Belonger shareholder or the non-Belonger shareholder is assured of a controlling interest in the company. A more detailed definition of Belonger controlled entity is therefore required, taking into account some of the standard measures used to assess nationality of companies with trading regimes or in the procurement policies of international agencies, such as the World Bank or Inter American Development Bank. Relevant criteria for such a definition should include not just the immigration status of individual shareholders, but also criteria such as:
- 1) the location of firm's principal place of business;
  - 2) whether the firm is integrated into the economy of the TCI;
  - 3) the absence of arrangements whereby any substantial part of the net profits or other tangible benefits will accrue or be paid to persons who are non-belongers or to firms that are not Belonger controlled in accordance with these criteria; and
  - 4) the Belonger status of the directors and employees of the firm.
- 5.15 In order to ensure that an entity leasing Crown Land remains Belonger controlled through out the life of the lease, all companies leasing Crown Lands should be legally obligated to submit annual returns to the Government (through the Companies Registry) including an affidavit stating that all of the "Belonger controlled entity" criteria have been and continue to be met. Inclusion of a clause or statutory provision indicating that the lease could be forfeited if the company is found to be falsifying its Belonger

controlled status will ensure effective self-policing of this policy, given the risks associated with failure to comply.

C. Ensure Land Use Planning Focus for Crown Land Management and Enforcement of Planning Regulations

5.16 The Chief Minister, Minister of Natural Resources, the Director of Planning and the Belonger Panel have each expressed the need for a more land planning focus for both Crown Land allocations and management, as well as overall physical development of the Islands. Given the land-based development pressures facing the Islands, this is a progressive and very necessary focus. The 2004 modifications of the Crown Land policy begin to steer the focus of Crown Land from directly encouraging physical development – which was needed in the 1990’s – to the need for integrated land use planning to guide future sustainable physical development of the islands. Crown Land legislation should include as its guiding principle an integrated land use planning and development focus to ensure that the planning process determines the land development as opposed to the property developers determining the land use. The latter is typically not sustainable and will make the overall goal of the Crown Land policy difficult to achieve in the long-term.

5.17 At present, formal physical planning by the Government enters into the Crown Land management process primarily at four specific points:

- 1) when the Lands and Surveys Department determines that there is potential or actual demand for residential land in a particular area of Crown Land, they approach the Planning Dept. to develop a sub-division plan. The Planning Dept., in consultation with Public Works and others, then lay-out a plan (parcel boundaries, road network etc.) which L&SD then formally survey prior to making CPL available in the sub-division;
- 2) when applications for residential or small-scale commercial CPL have received preliminary approval by the Lands and Surveys Dept. they are forwarded to the Planning Dept. for approval or comments (depending on whether a change of use is required or not);
- 3) when applications for large-scale commercial developments have been negotiated between TCInvest and the potential developer and a ‘development agreement’ signed between the developer and the Government. The “development agreements” include a provision that the developer must seek planning approval before the actual physical development can commence; and
- 4) when the Planning Dept. enforces a penalty for breaching planning regulations on Crown Land (e.g. demolishes an illegal structure).

5.18 It is only in the first of these cases that genuine Government forward planning takes place. In the other three cases the role of the Planning Dept. is essentially reactive. Taking the necessary steps to implement the following recommendations will both improve the management of large-scale commercial developments as well as ensure a more sustainable land use planning approach to development on the Islands:

- 1) ensure that there is a genuine role for the Planning Dept. and Board in the early stages of project identification and design and that negotiations with investors do not proceed until a common Government position has been developed;
- 2) conduct a competitive and transparent bidding process for all potential areas of Crown land to be developed for large-scale commercial developments. Only entertain speculative applications for Crown land when they offer an exceptional return to TCI;
- 3) clarify the current policy on allocations of Crown lands for large commercial developments (value over US\$ 5.0 million or more than 10 acres). A suggested policy statement for these leases is included in the body of the report;
- 4) more clearly define “Belonger controlled entity” in keeping with standard international definitions to established the nationality of firms; and
- 5) establish a Large Commercial Development Unit in the proposed Land Management Agency to negotiate leases and subsequently manage Large Commercial Leases and related Development Agreements, including monitoring whether the firm remains a “Belonger controlled entity”.

D. Establish Crown Land Legislation and Regulations

5.19 Management, allocation and pricing of Crown Land is regulated by a series of policy decisions of the Executive Council. Given the important role Crown Land plays in the current and long-term economic, social and environmental development of the Islands the development and proclamation of a Crown Land Ordinance is required to codify and present an unambiguous policy supported by regulations that spell out the ‘rules of game’.

5.20 Given that any Crown Land policy can be modified by future Executive Council decisions and future political mandates, codification of a Crown Land policy and related administrative procedures into legislation should be viewed by the current Government as a politically beneficial means to make certain their current vision of ensuring future equitable allocation under a sustainable land use planning approach is effective in the long term. Establishment of a Crown Land Ordinance, therefore, would go a long way to empower, sustain and protect the rights of the Belonger Community and fix the rules into the future. Without establishing legislation, the management of Crown Land could continue to be based on political expedience, changing policy directives and *ad hoc* administrative decisions that would not achieve the desired purposes and will continue to raise political questions. Therefore it is recommended that Government take the

opportunity that this study and focus on the issue provides to finally establish legislation that regulates the management of Crown Land. Short and medium actions to begin the process of preparing and establishing this legislation are presented in Table 1.

E. Include Specific Performance Indicators and Reporting Mechanisms in the Crown Land Legislation

- 5.21 The current Crown land policy has some clear objectives, in particular ensuring Belonger empowerment. However, the absence of any policy monitoring capability means that it is difficult to determine whether the current policy is meeting its objectives. The Government of the TCI must develop clear indicators to measure the success of its Crown Land policy. An annual report should be published by the proposed Land Management Agency including an analysis of the effectiveness of the policy in meeting objectives and the efficiency with which the agency carries out its mandate.
- 5.22 Once a properly functioning land information system is implemented, efficiency indicators are fairly easy to establish from internal records of the proposed Land Management Agency, for example:
- 1) The average time to process an application for Crown Land;
  - 2) Percentage of leases in rental arrears; and
  - 3) Percentage of Conditional Purchase Leases to Residential Land converted to freehold and registered in the Land Registry on schedule.
- 5.23 Effectiveness indicators are more difficult to establish and measure and usually require surveys of beneficiaries. Fortunately the Economic and Social Planning Dept. is currently planning to introduce an annual (inter-censal) survey of social and economic conditions and a number of questions could be included in this survey to produce data indicating the effectiveness of the Crown Land Policy. This survey will be in addition to the annual survey of businesses already conducted and utilised to measure gross domestic product. Internal administrative records of other agencies, such as TC Invest, could also be used to measure the effectiveness of some policy elements. The table below outlines some recommended policy indicators that should be measure to assess the effectiveness of the Crown Land Policy over time. In general it is best to measure only a few key indicators which are unambiguous and easy to collect, otherwise the measurement tends not to get completed in a timely manner. By comparing trends over time these indicators will establish whether the current policy is meeting its objectives and whether or not the policy needs to be adapted.

TABLE 15  
MEASURING THE EFFECTIVENESS OF CROWN LAND POLICY

OBJECTIVE	INDICATORS	SOURCE
Belonger empowerment	% of Belonger headed households in owner occupied dwelling units.	Annual social survey
Improved Belonger standard of living	% of Belonger headed households where dwelling unit meets minimum criteria (e.g. inside flushable toilet, electricity, telephone connection, fridge)	Annual social survey
Belonger business development	% of GDP generated by Belonger controlled entities	Annual survey of businesses
Balanced growth and development	% of large-scale foreign investments in islands other than Provo (\$ value).	Administrative records of TC Invest

F. Establish a Statutory Body for Land Management and Administration

5.24 To better serve the land-based needs of the government and provide modern and reliable land-based services to the general public, the Government should take the necessary actions to establish a National Land Management and Administration Agency. The objective would be to bring together institutionally Physical Planning, the Land Registry, Lands Department, a new Crown Land Department and Valuations. While their respective responsibilities would remain as is presently the case, the agency would nevertheless require an internal organizational structure to ensure, inter alia, proper protocols for efficient networking. The benefits to be derived from this setup would include:

- 1) reduction in duplication of current efforts to maintain different data layers;
- 2) significantly increased efficiency in managing land and providing information on its current status to pertinent government authorities;
- 3) increased ability of primary agencies dealing with land to perform their mandate;
- 4) reduction in cost to government in terms of resources required for collecting and maintaining these data sets;
- 5) facilitate the land use planning and physical development focus of Crown Land in the Islands; and
- 6) facilitate public/private interface by centralizing information.

5.25 Alternatively, it is suggested that a Crown Estates Office as represented in Annex 7 be established. This is similar to the setup currently in place at the Department of Lands and Surveys in The Bahamas. While it places a greater administrative responsibility on the Department, it nevertheless guarantees the existence of one government agency

which possesses and can provide all information regarding the administration of Crown Land.

- 5.26 The Department of Lands and Surveys in The Bahamas has recently introduced an estate management tool known as the CAPS Uniform Estate Management System which the new land agency should seek to develop and install in the Turks and Caicos Islands. The benefits to be derived from installing a CAPS-based Estate Management System include:
- 1) enables private and public sector organizations to manage multiple property interests more effectively;
  - 2) offers a range of separate applications for property portfolio management – yet within a single system that uses a common and easily-navigable interface;
  - 3) in combination with associated products, it is capable of handling a wide range of administrative processes centered on land and property information;
  - 4) holds records of all properties in which an organization has an interest;
  - 5) is built around a gazetteer management system that is fully compliant with the latest release of the standard for handling and managing address information; and
  - 6) is capable of managing all the many administrative processes for acquisitions, disposals, leasing, asset management and maintenance of properties.

G. Put in Place Mechanisms for the Review, Advice and Appeal of Crown Land Allocations

- 5.27 The appointment of a five to seven member Board to review and comment on recommendations for Crown Land disposal prior to their submission to the Ministry of Natural Resources or the Executive Council. This would assist in improving transparency while simultaneously reducing the ability to exercise discretion in recommending and deciding on applications. Also it would reduce the burden that is otherwise placed by applicants on government agencies that are involved in the process. Further, the Board could assist in ensuring equilibrium between Government's intention and the preservation and protection of Belongers right to Crown Land development.
- 5.28 Additional to the need for review and advice to Ministry of Natural Resources on allocations, is the need for parties who feel they have been aggrieved by a Crown Land allocation decision to appeal that decision to a tribunal. It is recommended that the Government establish a Crown Land Appeals Tribunal and appoint three members to form the Tribunal; one from the Governing party, one from the opposition and one being appointed directly by the Governor. This Tribunal would need to be established by legislation and should be included in the recommended Crown Land Management Ordinance.

H. Provide the Modern Land Information Services Expected by both Belongers and Foreign Investors

- 5.29 In an effort to provide the modern land information services expected by the property owners of the Turks and Caicos Islands, the Government should take the necessary steps to finalize the design of a multi-department computerized system for managing land information. Given the land registry system in place in the Turks and Caicos Islands, this land information system should be parcel-based to integrate all information regarding each individual parcel on the Islands. A project should be started to complete the technical, administrative and institutional steps to develop and implement the Turks and Caicos Parcel Information Management Systems or TCI-PIMS.
- 5.30 The TCI-PIMS will permit the collection, integration and use of data concerning the physical location and extent, ownership and value of each parcel of land on the two subject islands. Once fully developed, the PIMS will become the land information management backbone of the new National Land Management and Administration Agency and use primarily by the Land Registry, the Valuations Department, the Crown Land Department, the Survey Department and the Planning Physical Development Department to modernize and expand the provision of land administration services.
- 5.31 Conceptually the PIMS would consist of the following three foundation elements:
- 1) a digital data base, including alphanumeric and geographically referenced information, related to each parcel of land by a unique parcel reference number;
  - 2) a system of computers, specialized GIS-based software and peripheral equipment installed in the three agencies; and
  - 3) standard administrative rules and procedures to be used by the three agencies for collecting, using, sharing and disseminating information.

I. Protect Significant Ecological or Historic Areas from Future Development

- 5.32 Paragraph 4.5 of the 1994 Crown Land Policy is clear on the Government's intent to not allocate significant ecological or historic areas for development when it states: *"The government is prepared to use any available Crown Land (other than national parks, nature reserves, sanctuaries and areas of historic interest) for development in the right circumstances."* These 'protected areas' are defined in Parts I, II, III and IV, of the National Parks Ordinance and a textual definition of the boundaries is included. There is, however, typically no field survey of these areas or physical demarcation of the boundaries on the ground. An additional problem is that these areas are generally classified and registered as Crown Land and inadvisably in administrative terms fall within the general pool of 'available' Crown Land.
- 5.33 The objective is to legally and physically define these areas (parcels) so that they are not subject to unintended (or intended) development. Fortunately the Land Register provides for a fairly straightforward administrative means of ensuring the protection of

these areas from future transfer by registering a restriction for a set duration on the parcel in the Land Register. Article 132 of the Registered Land Ordinance allows that for the prevention of fraud or improper dealing or for any other sufficient cause, the Registrar may make an order (restriction) prohibiting or restricting dealings with any particular piece of land.

- 5.34 Another option is given the existence of the National Trust and its functions to safeguard the cultural, historical and natural heritage of the Turks and Caicos Islands under the National Trust Ordinance; and given that as a legal entity they can acquire property by gift, bequest, purchase, lease and to make any land acquired by the Trust inalienable (National Trust Ordinance; Article 15); is for Government to transfer (Article 13) all existing national parks, nature reserves, sanctuaries and areas of historical interest as defined in the National Parks Ordinance to the National Trust and subsequently that the National Trust registers the individual parcels of land.
- 5.35 Either option certainly appears to meet the objective of protecting lands from future disposition and development. The 'restriction option' may be easiest to complete and would require only an Executive Council decision followed by the preparation of a directive to the Registrar to register the restriction. Therefore, if not the case already, the Government should survey and register in the Land Register, all existing national parks, nature reserves, sanctuaries and areas of historical interest as defined in the National Parks Ordinance, and subsequently use the provisions of Article 132 of the Registered Land Ordinance to register a restriction on the transfer of these parcels for a period of time to be determined (e.g., 200 years)

# ANNEX 1

## DRIVER REPORT:

Social, Environmental and Economic Sustainability of the  
Crown Land Policy

## **Background**

As part of the Crown Land Management in the Turks and Caicos Islands project, the consultant was contracted to produce a report on the social, environmental and economic sustainability of the current policy and to make recommendations to improve Crown Land management in the future. The terms of reference for the consultant called for particular attention to be paid to the issue of physical planning, the issue of large-scale commercial developments on Crown Land and developing indicators to measure the impact of Crown Land policy.

The consultant visited the TCI between 9<sup>th</sup> and 23<sup>rd</sup> March 2005 and consulted relevant documentation, conducted interviews with key personnel in the Government and held two meetings with the “Belongers Panel on Crown Land Management”. This is the final report on the consultant’s work and is submitted as input for the final project report. It concentrates on the three issues outlined above.

### **Physical Planning and sustainability.**

The Planning Dept. of the Ministry of Natural Resources currently plays a key role in the management of Crown Land. However, this role is essentially confined to the “development control” function of physical planning, rather than the establishment of physical plans in order to ensure that land resources are utilised in the best possible manner for the overall social and economic development of TCI. The role of the Planning Dept. therefore needs to be transformed from a reactive response to activities initiated elsewhere to a pro-active forward planning role.

Physical planning is regulated through a Physical Planning Ordinance (chpt. 73) and a number of pieces of subsidiary regulations. The Physical Planning Ordinance establishes a Planning Board who makes decisions concerning planning applications and physical development plans. The Board comprises private individuals from various professions, appointed by the Minister of Natural Resources. The Director of Planning, and his department, advise the Government and the Board on planning issues and the Director makes recommendations to the Board for decision making. The objective of having a Board as the decision making body is to insulate the Director from direct political control or other lobbying. The Board can, at its discretion, delegate certain planning functions to the Director. Currently the Director is empowered to make decisions concerning residential planning applications.

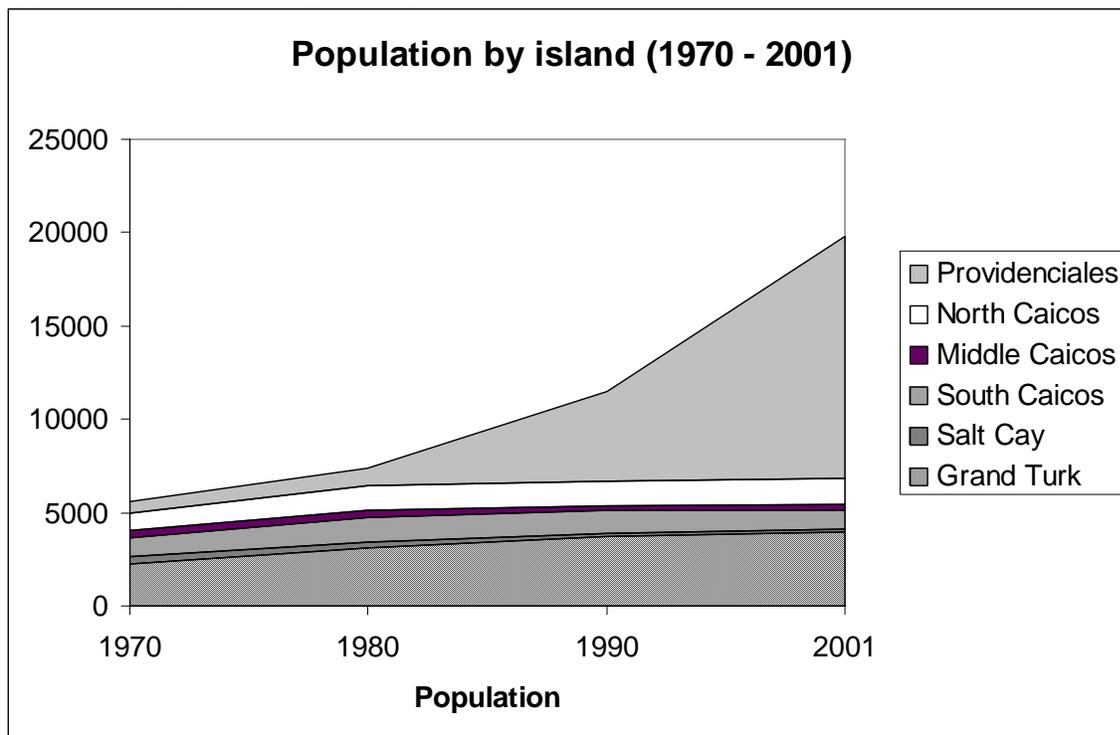
The last National Physical Development Plan was completed in 1986 and covers the period 1987–1997. No new National Physical Development Plan has been enacted subsequently, so the 1987 plan remains in force. There have obviously been huge changes in the economy and society of the TCI since 1987, most notably the explosive population and economic growth on

Providenciales (where the official statistics indicate a population growth rate of 1,233% between 1980 and 2001, see Figure 2.1).

While the 1987 National Physical Development Plan did provide a good basis for development in the period under consideration and foresaw and planned for the rapid expansion of Providenciales, it is now obviously out of date and a new National Physical Development Plan is clearly required. The draft Terms of Reference for a new National Physical Development Plan have been completed and it is expected that a firm of consultants will be hired to undertake the plan in the near future.

In recent years, two local area plans have also been completed and formally adopted by the Government, namely development plans for North West Point Master Plan and a West Caicos Development Plan. In both cases these plans were undertaken by private developers and have subsequently been adopted, with some modifications, by the Government.

**Figure 2.1: Population by island, 1970 – 2001**



Zoning regulations created by the 1987 National Physical Development Plan are outlined on a series of zoning maps, which are widely consulted by the Department, other agencies and the private-sector. These are only held in paper form at present, though the maps for Grand Turk are currently being digitised.

The Planning Dept. has a staff of fourteen (seven in Grand Turk and six in Providenciales, with the Director moving between both offices). The Dept. comprises seven professionals and seven administrative support staff, with ten vacant posts (one recently created). Given the pace of development in Providenciales it is not surprising that the majority of activity in that office is primarily concerned with development control functions, while the office in Grand Turk is expected to take the lead with forward planning issues. Nevertheless, the Director estimates that at least 80% of the Department's resources are dedicated to development control functions, rather than forward planning.

The Department has a functioning database to track planning applications (Dev.Con.), however the database for the Providenciales and Grand Turk offices are not integrated and the database is not currently configured to produce management reports (e.g. average time to process an application). The Department also has a functioning GIS, which includes a cadastral layer, aerial photography and some parcel attribute data (primarily for Grand Turk and South Caicos). The cadastral layer of the database is drawn from the L&SD server, so the problems of maintenance encountered in that system will also be apparent in the Planning Dept. data.

The Planning Dept. collects revenue from developers and other members of the public in the form of fees – 0.3% of the estimated cost of improvements for the outline approval and 0.2% for detailed planning approval. The total revenue collected by the Planning Dept. was US\$1.246 million for the 2004–5 financial year,<sup>15</sup> up from US\$638,539 in 2003–4. Revenue collection far exceeds expenditure on the Dept., estimated to be approximately US\$300,000

#### Issues surrounding current role of physical planning in Crown Land Management

At present, formal physical planning by the Government enters into the Crown Land management process primarily at four specific points:

- 5) When the Lands and Surveys Department determines that there is potential or actual demand for residential land in a particular area of Crown Land, they approach the Planning Dept. to develop a sub-division plan. The Planning Dept., in consultation with Public Works and others, then lay-out a plan (parcel boundaries, road network etc.) which L&SD then formally survey prior to making CPL available in the sub-division.
- 6) When applications for residential or small-scale commercial CPL have received preliminary approval by the Lands and Surveys Dept. they are forwarded to the Planning Dept. for approval or comments (depending on whether a change of use is required or not).

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<sup>15</sup> Data from Government Revenue collection system, 2004–5 figures for period up to until 21<sup>st</sup> March 2005.

- 7) When applications for large-scale commercial developments have been negotiated between TCInvest and the potential developer and a 'development agreement' signed between the developer and the Government. The "development agreements" include a provision that the developer must seek planning approval before the actual physical development can commence.
  
- 8) When the Planning Dept. enforces a penalty for breaching planning regulations on Crown Land (e.g. demolishes an illegal structure).

It is only in the first of these cases that genuine Government forward planning takes place. In the other three cases the role of the Planning Dept. is essentially reactive.

### **Residential sub-divisions and parcel size**

Under the present processes the Planning Division does design the lay-out of most new residential sub-divisions. This is a positive aspect of the current procedure that should be maintained. However, there appears to be a strong expectation from potential Belonger applicants for Crown land that parcels will be made available in one acre lots, no matter the geographical location of the parcel and whether the site is earmarked for high, medium or low density housing. The genesis of this expectation is unclear, though is probably linked to the fact that Provident Ltd., the original developers of Grace Bay and surrounding areas, divided the 4,000 acres they acquired from the Crown into one acre lots for sale. This has led to one acre being the "standard" parcel size in new developments.

This expectation can mitigate against proper development planning and needs to be addressed. The Planning Dept. report that new planned sub-divisions are being parcelled into small lots (0.3-0.6 acre), when appropriate. A public education programme may be needed to challenge the cultural expectation of "a one acre lot" if the Planning Dept. is to obtain public (and political) support for this policy.

Once residential sub-divisions are laid out by the Planning Dept. there must be an effective mechanism to ensure that the necessary public infrastructural works are initiated before the parcels in the sub-division are leased to the Belonger community. The Planning Dept. and the Lands & Survey's Dept. therefore need to ensure that their forward planning of new residential sub-divisions is integrated into the Public Works Dept. annual work programme and budget process.

Restricting applications for residential parcels to those sub-divisions which have already been designed by the Planning Dept. will significantly reduce the work load of both the Lands and Survey's Dept. and the Planning Dept. and will mean that fewer applications will have to be forwarded for planning approval prior to approval of the applicant for a CPL.

## Large-scale tourism development

In the case of large-scale commercial developments there appears to be no standard procedure to ensure that the Planning Dept. is given an opportunity to fully review a development applications prior to a Development Agreement being signed between the developer and the Government. In practice there does usually appear to be some level of consultation and TC Invest report that it is there standard practice to forward copies of all development proposals to heads of all the relevant Departments for comments, before negotiating a Development Agreement. Obviously a sensible developer would seek to engage the Planning Dept. in discussions early in the process of designing their project, to ensure that it will indeed be able to obtain planning approval (indeed developers are advised to do this by the Government – see publication “*Doing Business in the Turks and Caicos Islands*”, p. 7). Nevertheless, there is a sense that decisions with serious implications for national and local physical planning are being taken without adequate input from professional physical planners. A clearer set of procedures to deal with large-scale tourism development projects needs to be adopted and publicised and this should include a central role for the Planning Dept. and Board.

The lack of a national physical plan means that it is difficult for either planners or developers to determine whether their proposals fit with national objectives. There appears to be no national tourism master plan, outlining the types of tourism development the TCI wishes to attract and the desired pace of development. As in all tourism dependent countries, great care has to be taken to ensure that physical development does not erode the very thing that attracts tourists in the first place. One of the key concepts that must be central in the national physical plan is the issue of density of development and the carrying capacity of the physical environment. If the density of tourism development moves beyond a certain point the nature of the tourism product is significantly altered (and business model tends to shift to ensuring low-cost rather than high quality).

An essential component for the development of the national physical plan must therefore be the design of a tourism master plan. In addition to the issue of density, this should take into account the need to maintain a level of diversity within the tourism product offered by TCI – the type of tourism development anticipated for Providenciales or North Caicos will be very different to Salt Cay, Grand Turk or South Caicos. This diversity is important to ensure a level of stability in the tourism industry, already highly vulnerable to external shocks. It also provides avenues for increased small business entrepreneurial activity – an important avenue for Belonger empowerment.

Developing a national physical plan is scheduled to take two years, which is fairly typical given the need to consult widely with stakeholders with very differing objectives and capacities, in a variety of very different settings. In the meantime pressure for further large-scale tourism development will continue, mainly in a few key geographical locations (e.g. in North Caicos).

Suspending all further large-scale tourism developments until the national physical plan is completed is unrealistic. There is therefore a strong argument for fast-tracking local area plans for the key priority areas for large-scale tourism development, in parallel to the exercise to complete a national physical plan for all the islands.

The completion of detailed local area plans for priority tourism development areas will significantly strengthen the ability of the Government to negotiate with developers to ensure maximum returns (financial, environmental and social) for the TCI. Instead of waiting for developers (or their agents) to approach the Government, the Government should publicise potential projects and encourage competitive bidding between developers (see section on land management and large tourism projects)

### **Housing and urban planning policy**

A central element of any national planning process must be to ensure that the population of the TCI is adequately housed. Availability of suitable housing is a key determinant of social and economic development. The Government views home ownership as a key component of Belonger empowerment. However, there appears to be no specific housing policy in the TCI. Crown land allocations of residential parcels at a heavily discounted rate appears to be the prime policy tool to ensure housing for Belongers, in addition to low interest loans for constructing or repairing homes provided by TC Invest's Banking Division. A policy of allowing duty free imports of construction materials for first-time residential homes has also been mooted, but not implemented.

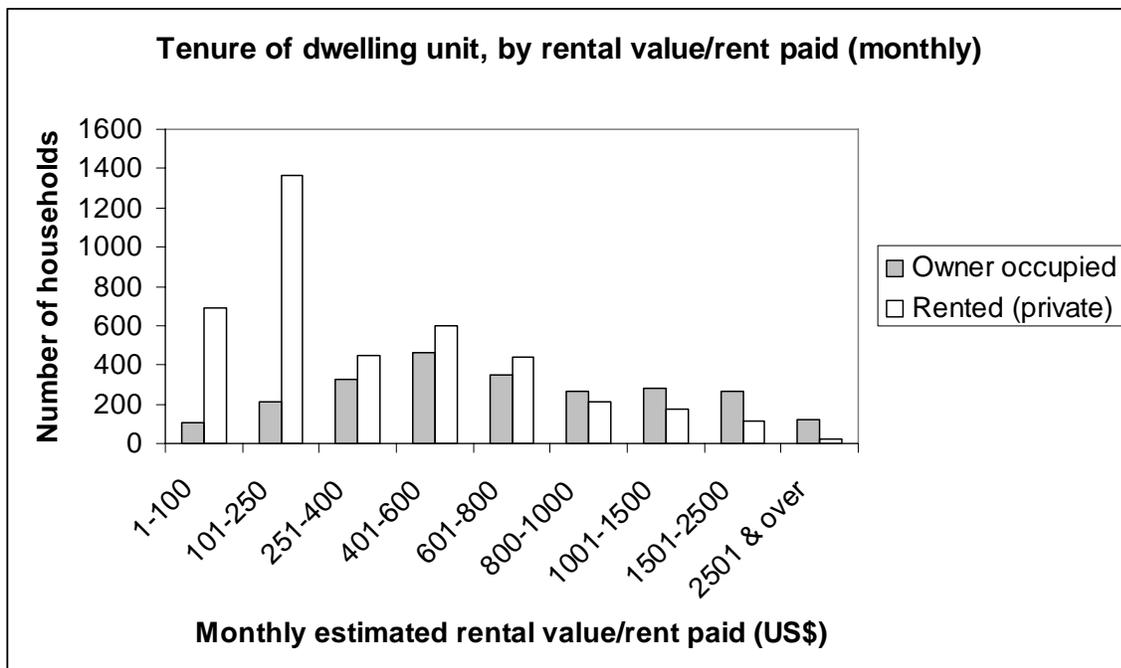
The extent to which his policy meets actual demand needs to be examined further. In the absence of effective public transport systems, the location of housing demand and proximity to centres of economic activity is of key importance. The Government should consider policies such as those to encourage higher density in-fill housing close to centres of economic activity, especially on Providenciales. Much of the housing stock in the "traditional housing areas" is dilapidated and in addition to providing discounted access to undeveloped land the Government should also consider policies such as providing grants or subsidies to upgrade existing housing stock. The presence of a large number of dilapidated houses could contribute to problems of disaster management.

While Government policy has concentrated on providing land for development for Belongers, there is also a clear need to develop housing policy to meet the needs of the very large non-Belonger population. The most recent official census data (2001) indicates that there are a total of 9,551 non-Belongers in the TCI, with 7,332 of these in Providenciales (accounting for 56% of

the island's population).<sup>16</sup> Most people appear to believe that the actual numbers are significantly higher.

The private rental market is the primary means through which non-Belongers meet their housing demand. The released data from the 2001 census do not differentiate tenure of dwelling units on the basis of "Belongership", but given the restrictions on non-Belonger allocations of Crown land it is reasonable to assume that the 61% of households who currently rent their dwelling units make up the vast majority of non-Belonger households. Most private rental units are in the lower monthly rental brackets, when compared to owner-occupier dwelling units (see Figure 2.2).

*Figure 2.2: Tenure of dwelling unit by estimated rental value/rent paid (2001)*<sup>17</sup>



Given the prevalence of private rentals at the lower end of the housing market, the Government should consider the introduction of policies to ensure that units in this rental sector meet certain minimum standards in terms of quality and basic security of tenure. Without these policies the TCI runs the risk of creating slum conditions and ghetto communities for lower income non-Belongers. An assessment of the rental housing stock and the future growth potential of this sector (given the high population growth rates through in-migration) needs to

<sup>16</sup> Dept. of Economics, Planning and Statistics 'Turks & Caicos Islands – Preliminary Census Report (2001), (n.d., Government of Turks and Caicos Islands, Grand Turk)

<sup>17</sup> Dept. of Economics, Planning and Statistics 'DRAFT Turks & Caicos Islands –Census Report (2001), (n.d., Government of Turks and Caicos Islands, Grand Turk), table 37.

be undertaken. If the private rental market is unable to meet demand, and access to land ownership through the Crown land “lease to freehold” route is denied to non-Belongers, there is a risk that people will seek extra-legal routes to meet their housing needs, including squatting on Crown land.

### **Beach access and other rights of way**

When new sub-divisions are created, the Planning Dept. approves a road layout for the development. For sub-divisions abutting the coast this includes beach access roads. However, there is no highways or public rights of way ordinance in TCI and access ways in these private sub-divisions tend to be registered in the Land Registry in the name of the property developer, apparently with no cautions or easements listed in the registry.

There appears to be nothing in the TCI legislation that would keep these established beach access routes open to the public, especially as the parcels could be sold to neighbouring property owners. In the older settled islands (Grand Turk, South Caicos and Salt Cay) residents would probably be able to use English common-law to assert rights of way across private parcels in order to ensure beach access, but as this typically requires evidence of twenty years use of the right of way, this is unlikely to be enforceable in the newly developed areas of Providenciales. The Registered Land Ordinance (chpt. 72), does include a provision for the registration of a prescriptive easement (section 138), but this will only apply to individual and not public rights of way. This issue needs to be given serious consideration in TCI, as lack of access to beaches for local populations has become a political flashpoint in many Caribbean islands (e.g. the issue of Pigeon Point in Tobago), and has the potential to create friction between tourists and Belongers. Furthermore, lack of beach access can significantly hamper the development of smaller hotels and guest houses further from the beach and work against the Government’s objective of encouraging small business development amongst the Belonger community. A specific public rights of way ordinance should be enacted for the TCI.

### **Enforcement of Crown Land management policies**

Currently the Planning Dept. is playing a limited policing role in the enforcement of Crown Land management policies, through the enactment of demolition orders against illegally constructed properties on Crown Land. These demolition orders are being made under Planning law, rather than the landlord (the Crown) asserting its property rights. Effective policing of Crown Land and the timely ejection of squatters (before construction takes place) will reduce the need to utilise demolition orders against illegal properties.

## **Crown Land Management for Large scale commercial projects**

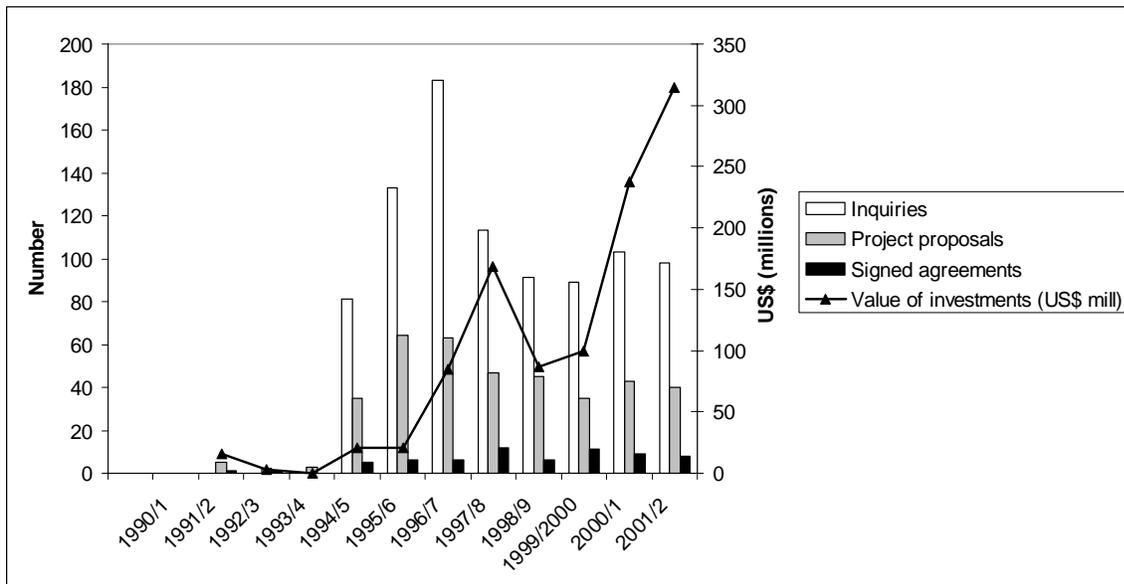
The TCI has received significant foreign investment over the past decade, primarily into its tourism sector. A significant percent of this investment has taken place on Crown Lands. Managing large-scale commercial projects is a prime issue for Crown Land management in TCI. The current system for allocating large scale commercial leases on Crown Lands is entirely separate from the standard Crown land allocation functions primarily undertaken by the L&SD. The subsequent management of large commercial leases is, however, treated in the same manner as all other leases of Crown Land.

A separate independent agency, the Turks and Caicos Islands Investment Agency (TC Invest) has been established under statute to co-ordinate and facilitate inward investment to TCI. This agency plays a pivotal role in the process of allocating Crown Land for large commercial projects. Unfortunately the project team was unable to conduct a full interview with the Chief Executive Officer of TC Invest during the project, though a brief telephone interview was held with Mr Clayton Been, the Inward Investment Manager.

The process of deal with large scale commercial allocations of Crown Land (defined as a project investment value of over US\$5.0 million) differs from small-scale commercial developments primarily due to the fact that a "Development Agreement" is signed between the Government and the investor prior to the agreement to transfer title/lease a parcel of Crown Land. This development agreement outlines any incentives to be given to the investor, including discounts of the rental/transfer value of Crown Lands, reductions in Stamp Duty, and reductions in Customs Duty. In addition the development agreement outlines the obligations of the investor, including their obligations to construct a development on the site by a certain date, their obligations to comply with all Planning and other regulations and their obligations to provide a certain number of educational opportunities to Belongers.

TC Invest receives a large number of project proposals every year - between 1994 and 2002 (the last year for which data has been made available to the project) they received an average of 48 project proposals per year. Out of these projects an average of 8 resulted in signed agreements between the Government and investors, representing a total of US\$1.034 billion of proposed investment over this time period (see figure 3.1 below). Note that the investment figures in this graph represent the estimated project investment cost in the year of signing the agreement, not the actual inward investment. It is unclear from the data available to the team how many of these Development Agreements resulted in leases of Crown Land, though it is reasonable to assume (given the incentives available) that the majority of developments were on Crown Land.

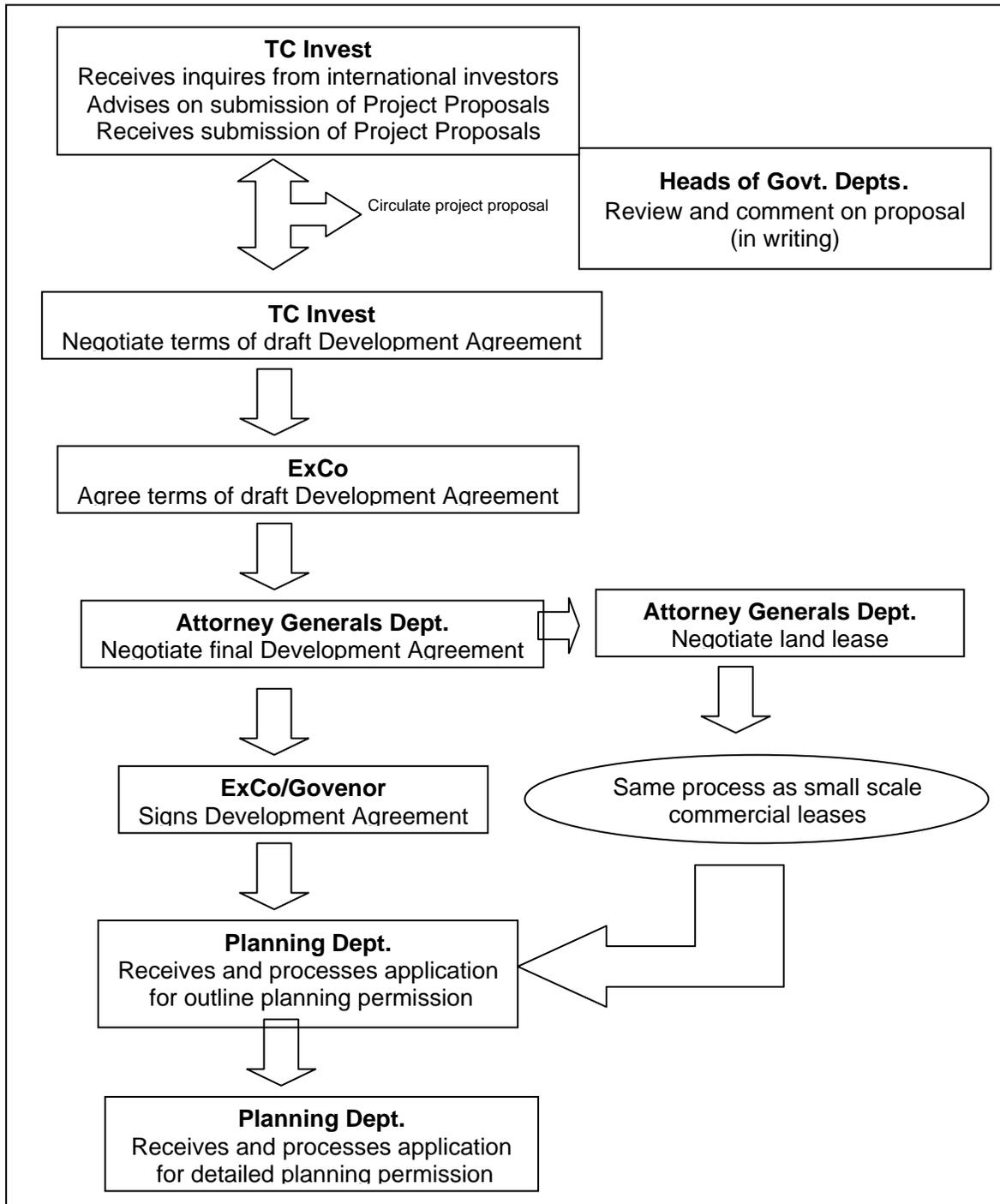
**Figure 3.1: Inquires, proposals and agreements by year (TC Invest Annual Report 2001/2)**



The process for dealing with large scale commercial proposals is outlined in Figure 3.2 below. According to TC Invest all project proposals are circulated to a multi-disciplinary team, comprising the directors of the relevant Government Departments (such as Planning, Public Works and L&SD), prior to any negotiations with investors. However, it has been reported to the consultant that this is not always the case and that in some instances Department heads are only aware of the details of the proposal when the negotiations are well advanced. Whatever the reality of the process, it is clear that the large number of proposals received by TC Invest will mean that the already stretched heads of Government Departments will often be hard pressed to conduct a thorough analysis and review of each proposal received and, given the legitimate expectation of the political directorate, the Departmental Heads will often be expected to respond to short deadlines. A more proactive approach to forward planning of large scale development projects will enable a more structured approach to reviewing and commenting on applications and will allow the more effective screening out of projects that do not meet criteria outlined in local or island development plans (see section on physical planning).

TC Invest is in charge of the negotiation phase and while they may seek and receive comments from heads of relevant Government departments, they are under no obligation to act on the advice received.

**Figure 3.2: Process of allocating Crown Land to large commercial projects**



While there may be circumstances in which there are more than one project competing for the same or overlapping areas of Crown Land, there is no policy of encouraging competitive

bidding for potential projects nor a formal tendering process for allocations of Crown land. TC Invest and the wider Government has done an extremely good job of marketing TCI to international investors using an “Open Arms” inward investment policy. However, in order to maximise returns from international investment a more structured approach is needed to how international investors are invited to TCI.

Returns tend to be maximised when a process of transparent and competitive bidding takes place. A proactive policy should therefore be implemented in which potential development sites are advertised internationally and investors invited to submit proposals to develop the specific site. Specific selection criteria, including financial returns, environmental sustainability and Belonger empowerment, should be made known to potential investors and a transparent process of review and selection should take place on the basis of the published criteria. Given the huge investor interest in TCI, the Government should be able to generate a number of proposals for each potential offering and therefore maximise returns to TCI.

This policy of competitive tendering does not preclude the Government from entertaining speculative proposals for other sites, which the Government planners may not have identified as priority, but it will ensure higher returns from the areas in greatest demand.

#### **Policy on Crown land allocations for large commercial projects.**

Crown land is leased to large scale commercial developments only if Belongers control a majority (51%) of shares in the company undertaking the development. These Belonger controlled entities, eligible for leases on Crown Land, are also eligible for discounts on the annual lease rental and on the purchase price when the project is complete and the conditional lease is upgraded to a freehold title. However, the exact policy on allocations of Crown Land for large commercial developments is a little unclear from the published documents available.

The document “*Doing Business in the Turks and Caicos Islands*” provided to potential investors states:

No Crown land for commercial purposes will be given unless a Belonger has a minimum of 51% in the entity that is given the land. The Belonger [controlled entity] shall pay no more than 50% of the open market value of the land on Providenciales and a maximum of 25% of the value per acre in the other islands.

This statement is understood to mean that an entity in which 51% of the shares are held by a Belonger will be entitled to purchase Crown land (through a Conditional Purchase Lease arrangement) at *less than* 50% of the freehold value of the land in Providenciales and *less than* 25% in other islands. However, the document continues:

In cases where the merits of an approved project justify the need for further encouragement and where the project involves the investment of not less than US\$5 million, the government will consider the disposal of Crown land on more favourable leasehold terms, lease rentals in this case may be reduced to as low as 2.5% for the first 5 years; 5% for the second five years and open market rental rates thereafter. In exceptional circumstances the government will consider granting freehold title to Crown property... In such circumstances the government will grant the investor a conditional purchase lease.

This second statement suggest that the Government's policy is to lease land, on long leases, for large commercial developments and only to transfer land through a CPL in exceptional circumstances (with no mention of a discount for Belonger controlled entities). There is clearly a degree of ambiguity in the policy on allocating large scale commercial developments which needs to be resolved.

The consultant recommends the following policy on Crown Land allocations for large scale commercial developments (defined as those projects that involve over US\$ 5.0 in capital development costs or which will occupy areas greater than 10 acres):

*Crown Land will be leased on a long-term leases to Belonger controlled entities (see below). The standard leases will be for 99 years, but the Government may negotiate a shorter lease if appropriate. The lease will attract a premium based on the open market value of the lease to be paid at the time of signing the lease agreement and peppercorn annual rents thereafter. A discount on the premium to be paid on the signing of the lease can be negotiated with the Government of TCI, to a maximum of 50% of the open market value, on a case by case basis. No discount will be given on leases in the island of Providenciales. A condition of the lease is that the lessee entity must remain a Belonger controlled entity during the entire lease period. The terms of all large-scale commercial leases will be openly publicised in the TCI.*

Given the recommended policy on competitive bidding for development projects the Government will be able to negotiate a reasonable discount if this is necessary for development to be attractive. Open publication of leases will enable the general population to determine whether the Government has done a good job of negotiating on their behalf. There has been widespread support expressed for ceasing the current practice of selling Crown Land as freehold and the use of leases in order to manage the development large developments. Belonger empowerment is maintained in this new policy by ensuring that it is only Belonger controlled entities that can lease Crown land. Given the huge demand for land on Providenciales, a discount on any lease on that island can not be justified as there is no need to stimulate further investor interest. Indeed there is currently an extremely high level of international investor interest in private landholdings on Providenciales for which no discount is

offered, indicating that the discount is not required in order to stimulate investment on that island.

In order for this policy to be implemented effectively there needs to be a clear definition of what constitutes a Belonger controlled entity. Currently the policy states that a Belonger entity is one in which individual Belongers own shares equal to 51% of the equity of the company. This policy does not take into account the possibility of shareholder agreements whereby a substantial part of the companies net profits accrue to the non-Belonger shareholder or the non-Belonger shareholder is assured of a controlling interest in the company. A more detailed definition of Belonger controlled entity is therefore required, taking into account some of the standard measures used to assess nationality of companies with trading regimes or in the procurement policies of international agencies, such as the World Bank or Inter American Development Bank. Relevant criteria for such a definition should include not just the immigration status of individual shareholders, but also criteria such as:

- The location of firm's principal place of business.
- Whether the firm is integrated into the economy of the TCI.
- The absence of arrangements whereby any substantial part of the net profits or other tangible benefits will accrue or be paid to persons who are non-belongers or to firms that are not Belonger controlled in accordance with these criteria.
- The Belonger status of the directors and employees of the firm.

In order to ensure that an entity leasing Crown Land remains Belonger controlled through out the life of the lease, all companies leasing Crown Lands should be legally obligated to submit annual returns to the Government (through the Companies Registry) including an affidavit stating that all of the "Belonger controlled entity" criteria have been and continue to be met. Inclusion of a clause or statutory provision indicating that the lease could be forfeited if the company is found to be falsifying its Belonger controlled status will ensure effective self-policing of this policy, given the risks associated with failure to comply.

### **Management of large scale development projects**

Under the current procedures for dealing with large commercial leases there is a specialised agency established to deal with the signing of development Agreements and allocation of Crown Land, but no entity established to manage the Development Agreements or the leases thereafter. Management responsibility is dissipated into various departments, for example:

- Planning Dept. is responsible for ensuring that any built development is in accordance with planning approval.
- L&SD is responsible for ensuring lease conditions are complied with and rents paid.
- Ministry of Education is responsible for ensuring that investors meet their obligations to provide training to Belongers.

There is no co-ordinating body to ensure that developers meet all of their obligations and the current institutional weaknesses in many of the responsible entities means that little monitoring or enforcement takes place. A specific dedicated and highly skilled unit needs to be established in the proposed Land Management Agency to manage large scale commercial developments and to ensure that all developer obligations under the Development Agreement and lease are complied with. This unit should also assume responsibility for the competitive bidding process (including negotiations) with potential developers on Crown Land, with the TC Invest maintaining its responsibility for investment promotion and facilitation.

### **Measuring the effectiveness and efficiency of Crown Land policy.**

The current Crown land policy has some clear objectives, in particular ensuring Belonger empowerment. However, the absence of any policy monitoring capability means that it is difficult to determine whether the current policy is meeting its objectives. The Government of the TCI must develop clear indicators to measure the success of its Crown Land policy. An annual report should be published by the proposed Land Management Agency including an analysis of the effectiveness of the policy in meeting objectives and the efficiency with which the agency carries out its mandate.

Once a properly functioning land information system is implemented, efficiency indicators are fairly easy to establish from internal records of the proposed Land Management Agency, for example:

- The average time to process an application for Crown Land.
- Percentage of leases in rental arrears.
- Percentage of CPLs converted to freehold on schedule.

Effectiveness indicators are more difficult to establish and measure and usually require surveys of beneficiaries. Fortunately the Economic and Social Planning Dept. is currently planning to introduce an annual (inter-censual) survey of social and economic conditions and a number of questions could be included in this survey to produce data indicating the effectiveness of the Crown Land Policy. This survey will be in addition to the annual survey of businesses already conducted and utilised to measure gross domestic product. Internal administrative records of other agencies, such as TC Invest, could also be used to measure the effectiveness of some policy elements. The table below outlines some recommended policy indicators that should be measure to assess the effectiveness of the Crown Land Policy over time. In general it is best to measure only a few key indicators which are unambiguous and easy to collect, otherwise the measurement tends not to get completed in a timely manner. By comparing trends over time these indicators will establish whether the current policy is meeting its objectives and whether or not the policy needs to be adapted.

**Figure 4.1: Measuring the effectiveness of Crown Land Policy**

<b>Objective</b>	<b>Indicators</b>	<b>Source</b>
Belonger empowerment	% of Belonger headed households in owner occupied dwelling units.	Annual social survey
Improved Belonger standard of living	% of Belonger headed households where dwelling unit meets minimum criteria (e.g. inside flushable toilet, electricity, telephone connection, fridge)	Annual social survey
Belonger business development	% of GDP generated by Belonger controlled entities	Annual survey of businesses
Balanced growth and development	% of large-scale foreign investments in islands other than Provo (\$ value).	Administrative records of TC Invest

**Recommendations:**

***Physical Planning***

- 1) Upgrade and integrate the Dev.Con. database and integrate this into Government land information system being developed. Upgrade the Planning Division GIS to assist in forward planning and decision-making.
- 2) Fast-track process to complete a new National Physical Development Plan. In tandem with the development of the national plan, and under section 20.b. of the Ordinance, create local area plans for those areas with the highest tourism development potential/demand (for example North Caicos).
- 3) Ensure that the standard procedures for the consideration of new large scale development projects include early review and comment by the Planning Dept. and that these comments are incorporated into any development agreement signed between the Government and a developer.
- 4) Develop a housing policy for both Belongers and non-Belongers, including the adoption of basic standards in terms of accommodation and lease terms for private-rental units.
- 5) Enact a public rights of way ordinance, including specific rights for beach access and public consultations on rights of way.

### ***Management of large scale commercial developments***

- 6) Ensure that there is a genuine role for the Planning Dept. and Board in the early stages of project identification and design and that negotiations with investors do not proceed until a common Government position has been developed.
- 7) Conduct a competitive and transparent bidding process for all potential areas of Crown land to be developed for large-scale commercial developments. Only entertain speculative applications for Crown land when they offer an exceptional return to TCI.
- 8) Clarify the current policy on allocations of Crown lands for large commercial developments (value over US\$ 5.0 million or more than 10 acres). A suggested policy statement for these leases is included in the body of the report.
- 9) More clearly define “Belonger controlled entity” in keeping with standard international definitions to established the nationality of firms.
- 10) Establish a Large Commercial Development Unit in the proposed Land Management Agency to negotiate leases and subsequently manage Large Commercial Leases and related Development Agreements, including monitoring whether the firm remains a “Belonger controlled entity”.

### ***Measuring effectiveness and efficiency of the Crown Land Policy***

- 1) Publish an annual report giving details of both the efficiency and effectiveness of the Crown Land policy. Some possible indicators are included in the body of the report.

## ANNEX 2

### WILLIAMS REPORT:

A Brief Analysis of the Economic and Financial Aspects of  
Crown Land Policy and Management

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## CONCLUSION

### Annex 1: Summary Table

## **I. INTRODUCTION**

### **A. Background**

The Crown is the largest landholder in the Turks and Caicos Islands. This makes Crown Lands the Government's most valuable tangible asset, and places an obligation on Crown Land Policy to address both immediate and medium to long term planning pre-requisites. The potential value of Crown land as a whole, has risen dramatically over recent years (1999–2005) and is likely to continue to do so in the next 3–5 years. It is important that the policies and practice concerning Crown Land management, which are evolving over the years, be consistent with addressing the investment needs of economic and social development and benefit Belongers, both in terms of increasing their role in commercial land development and helping them gain access to land for residential use.

The general objective of the Consultancy Team is to examine current Crown land policy and practice, working together with the Policy Review Team to get wide views, including taking into account the analysis and recommendations in the report on Crown Land by the Chief Auditor, and to produce recommendations for a future comprehensive approach which maximizes sustainable revenues from Crown Land, takes account of competing economic, social and environmental factors, benefits the long term economic and social interests of the Belonger Community and ensures transparency and openness in the administration of Crown land. This Report provides the Consultancy Team with a brief analysis of the Crown Land Policy, focusing on economic and financial aspects.

### **B. Objectives of the Sub-Consultancy**

The General Objective of this sub-Consultancy is to provide the Turks and Caicos Islands Government (TCIG) with a brief analysis of the Crown Land Policy, focusing on economic and financial aspects. Specific tasks included<sup>18</sup>:

- 1) A meeting with the Chief Economist of the TCIG to determine the source, type and amount of revenue flows to the TCIG, and specifically the amount of revenues generated from Crown Land allocation fees and rents as a percentage of total revenue;
- 2) A determination as to whether these revenue flows are sufficient to meet the needs of the TCIG;
- 3) An analysis of the current practice of TCIG to cover recurrent expenditures through the sale of Crown Land;
- 4) A meeting with the TCIG appointed panel on Crown Land to discuss the issue of speculation on private land (especially in Providenciales) to estimate its magnitude and its economic effect on the real property market in terms of value of land and cost of housing;

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<sup>18</sup> Annex A attached to "Agreement To Provide Individual Consulting Services between Allan N. Williams and Kevin M. Barthel"

- 5) An analysis of the technical and economic rationale of the TCIG establishing a fee (tax) on real property held by non-Belongers with the intention of providing sustainable revenue for the on-going social and infrastructure needs of the islands. This fee should be analyzed as a means to reduce speculation on undeveloped land to promote the efficient use of private land and to generate a revenue stream for TCIG. The Consultant should provide recommendations on whether the fee should be applied only to undeveloped land, or to all real property and whether the fee should apply to both land and improvements or only be based on the unimproved value of the land: and
- 6) Participation in general discussions with TCIG representatives and members of the Consulting team as required.

### C. Activities of Consultant

During the visit to the Turks and Caicos Islands, the Consultant accomplished, among other things, the following objectives:

- 1) Obtained documents and information regarding:
  - The volume of registered land purchases and value of stamp duties;
  - Government Financial Statistics (1999–2003)
  - Budget Address to the Executive Council (2004)
  - 2003–2007 Policy Agenda of Government
  - Copy of basic lease documents (CPL)
- 2) Discussions with the Chief Economist, Chief Statistician, and Registrar of Lands
- 3) Discussion with the Panel on a proposed Fee on non-Belonger’s Lands
- 4) Discussion with two (2) members of the Panel individually on land speculation and the mechanics of the proposed fee
- 5) General discussion with H.E. Governor Poston on the mechanics of legislation and taxation and land policy decisions.

Table 1 indicates the schedule of meetings undertaken by the Consultant

**Table 1: Schedule of Activities of Consultant**

Date	Time	Person(s)
Monday, March 14, 2005	8:00 p.m.	Arrive Providenciales
Tuesday, March 15, 2005	8:30 a.m. 9:00 a.m. 12:30 p.m. 2:00 p.m.	Arrive Grand Turk Briefing by Dr. Dax Driver Review Documents Acquired by Team Members Meeting Mr. Kwame Smith, Registrar Check-in at Hotel Complete Review of Documents
Wednesday, March 16, 2005	9:00 a.m. 11:00 a.m. 2:00 p.m. 4:00 p.m.	Meeting with Mr. Dalton Jones, Chief Economist Meeting with Chief Statistician Discussion with Dr. Dax Driver Meeting with Mr. Leo Selver, P.S. Ministry of

	5:15 p.m.	Natural Resources Short meeting with Mr. Kwame Smith
Thursday, March 17, 2005	8:30 a.m. 9:00 a.m. 10:00 a.m.  12:30 p.m. 2:00 p.m.	Arrive in Providenciales Breakfast Meeting with Dr. Dax Driver Meeting with Panel: Mr. Ariel Misick Mr. Sandy Lightbourne Mr. Ervin Quelch Mr. Wendell Swan Lunch Meeting with Dr. Dax Driver Visit to some major construction sites
Friday, March 18, 2005	7:30 a.m. 9:00 a.m. 11:00 a.m.	Breakfast Meeting with H.E. Governor Poston Meeting with Mr. Sandy Lightbourne Meeting with Mr. Wendell Swan

## **II. BASIC FINANCIAL AND ECONOMIC CONSIDERATIONS OF LAND POLICY**

### **A. Basic Goals:**

Land Policy is a State-created instrument<sup>19</sup>, and is generally aimed at fulfilling three main tasks:

- a) Establish advantages for the State in its use of Crown Lands;
- b) Transfer benefits (current and future) to the population at large (the Belonger population in particular) in administration of Crown Lands;
- c) Define the specific rules of engagement of the State with the “rest of the World” in its use, disposal and/or conservation of Crown Lands.

There is an obvious hierarchy of goals that should be observed as it is the State that is ultimately responsible not only for its own finances but for influencing any changes in the financial conditions of both civilian and corporate citizens.

***Recommendation 1:*** *That advantages to the State be accorded paramount importance in the design and use of any and all instruments for implementing Land Policy.*

### **B. Using the Market Mechanism for State Intervention**

Land Policy in the Turks & Caicos Islands is being asked to combine liberal market principles (facilitating willing buyers and sellers) with specific interventions aimed at either maintaining or altering the power relationship in the country, especially between “Belongers” and “non-Belongers”. There is much evidence to support the opinion that the land market is operating very well:

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<sup>19</sup> The Consultant is using the word “State” to refer to Governments in the generic sense.

- Increasing land transactions; in FY2003/04 the increase in stamp duty on land transactions was 91% higher than the estimate of \$10.5m;
- Increasing value of land suggests significant buying power on the demand side is being met in higher prices;
- Supportive access to credit

The Belonger/non-Belonger issues are essentially issues of economic power relationships in the country. Given un-restricted access, the land market is likely to replicate the economic power relationship that exists between TCI and the rest of the world, i.e. uneven and in favour of the “rest of the World”. It is, therefore, quite legitimate for TCIG to seek to intervene in land market relationships, by empowering Belongers through subsidized purchases and exemptions from fees in order to achieve sustainable results. The danger is that any short-sighted actions in this regard, can leave future TCI Governments in an extremely challenging situation.

The caution is that the results achieved by any fiscal measures aimed at the land market must be sustainable. The extreme situation of un-sustainable land market results is one in which a future TCIG is required to address any of two issues:

- a) Land redistribution, i.e., correcting an imbalance in land ownership, or
- b) Land restitution i.e. restoring land ownership either to dispossessed or back to the State (for conservation purposes) with adequate compensation.

### III. GOVERNMENT REVENUE STRUCTURE

#### **A. Recurrent Revenues**

The recurrent revenues available to the Turks & Caicos Government reflect the extent to which the economy depends on external demand. The four highest ranking revenue items over the last five (5) years have been in order of magnitude, Import Duty, Stamp Duty, Accommodation Tax and Work Permits and Residency Fees. Import duties and accommodation tax are both related to the level of tourism and tourism-related construction activities in the country. Stamp duty level reflects the level of activity in the real estate market and Work Permits and Residency Fees reflect the level of construction activity and tourism jobs taken up by guest workers.

**Table 2: Top Four Revenue Items in Recurrent Revenues: TCIG (in US\$'000)**

Item	1999	2000	2001	2002	2003
1. <i>Import Duty</i>	\$26,241	\$27,510	\$29,176	\$31,706	\$34,938
2. <i>Stamp Duty on Land Purchases</i>	\$6,541	\$11,376	\$7,862	\$9,749	\$20,098
3. <i>Accommodation Tax</i>	\$4,692	\$6,747	\$7,735	\$8,922	\$10,165
4. <i>Work Permits &amp; Residency Fees</i>	\$4,163	\$4,369	\$6,359	\$8,198	\$8,180
Total of Revenue Items	\$41,637	\$50,002	\$51,132	\$58,575	\$73,381
<b>Total Recurrent Revenues</b>	<b>\$62,253</b>	<b>\$71,997</b>	<b>\$75,310</b>	<b>\$83,617</b>	<b>\$104,313</b>
Revenue Items as % of Total	67%	69%	68%	70%	70%

Source: Compiled from Report on Government Finance Statistics, 1999–2003, Statistical Office, Department of Economic Planning and Statistics

These four items have consistently accounted for between 67% – 70% of total recurrent revenues. So the revenue stream stays alive so long as the economic activity feeding this stream continues to grow.

## B. Adequacy of Revenue Flows

It is clear that Government continues to benefit from two economic streams. General economic growth continues to benefit Government. In FY2002 the TCI GDP was estimated at US\$268m. The economy grew by 15% in FY2003 to US\$304m. The projection for FY2004 was a further 13% growth, with an estimated GDP at US\$348m. <sup>20</sup> Both recurrent revenues and expenditures also grew during this period.

However, Government is also benefiting from significant increases in land market activities. Between FY1999 and FY2002, total recurrent revenues increased on an average 11% each year. In FY2003, however, the increase in recurrent revenues was 24%, mostly due to a 91% increase in Stamp Duty on land purchases.

The interesting feature about Fiscal budget in TCI is that Government has been achieving a small level of surplus on its recurrent budget in the last 3 years. Although current revenues from taxes do not exceed total recurrent expenditures, when non-tax revenues are added, the surplus appears.

**Table 3: Summary of Recurrent Revenue and Expenditures (in US\$'000)**

Item	1999	2000	2001	2002	2003
Total Taxes	\$52,077	\$62,601	\$63,370	\$69,014	\$88,582
Total Recurrent Expenditures	\$55,687	\$65,395	\$76,473	\$78,690	\$93,545
Tax Collection Surplus/deficit	(\$3,610)	(\$2,794)	(\$13,103)	(\$9,676)	(\$4,963)
Total Non-tax Revenues	\$9,831	\$9,396	\$11,922	\$14,602	\$15,480
<b>Fiscal Surplus/Deficit Position</b>	<b>\$6,221</b>	<b>\$6,602</b>	<b>-\$1,181</b>	<b>\$4,926</b>	<b>\$10,517</b>

Source: Compiled from Report on Government Finance Statistics, 1999–2003, Statistical Office, Department of Economic Planning and Statistics

This surplus, however, has not been adequate to finance capital expenditures.

## IV. TRADEOFFS IN CURRENT TCI LAND POLICY

### A. Crown Lands as a Major Economic Resource

Government has expressed in various documents, its concept plans for the major islands within the Turks and Caicos Islands. Table 3 is a summary compilation of these concepts.

<sup>20</sup> 2004/05 Budget Address by Hon. Floyd Basil Hall, MLC, CA, May 3, 2004, p. 9 and 10

**Table 4: Development Concept Plans**

<b>Location</b>	<b>Summary of Concept Plan</b>
Providenciales Island	<ul style="list-style-type: none"><li>• High-priced Tourism</li><li>• Hotels;</li><li>• Condominiums;</li></ul>
Grand Turk Island	<ul style="list-style-type: none"><li>• Cruise Tourism;</li><li>• Cruise Ship Complex;</li></ul>
Salt Cay	<ul style="list-style-type: none"><li>• Satellite development from Grand Turk initiative</li></ul>
Middle Caicos/ North Caicos	<ul style="list-style-type: none"><li>• Nature/Adventure Tourism</li><li>• Marinas;</li><li>• Deep water harbour</li></ul>
South Caicos	<ul style="list-style-type: none"><li>• International Fishing Industry</li></ul>

Source: Extracted from 2003 – 2007 Policy Agenda, p. 10

While it is conceivable that some private initiatives such as My Dee's Commercial Complex, ROM Office in Central Bottle Creek and the Pelican Beach Hotel at Whitby in North Caicos will stimulate some growth, the major thrust in these plans will involved some measure of participation by both the State and its Crown Lands.

Even in a developed area such as Providenciales, one gets the unmistakable perception that the main economic drivers are to be found in major private sector construction of tourism facilities (Hotels, Condominiums, Resort facilities), land purchases and importation of construction material, and in the level of tourist visits.

Land will continue to play a major role in both of these activities, especially beach-front properties and particularly those currently owned by the Crown. Thus it may also be argued that Crown Land Policy has a major role to play in the sustainability of economic activity as well as the income stream feeding the recurrent revenue yields for the Government of the Turks & Caicos Islands. But this is not achievable without some costs.

It has been argued elsewhere that a comprehensive framework for Land Policy must include provisions to address the competing interests of<sup>21</sup>:

- Improving the economic efficiency and productivity in the use of scarce land resources by developing more dynamic land markets, and enhancing security of tenure;
- Increasing the access of disadvantaged groups to land and housing;
- Providing for the availability of land and water resources to future generations through the sustainable uses of these resources.

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<sup>21</sup> "A Framework for Discussion of Land Policy, Administration and Management in the Caribbean", by J. David Stanfield, Kevin Barthel and Allan N. Williams.

### ***B. Social vs Market Efficiency***

Like any other Land Policy, TCI Land Policy will be faced with the inevitable tradeoffs between, **efficiency, equity** and **sustainability** criteria. The efficiency criteria raise the question as to the extent to which the market is allowed to allocate land into its most efficient land use (from the social and national perspective) given the following factors:

- The level of land speculation;
- The price subsidization of “Belonger ownership”;
- The absence of indicative plans for specific areas and desired land–use practices;
- The lack of competitive bidding for the rights to develop projects within a planning framework.

Land markets define efficiency of land use in terms of the returns to the user. Thus the use of the land that commands the highest price is by economic definition the most efficient use. That result, however, is not acceptable when the State has to ration its limited land resources among other critical uses such as housing, public infrastructure, conservation and preservation for future generations. Regulatory planning has been the preferred method of achieving such broadly defined efficiencies.

### ***C. Equity through Belongership Advantages***

The “Belongership” concept provides us with a useful instrument in which to address the issue of “equity” as an objective of TCI Land Policy. This Policy, enunciated in a “Press Release” and soon to be effective (April 1<sup>st</sup>, 2004), states that with respect to residential Crown Lands:<sup>22</sup>

- Belongers are entitled to one (1) piece of residential Crown Land per Island but not after a home on another island has been completely constructed;
- Belongers are to pay 25% of the Open Market Value of Crown Land;

And with respect to Commercial Conditional Purchase Lease:

- No Crown Land for commercial purposes will be given (sic) unless a Belonger has a minimum of 51% in the entity that is given the land. The Belonger shall pay no more than 50% of the Open Market Value of the land and a maximum of 25% of the value per acre in the other islands with the exception of Providenciales.
- In the event that the Belonger sells his/her interest in the Land to a non–Belonger before ten (10) years, he/she would have to pay the Turks and Caicos Islands Government (TCIG) the balance of the Open Market Value of the Land at the time of the original transaction.

The residential clause clearly sees the equity issue for Belongers as one of access and it proposes a form of “***subsidized entitlement***”. The commercial land access is not as clear. First it

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<sup>22</sup> Press Release, Crown Land Policy, presumably originating from the Government Information Service ([gis@gov.tc](mailto:gis@gov.tc))

implies that the equity issue is related to the level of capital participation of Belongers in the entity seeking to acquire Crown Land. Thus Crown Lands would only be “given” to companies in which the Belongers are majority share holders at the time of purchase. If however, the Belonger decides to reduce his equity participation in the “entity accessing the land”, there is no provision for the Crown (State) to reclaim any windfall deriving from the sale of his/her shares. Indeed, if such a practice becomes prevalent, it would amount to another form of “fronting by Belongers”.

***Recommendation 2: With respect to sale of Crown Lands to commercial enterprises in which Belongers own 51% of the shares, the State should be compensated a proportionate amount of the Open Market Value of the land commensurate with any windfall gains accruing to Belongers through a change in the share–capital status of Belongers (sale of stocks) in the entity.***

### ***Sustainability through a Planning Regime***

The third tradeoff has to do with sustainability. In the Turks and Caicos Islands (TCI) we are faced with the option of using Crown Lands to gain the maximum immediate value for the State or foregoing current gains by preserving the land and water resources of TCI for the use of future generations. The latter could be achieved by prohibiting certain destructive uses of the land by private and public owners and/or excluding certain environmentally sensitive areas (wetlands, water sources for settlements, national parks) from the land market.

At the fundamental level, sustainability will not be achieved by the market mechanism, but through a planning regime that allocates land among competing uses. Currently land developers, and this includes Belongers, appear to be able to convert their private plans for different tracks of Crown Lands in to a de facto Land Use Plan for that area. The market thus, not only determines the result of any competition among the potential land users, but simultaneously decides the preferred land use itself. But this is precisely what the Chief Minister may have intended when he listed some of the other elements and principles that will be enshrined in his 10 year economic plan as follows:

*“ We will put an end to ad hoc development and unsystematic and frantic disposal of our prime resource – land. Rather, we will develop a proactive approach to investment that will help us to market new areas.”<sup>23</sup>*

However, he does not explicitly identify the real culprit as a lack of a planning framework within which to implement the sustainability criteria.

If we were to seek the benefits from other experiences, Martha’s Vineyard in Massachusetts would be a very good example.<sup>24</sup> This is a case of land in a “high–quality” environment, where

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<sup>23</sup> **2003 – 2007 Policy Agenda**, Delivered by Hon. Michael Eugene Misick, LLB, Chief Minister and Minister of Development ,Tourism, Natural Resources and District Administration, Wednesday, 24 September, 2003

this limited resource had very attractive physical attributes for tourism, market competition keeps driving up the price of land and residents have to contend with the provision of other uses such as housing, fisheries development, water resource management and infrastructure needs.

One of the many critical concerns of the local authority in Martha's Vineyard was that over-development could itself cause a decrease in its attractiveness. The dual fears were that :

- Mis-directed development could lead to environmental degradation;
- Intense influence from outsiders (read non-Belongers) would skew land-use in one direction and influence the affordability of land for housing and other needs.

The important lesson from Martha's Vineyard was that **Density** and **Diversity** were the major objective of any "re-balancing" taxes, duties, regulations, etc. In fact, they established an interesting planning instrument which was to declare an "area of critical planning concerns". The Land Policy framework comprised, among other things eight (8) critical planning concerns:

- a) Adequacy of drinking water resource;
- b) Development of fishing resources;
- c) Regeneration of Vegetation;
- d) Accommodating research and preserving scientific and ecological values;
- e) Facilitating cultural and/or historic values, recreational, diversity opportunities, geological and historical sites;
- f) Promoting sustainable economic and spatial development including housing, employment and waste management;
- g) Satisfying public investment needs;
- h) Having an implementable disaster-preparedness plan.

***Recommendation 3: In order to balance the competing requisites of efficiency, equity and sustainability, TCIG should introduce into its Land Policy Framework, designated areas of "Critical Planning Concerns" and specify appropriate policy measure to address these concerns.***

## **V. ISSUES OF LAND PRICES AND LAND SPECULATION**

### ***A. Defining an appropriate approach to Land Speculation***

Land speculation is a phenomenon associated with rapid increases in land prices. Land speculators, sensing that the upward trend in land prices are likely to persist, are enticed into purchasing land and holding it in the hope of receiving a significantly higher price in the future. Essentially the incentive exist where the potential gains they expect to make in a future sale outweighs the cost of keeping the property vacant or "unimproved".

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<sup>24</sup> The case study of Martha's Vineyard was presented faculty of Harvard University Urban Development Center at a Workshop on Planning & Development of Land in Tobago", August 20-22, 2001. The author facilitated this activity under the LUPAP project of Trinidad & Tobago

There are two approaches to combat land speculation. The first is to direct the tax at the vacant property itself. One can establish two categories of property; Class A property which exhibits all the qualities associated with the pursuit of land development objectives of the property. This Class will not attract any taxes. Class B property will be a listing of property that have failed within a specified period (2 years) to exhibit any signs of development activity. These become “suspect” properties and are exposed to a potential anti-speculation tax. This is an administrative approach to Land speculation and can become very difficult and expensive to collect. Determining the “suspect” classification would require:

- Defining what determines a suspect property;
- How long does the property have to be vacant for such designation;
- Determining the numerous exemptions; and
- Maintaining an inventory of such properties.

The second approach will be to direct the tax at the economic incentive to keep the land in an unimproved state. This approach recognizes that land values can increase as a result of value-added improvement in the land (built structures, private infrastructure) as well as changes in the value of adjacent properties. The latter situation is equivalent to the proverbial wave that raises all ships. The second approach seeks to identify situations in which the land price increases are following the trend set by adjacent properties in spite of a lack in value-added improvements. Such gains are viewed as speculative gains and attract the anti-speculation tax. An anti-speculation tax would seek to reduce significantly this incentive, by sharing in the gains from speculation in vacant property.

### ***B. A Tax on un-improved property***

A tax on the economic incentive for speculation would require four (4) major considerations:

- 1) The objectives that would attract such a tax would be
  - Un-improved property;
  - Business Property not being used for business purposes;
  - Un-occupied property
- 2) The exemptions to the anti-speculation tax should include:
  - Property for “residential uses”;
  - Property for religious purposes;
  - Property to be used for social services such as Hospitals and Museums;
  - Property to be used for educational institutions.
- 3) To maintain Belonger-ownership advantages we would propose a “Split-Rate” approach<sup>25</sup>. Essentially the tax rate is may be set at 50% of the land value “above what is considered the natural economic increase throughout the country”. The rate

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<sup>25</sup> Generally the split-rate is a tool that applies a different rate to land and to buildings on land. We are proposing to adopt it to provide an advantage to Belonger- ownership.

can then be reduced based on a formula that grants a discount on the rate based on the established level of Belonger-ownership.<sup>26</sup>

***Recommendation 4: It is recommended that an anti-speculation tax be explored as a tool for combating speculation in land. This split-rate approach can be used to maintain Belonger-ownership advantages. However it is proposed that Belongers who indulge in land speculation be targeted for taxation.***

### ***C. A Consolidated Land Value System***

The movement to institute an anti-speculation tax provides TCIG with other unique opportunities. The major one is to be found in the determination of a “natural economic increase of land values throughout the nation”. This would mean developing an official consolidated land valuation system.

The purpose of the consolidated land valuation system is to establish benchmarks for real estate values throughout the Turks and Caicos Islands. To do so, TCIG should create a sample of 100 parcels drawn from all the six major administrative districts in TCI, namely, Providenciales Island, North Caicos, Middle Caicos, East Caicos, Grand Turk and South Caicos. The sample should be designed so that the range between the highest and lowest property value (for equivalent size) should not exceed 20%. The values of the sample parcel are then monitored by private appraisers under contract with Government.

The sample can be used to produce a weighted average of land values whose annual change would be used to benchmark increases in land values in the various administrative districts. This provides an additional Land Policy tool to:

- Identify annual changes in the base-line land values;
- Identify areas in which land values are increasing faster than the index;
- Provide a basis for different land policy objectives in different districts;
- Provide the basis for calculating the potential “speculative gains” which would be the target for an anti-speculation tax.

***Recommendation 5: It is recommended that Government combines its consideration of anti-speculation measures with an approach to benchmark land values in different islands through a consolidated official land value system.***

## **VII. A TAX ON NON-BELONGER REAL ESTATE**

### ***A. Paying for Capital Expenditures***

The Government of TCI finances its “development agenda” in three ways:

- a) Loans on the international market;

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<sup>26</sup> In commercially owned property the level of Belonger-ownership corresponds to the equity participation of Belongers in the enterprise financial structure.

- b) Joint Public/private sector initiatives
- c) Local capital revenues

This “Development Agenda” is a significant plank in Government’s demonstration of fiscal responsibility. The Minister of Finance alluded to this when he stated, “It is important to note that our future will be based on our ability to generate resources to finance our development agenda.”<sup>27</sup>

Land plays a major role in all three of these methods. International borrowing is conducted within the confines of three ratios. The Debt Service Ratio which should not exceed 8% of recurrent revenues; the Net Debt Ratio which should not exceed 80% of total recurrent revenues; and the Asset ratio which should not exceed 5 times reserves (total liquid assets). As we have seen stamp duty on land purchases not only accounts for about 20% of recurrent revenues, but significantly influences the growth in the latter.

In joint public/private sector initiatives, the Government of TCI utilizes Crown Lands in defining its role in such ventures. This is evident in the Grand Turk Cruise Ship Project involving Carnival Corporation. Local capital revenues will be shown below to depend primarily on the liquidation of Crown Lands. The conclusion is clear. Crown Lands, through both its policy and management practices, remain the key to developing the ability to generate resources to finance Government’s development agenda.

The capital expenditure budget in FY2003 was \$20m which was funded as such<sup>28</sup>:

- \$11.7 million in capital revenue, as the first payment from the partial sale of Water Cay
- \$5.8 million in Loans
- \$0.86m in Grants
- \$4.3m from sale of Crown Lands

The Budget for FY2004–05 presented an ambitious scenario with expenditures classified as the “development agenda” being estimated at \$72 million. Table 3 expresses the Government’s proposals for financing this agenda, which includes 53% loans and 24% from local capital revenues

**Table 5: Financial Proposals for FY2004 Development Agenda (US\$'000)**

Capital Budget Items	Total	% of Total
<b>Development Expenditure FY2004</b>	<b>\$72,300.0</b>	
Financed by: Loans	\$38,000.0	52.56%
Capital Grants	\$9,800.0	13.55%
Private Initiatives	\$7,000.0	9.68%

<sup>27</sup> 2004/05 Budget Address by Hon. Floyd Basil Hall, MLC, CA, May 3, 2004

<sup>28</sup> Ibid., p.7

Local Capital Revenues	\$17,500.0	24.20%
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Source: Extracted from 2004–05 Budget Address p.11

The composition of the local capital revenues were estimated as follows:

- Contribution from Sale of Water Cay \$6.0 million
- Ordinary Land Sales \$5.5 million
- Carnival Corporation Cruise Ship Project \$4.0 million
- Infrastructure Development Fund \$2.0 million

The only local capital revenue item proposed that is not an outright sale of Crown Lands is the new “Infrastructure Development Fund.” It was proposed funding this through a \$0.25 increase in fuel tax.<sup>29</sup>

There are three aspects of the current capital revenue strategies that warrant some comment:

- The outright sale of Crown lands to finance the capital budget is not a sustainable long-term revenue strategy;
- The returns from “ordinary Sales” include a subsidy of “Belonger ownership” which at its minimum (presuming all sales were at 50% discount) is equivalent to 31% loss of capital revenues.
- The Infrastructure Development Fund, currently based on an increment of the Fuel Tax is neither a stable income stream, nor can it be expected to have a significant impact on future local capital revenues.

***B. Who should contribute to an Infrastructure Development Fund?***

We have established that Land will continue to play a critical part in the local capital revenue stream, and that the latter is key to the development agenda of TCI. We have also assessed that the objective of Crown Lands Policy that seeks to achieve equity through “Belonger ownership”, does so at a trade-off in excess of 30% of local capital revenues. While this policy objective itself is not being challenged in this Report, the question remains “Should Belonger-owners of Land be asked to contribute to the development agenda of the country?”

There should be no doubt in anyone’s mind that the Turks and Caicos Islands are fast approaching the point at which all of its citizens must take full responsibility for its future development. The Minister of Finance has echoed this sentiment in an astounding confession, when he said:

*“I am appalled by the share lack of attention that has been paid to the provision of infrastructure in these islands, and the obstacles one has to navigate to get funding approval. There should be no room for complacency and delay concerning the provision of this much-needed infrastructure. We have an aggressive agenda*

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<sup>29</sup> Ibid., p. 11

*to provide the required infrastructure; and we call on All [both at home and in the UK] to be supportive of our efforts.”<sup>30</sup>*

In his budget address, the Minister of Finance declared that, “The Infrastructure Development Fund is essential to our capital revenue strategy for 2004–2007. This Fund will be financed by a \$0.25 increase in fuel tax. The income to the Fund would be used to finance, maintain and pay debt service related to the provision of essential infrastructure.”<sup>31</sup>

The yield from this tax is likely to be very elastic for reasons having nothing to do with the burden of this tax. Given the current trend of oil prices exceeding \$50/barrel, private consumption rates in oil consuming countries are likely to decline as this translates into higher prices at the pump. Consumption of fuel for public transportation is also likely to be affected. Indeed, the more prevalent use of fuel taxes is usually accompanied by measures to subsidize public transport, giving an alternative to citizens who may be overly burdened by higher costs of transportation.

### ***C. The Economic Approach to an Infrastructure Development Fee***

Can a fee be applied on the real property held by non-Belongers with the intention of providing sustainable revenue for the on-going social and infrastructure needs of the island? Surely such a fee can be applied, but the considerations are likely to be much broader than simply the type of land ownership.

#### **Data Availability**

One of the major difficulties in assessing the potential yields of a direct tax on non-Belongers’ real property to contribute to infrastructure investments, is the lack of data. We have been unable to find any data that would indicate the extent of ownership of land by non-Belongers. A short trip around Providenciales Island would suggest that it is extensive. How extensive is still an open question.

This notwithstanding, we have devised a series of measure which should place the burden of such a tax predominantly on non-Belongers, although probably not exclusively.

**Recommendation 6:** The TCIG should seek to establish an inventory of non-Belonger Property so as to assess a potential yield of different tax-rates.

#### **Is a Fee on non-Belongers’ Real Estate a form of Property Tax?**

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<sup>30</sup> Op. cit., 2004–05 Budget Address, p. 21

<sup>31</sup> Op. cit., 2004–05 Budget Address, p. 24

This is a very important question for two reasons. The first is that both the TCIG and TCInvest claim the Turks and Caicos Islands as a “No Property Tax” jurisdiction. Can it continue to make such a claim with the implementation of a tax on property owned by non-Belongers? Secondly, what would the impact of such a tax be on foreign investor decisions?

Currently all land purchases attract a Stamp Duty based on the purchase price of the land. The Stamp Duty is not considered a violation of the claim of no-property tax. For the infrastructure fee to be legitimately considered in the same light as the Stamp Duty, it would have to share the same basis as the Stamp Duty, i.e. based on the original purchase price of the land. It does not matter what the “Fee” is called. If it is based on any value other than the original purchase price of the Land it will be a property tax.

***Recommendation 7: If the TCIG considers the status of “No-Property Tax” to be inviolable, then it should seek to establish its “infrastructure fee” on the same basis as the Stamp Duty. If the TCIG is willing to begin the process of introducing a Property Tax, then it may choose to base the “infrastructure fee” on the current value of property.***

#### **Using exemptions to achieve the incidence of the “Fee”**

The more structured approach to implementing a “Fee on non-Belongers’ real property” is to establish the Fee on all property and use exemptions to achieve a selected target. There are three categories in which Belonger properties are likely to occur:

- a) Residential property
- b) Small businesses which fall into the business category of “Belongers Only”.<sup>32</sup>
- c) Joint Ventures with varying levels of Belonger equity.

In order to implement a “Fee on non-Belongers’ real property” we propose that three specific exemptions be applied to reduce the burden of the Fee on Belongers;

- a) Exemption of all land being utilized for private residences
- b) Exemption of all commercial lands with a purchase price of \$125,000 or less. This should exempt most if not all of the small businesses reserved for Belongers only
- c) The use of a “Millage” system to maintain the advantages of Belonger-ownership in joint ventures.

To facilitate Belonger-ownership advantages, the fee would have to be assessed on the basis of millage rates. In tax terminology, a “mill” is 1/1000 of a unit. Thus if each 10% of Belonger-equity in an entity gives it 200 millage points, then a fully-owned Belonger entity

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<sup>32</sup> In his “2003–2007 Policy Agenda” address, the Chief Minister, in order to reduce unfair competition, illegal fronting and selling off of valuable national assets, as a first step, proposed three categories of businesses to be defined by the type and level of capitalization as follows:

- Category 1 – Belonger Only
- Category 2 – Belonger/Expatriate Joint Venture
- Category 3 – Open

would be entitled to an exemption of 2000/1000 or 2.0% off of the infrastructure fee. An infrastructure fee of 2.0% of the transaction price would result in non-Belonger entities paying the full fee while a wholly-owned Belonger entity would be exempt on the basis of its millage discounts.

***Recommendation 8: In order to implement a Fee on non-Belongers' real estate, it is recommended that TCIG give consideration to establishing the fee in its entirety and using a system of exemptions and millage point discounts to achieve this objective.***

#### **What would be a suitable structure of such a tax?**

A tax on real property in support of infrastructure development would need to be predictable and stable. If we were to follow the suggested route and base this fee on the purchase price at the time of sale, then its predictability would depend on changes in the land market. The current upward trend in land sales cannot continue indefinitely. However there is a method by which we can introduce a significant level of stability and predictability into the yield of such a Fee.

We can do so by applying the following conditions:

- The rate may be set at 2% of the purchase price
- The Fee is payable in the 2<sup>nd</sup> year of ownership of land
- The Fee is also payable on the 5<sup>th</sup> consecutive year following the first payment.
- For properties purchased in 2000 – 2005, the Fee is payable in the 6<sup>th</sup> year of ownership.

These conditions provide us with some benefits. Firstly, because it is applied one-year after purchase, it does not become a surcharge added to the stamp duty. Secondly it allows us to capture contributions from properties that were purchased in the five (5) years prior to its implementation. As the statistics show, this has been the period of rapid growth in land sales. Thirdly the repetitive periodicity allows us to combine past land sales level with current levels, thus reducing instability in yields due to current land market performance. More importantly, the Fee structure provides the Minister of Finance with three variables which he can manipulate to arrive at the most acceptable combinations for both economic and political reasons. These are the rate; the starting date of period and the repetitive period.

***Recommendation 9: It is recommended that the Infrastructure Fee be structured in a manner to provide the Minister of Finance flexibility in determining the rate as well as the periodicity of application***

#### **How Burdensome would such a Tax be?**

Everyone has an aversion to paying taxes. But the Infrastructure Fee may be so structured that the burden of the contribution is significantly reduced as one is called upon to pay. One way of doing so is to base the fee on the original purchase price at the time of

transaction (and not on current value of the property). The Fee contribution is therefore fixed in absolute terms. So that given inflation and the appreciation of value of one's property, the real cost of the Fee/contribution to an individual declines as the years go by. In other words, if one's first assessment is \$10,000 in 2006, by 2011 he/she will be required to pay the same amount i.e. \$10,000 which will be a significantly lower burden, than it would have been in 2006.

#### **D. ESTIMATING THE YIELD OF AN INFRASTRUCTURE FEE**

##### **Predicting Yields**

The yield of any fee is only as predictable as is the base upon which it is calculated. Since this proposed fee is based on past and current market transactions, its yield becomes very predictable. In the following example we assume that the exemptions would account for 30% of the stamp value. Then using the principle of a 3% increase in market sales over the 2005–2011 period, with the combination fee structure (the fee payable in the second year and every fifth year of ownership beginning with 2000), the yield would be as follows:

**Table 6: Yield of Infrastructure Fee (US \$m)**

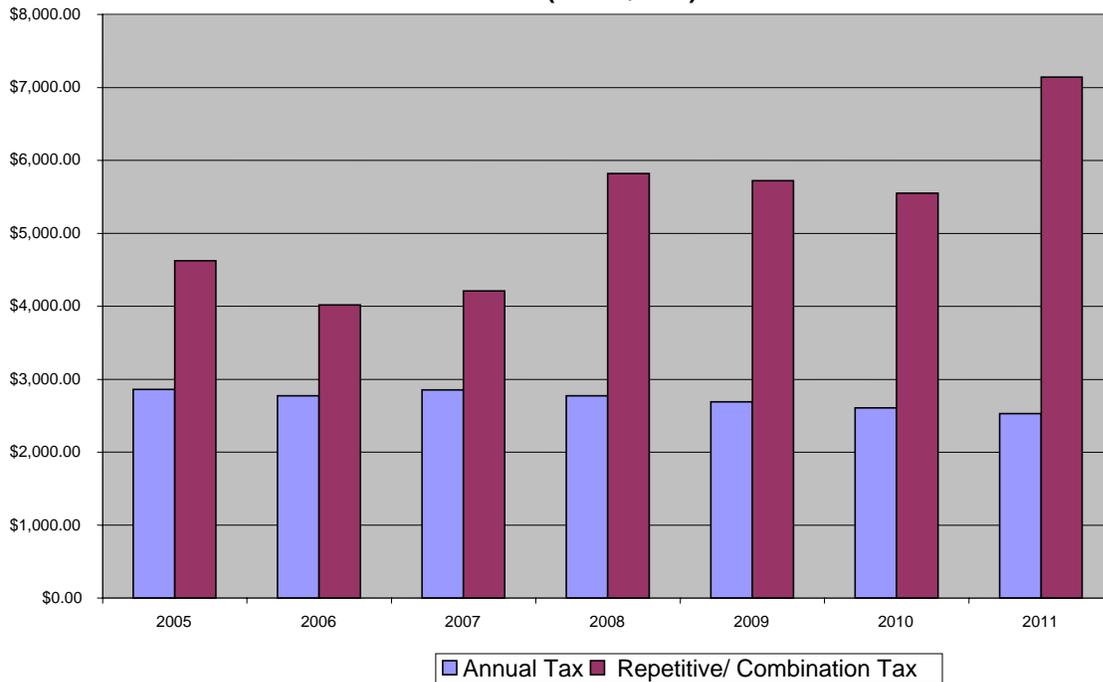
<b>FISCAL YEAR</b>	<b>Stamp Duty</b>	<b>Estimated Land Purchase Values</b>	<b>Yield of Annual Rate</b>	<b>Yield of a periodic (5yr) Yield</b>	<b>% difference</b>
2000	\$11.376	\$83.823		---	
2001	\$7.862	\$57.930		---	
2002	\$9.749	\$71.834		---	
2003	\$20.098	\$148.090		---	
2004	\$20.000	\$147.368		---	
2005	\$20.600	\$151.789	\$3.035	\$4.624	52%
2006	\$21.218	\$156.343	\$3.126	\$4.194	34%
2007	\$21.855	\$161.033	\$3.220	\$4.564	42%
2008	\$22.510	\$165.864	\$3.317	\$6.182	86%
2009	\$23.185	\$170.840	\$3.416	\$6.265	83%
2010	\$23.881	\$175.965	\$3.519	\$6.453	83%
2011	\$24.597	\$181.244	\$3.624	\$8,232	127%

Source: Calculated on base of 3% growth in 2005–11 Stamp Duty

It is interesting to note that whereas the combined/repetitive rate falls in 2006, by 2011 the yield is in excess of 100% of the annual rate. This is because the 2011 yield contains contribution from 2010, 2005 and 2000.

The following graph depicts the comparative yields of an annual and a combined/repetitive fee.

**Comparative Yields of Infrastructure Fee  
(in US\$'000)**



**How to achieve stability in the Infrastructure Fee**

The choice of the periodicity of the Fee is a very important one. The fee can be an annual fee based on the purchase price of the land. This, however, will not allow TCIG to benefit from the past period of high value land purchases.

The following table shows the hypothetical situation of both an annual and repetitive rate, and also introduces an actual decline in the land market.

**Table 7: Stability in Infrastructure Fee Yields (US\$m)**

FISCAL YEAR	Stamp Duty	Estimated Land Purchase Values	Yield of Annual Rate	Yield of a periodic (5yr) Yield	% difference
2000	\$11.376	\$83.823		---	
2001	\$7.862	\$57.930		---	
2002	\$9.749	\$71.834		---	
2003	\$20.098	\$148.090		---	
2004	\$20.000	\$147.368		---	
2005	\$19.400	\$142.947	\$2.858	\$4.624	52%
2006	\$18.818	\$138.658	\$2.773	\$4.018	42%
2007	\$19.383	\$142.818	\$2.856	\$4.210	44%
2008	\$18.801	\$138.534	\$2.770	\$5.818	104%
2009	\$18.237	\$134.378	\$2.687	\$5.718	106%

2010	\$17.690	\$130.346	\$2.606	\$5.547	113%
2011	\$17.159	\$126.436	\$2.528	\$7.142	179%

Source: Calculated on base of 3% growth in 2005–11 Stamp Duty

In this model of Table 7, Stamp Duty declines every year by 3% but the yield of the infrastructure fee shows a much slower decline. This gives us a lead of 3–5 years to institute adjustments in anticipation of the eventual absolute decline in the Fee in 2012.

The combined/epetitive rate allows us to accomplish two goals. The first is that any fluctuations in the future land market are not immediately transferred into a corresponding fluctuation in the infrastructure fee, although it does mean an immediate decline in the yield of the stamp duty. The second goal is that the 5–year period allows us to capture contributions from land transactions registered in 2001 and later.

### **Conclusion**

We have examined the revenue structure of the Turks and Caicos Islands Government. Stamp Duty on land transactions have contributed consistently about 30% of recurrent revenues over the fiscal years 1999–2004. In addition, Capital revenues have been supported by outright sales of land. This signifies that Crown Land Policy is a very important instrument in shaping the fiscal measures of the current and future Governments.

In seeking to improve on its ability to fund infrastructure expenditures, this review proposes that the “Infrastructure Development Fund” be based on a fee applied over a 5–year period to the transaction price. This fee may be structured so that it shares the same basis as the Stamp Duty, preserving the “No Property Tax” Status; exempts residential property and small business properties; preserves some advantage to Belonger–ownership and exhibits a high degree of predictability and stability in its yields.

## ANNEX 1; SUMMARY OF CONSIDERATIONS

Topic	Basic Objectives	Comments
<b>Land Policy: Natural Resource Management</b>	Establish advantages for the Government in its use of Crown Lands;	<ul style="list-style-type: none"> <li>• Influence pace of growth in Providenciales</li> <li>• Influence nature and timing of development in other islands</li> <li>• Provide the basis for raising additional revenues</li> </ul>
	Transfer benefits (current and future) to the population at large;	<ul style="list-style-type: none"> <li>• Affordable access to Belongers at 25% OMV on residential property;</li> <li>• Acquisition of commercial property at 50% OMV for majority Belonger ownership</li> </ul>
	Define the specific rules of engagement for the “rest of the World”: <ul style="list-style-type: none"> <li>• transparency;</li> <li>• maximising of returns and value for money to the TCIG;</li> <li>• the promotion of sustainable economic, social and environmental development;</li> </ul>	<ul style="list-style-type: none"> <li>• Contribute to social and physical infrastructure development</li> <li>• Facilitating adequate land resource for an affordable housing policy for all residents</li> <li>• Preserving diversity in each island through conservation and land-use objectives;</li> </ul>
<b>Expressed Development Concepts</b>	Providenciales Island	<ul style="list-style-type: none"> <li>• Hotels; Condominiums; High-priced Tourism</li> </ul>
	Grand Turk Island	<ul style="list-style-type: none"> <li>• Cruise Ship Complex: Cruise Tourism</li> </ul>
	Salt Cay	<ul style="list-style-type: none"> <li>• Satellite development from Grand Turk initiative</li> </ul>
	Middle Caicos/ North Caicos	<ul style="list-style-type: none"> <li>• Marinas; Nature/Adventure Tourism</li> </ul>
	South Caicos	<ul style="list-style-type: none"> <li>• International Fishing Industry</li> </ul>
<b>Business Categories</b>	I: Belongers Only	Exclusively reserved for small businesses
	II: Belonger/Expatriate Joint Venture	Distinguished by 51% Belonger ownership
	III: Open	Attracts major investments with/without TCIG participation
<b>Structure of Revenue Sources</b>	<ul style="list-style-type: none"> <li>• Taxes 39%</li> <li>• Duties 35%</li> <li>• Fees &amp; Charges 14%</li> </ul>	

	<ul style="list-style-type: none"> <li>Licenses 5%</li> <li>Rentals 1%</li> <li>Other Charges 6%</li> </ul>	
<b>Top Four Revenue Items (FY2003)</b>	1. Import Taxes \$34.938m.	Buoyancy supported by construction imports
	2. Stamp Duties \$20.098m.	An active real estate market: property prices rising
	3. Accommodation Tax \$10.165m.	Expanding coverage to include Condominiums, Apts.
	4. Work Permits & Residency Fees: \$8.180m.	Related to construction and tourism guest workers
<b>Capital Revenue Sources: (Propose FY2004)</b>	Total: \$72.300m.	
Financed by: Loans	\$38.0m. -- 52.56%	Use of Asset ratios to govern prudent borrowing
Capital Grants	\$9.8m. - 13.55%	Reduced participation by UK Government
Private Initiatives	\$7.0m. - 9.68%	Government Participation may be based on Land contribution
Local Capital Revenues	\$17.5m. - 24.20%	Indication of Financing capability
<b>Anti-Speculation Tax</b>	Applicable to suspected situation of land speculation	<ul style="list-style-type: none"> <li>Un-improved property;</li> <li>Business Property not being used for business purposes;</li> <li>Un-occupied property</li> </ul>
	Determining Exemptions	Exempting Properties with such identifiable uses as: <ul style="list-style-type: none"> <li>Residential;</li> <li>Religious purposes</li> <li>Hospitals, Museums</li> <li>Educational Institutions</li> </ul>
	Preserving Belonger-Ownership Advantage	Use of Split-Rate tax instrument
<b>Proposed Infrastructure Development Fee</b>		
<ul style="list-style-type: none"> <li>Applicable to all land owners</li> </ul>	Shares same base as the Stamp Duty	<ul style="list-style-type: none"> <li>All Land transactions are subject to Stamp Duty</li> </ul>
<ul style="list-style-type: none"> <li>Based on purchase price at time of transaction</li> </ul>	2% of purchase price	<ul style="list-style-type: none"> <li>Rate directly related to desired revenue yields:</li> <li><i>Fee Rate negotiable</i></li> </ul>
<ul style="list-style-type: none"> <li>Exemptions aimed at</li> </ul>	Exempts all residences	<ul style="list-style-type: none"> <li>Should remove all private</li> </ul>

<p>Belonger property</p>	<p>Exempts property with purchase prices of \$100,000 or less</p>	<p>residences from contributing</p> <ul style="list-style-type: none"> <li>• Should remove all small businesses from contributing</li> <li>• <i>Exemption levels negotiable:</i></li> </ul>
<ul style="list-style-type: none"> <li>• Exemption to Maintain an advantage to Belonger-ownership</li> </ul>	<p>Discounts 200 millage points (200/1000 of 1%) for every 10% of Belonger equity in entity</p>	<ul style="list-style-type: none"> <li>• Recognizes the participation of Belonger capital in commercial businesses</li> <li>• <i>Millage Points negotiable</i></li> </ul>
<ul style="list-style-type: none"> <li>• Applicable in period following purchase</li> </ul>	<p>Applied in second year of possession and every 5<sup>th</sup> consecutive year</p>	<ul style="list-style-type: none"> <li>• Not an annual rate:</li> <li>• Not based on increasing value of land over years</li> <li>• Applied to all land purchases beginning in 2000</li> <li>• Periodicity ensures real estate fluctuations do not immediately impact on yield of fee</li> <li>• <i>Periodicity negotiable.</i></li> </ul>

## ANNEX 3

### TURNQUEST REPORT:

Crown Land Management

## INTRODUCTION

The Turks and Caicos Islands were annexed by The British government in 1799 and successfully petitioned to become self-governing under the supervision of the Governor of Jamaica in 1848. From 1874 to 1959, the islands were a dependency of Jamaica and again became linked to The Bahamas in 1962 and remained so until 1973 when the Bahamas became an independent nation.

When the Turks and Caicos Islands came under British control, all the land present in the islands immediately became Crown Land and was considered the Monarch's property, to be dispensed with as he saw fit. It could be converted to private land by means of a Crown Grant.

Crown Land is considered a heritage asset that is administered by the Government of The Turks and Caicos Islands. It is disposed of via issuance of a Conditional Purchase Lease for residential and commercial purposes for periods of three five and five years plus. While the tenant holds exclusive possession of the parcel for the leased period, the Government retains ultimate control and ownership and simultaneously derives an annual income. Leases are principally issued in respect of parcels within an existing subdivision and subject to rates based on values set by the Valuation Department. It is an appropriate form of tenure that is mainly used to encourage desired development while at the same time avoids the speculative hoarding of Crown Land.

The other means of Crown Land disposal is by transfer of the freehold interest, which is always preceded by a lease and becomes exercisable once the tenant concerned has satisfied certain preconditions. It is authorized by Government who warrants against having made prior transfers or encumbrances.

Crown subdivisions are established in response to demand as determined by the Department of Lands and Surveys (DOLS) based on submitted applications for Crown Land. Government may also initiate the creation of a Crown subdivision based on anticipated demand. In either case, the subdivision is designed by the Department of Physical Planning and surveyed by the DOLS. While residential and commercial parcels outside a subdivision may be considered for allocation, this is discouraged to ensure orderly development. However, exceptions are made in cases where the land concerned comprises large tracts which are intended for large scale development.

The Crown Land portfolio is maintained by DOLS, which uses a Crown Land Unit Database Application (CLUDA) system to assist with its maintenance. CLUDA was developed using Microsoft Works Database and include fields for the unique reference and area of each Crown parcel. Also where parcels are subject to an existing lease, additional fields include the tenant's name, dates for lease extension and expiration, capital open market value, rent payable, title cost, dates for approval and registration of title, type, cost and status of development.

## **THE PROCESS OF ACQUIRING CROWN LAND**

The process of an application for Crown Land disposal varies depending on the proposed land use and type of tenure and may be distinguished as follows:

- a) Lease of a residential Crown parcel in a subdivision (see flow chart at Annex 1).  
An application is submitted to the DOLS who then reviews its contents for completeness, verifies parcel details by referring to the subdivision plan CLUDA and where necessary conducts a site inspection. A recommendation to lease is then prepared and forwarded to the Ministry of Natural Resources who approves it and issues an offer to lease directly to the applicant.

A period of nine months in which to accept is given to the applicant who would indicate this by requesting a voucher from DOLS for payment of rent and administrative fees to the Public Treasury Department. In anticipation of payment, DOLS prepares a draft lease document and allows the applicant to sign it once the latter presents a receipt confirming payment. The document is then forwarded by the DOLS to the Ministry of Natural Resources for checking and onward submission to the Registry Department.

The Registry Department registers verification of the lease document and releases it to the Governor's Office for execution after which it is returned to the Registry for appropriate entries to be made in the Applications Book and Leasehold Register. A copy of the document is then issued to the applicant and Attorney General for their records.

- b) Lease of a residential crown parcel not in a subdivision (see flow chart at Annex 2).  
The application process is similar to that outlined in a) above, except that mutation of a parcel is required in this instance and as a result advice from the Physical Planning Department is sought and obtained, and also a freehold valuation of the site is provided by the Valuation Department prior to Lands and Surveys submitting a recommendation to the Executive Council.

Following approval, the Executive Council informs the Ministry of Natural Resources who in turn issues an offer to the applicant.

Another exception is that the Registry Department issues a new parcel number when verification of the lease is registered.

- c) Lease of a commercial parcel in a subdivision (see flow chart at Annex 3).  
The application process is similar to a), except that following receipt, DOLS informs the Physical Planning Department of the proposed commercial activity, prior to submitting a

recommendation to the Executive Council. Physical Planning verifies whether the intended use is consistent with the existing land use plan and informs the Executive Council directly.

Following approval, the Executive Council informs the Ministry of Natural Resources who in turn issues an offer to the applicant.

- d) Transfer of a leasehold Crown interest to a freehold interest (see flow chart at Annex 4). The application is submitted by the applicant directly to the Ministry of Natural Resources and following approval, the Ministry makes a transfer offer to the applicant. Acceptance is confirmed by full payment of fees to the Public Treasury Department and the applicant presents the receipt to the Registry Department who then prepares a Transfer Document.

Once prepared, the document is signed by the applicant, witnessed by a Justice of the Peace and thereafter sent to the Governor's Office for execution. On its return, the Registry makes appropriate entries in the Applications Book and Leasehold Register and issues a copy of the document to the applicant and Attorney General for their records.

#### **COMMENTS ON THE PROCESS**

Critical records relative to Crown Land location, extent and tenure are held by DOLS and the Registry Department, however the process does not ensure a linkage of these two agencies for the sharing of data (see Annex 5).

With specific reference to an application for a residential parcel in a subdivision, the DLS recommends a lease, but will only know that it has been approved and offer made, when the successful applicant indicates his intention to accept by requesting a voucher from the department for initial fee payment. Also, the Department is only aware of acceptance (and thus releases a draft lease document) when the tenant presents receipt of payment. Succeeding vital stages in the process, which includes execution, registration and final release of the completed document, is coordinated by the Registry Department.

In the case of transfer of a leasehold interest in Crown Land to that of a freehold, there are a total of nine stages in the process of which five includes the Registry Department. However, DOLS is not involved and is thus not aware of this change of tenure in respect of its parcel holding.

Nevertheless, DOLS endeavors to associate its records with the Registry Department by manually collecting data from the latter's records for appropriate entries in its CLUDA database. However, this readily lends itself to the possibility of generating errors as the same data is

entered on three different occasions in three separate locations by at least two different persons.

## **CONCLUSIONS**

- a) DOLS is unable to independently confirm the availability of Crown Land and thus has to rely on complementing its records and data from the Registry Department.
- b) DOLS cannot confirm the amount of Crown Land remaining, without reference to the Registry Department.
- c) DOLS cannot independently confirm what leases have been executed.
- d) To determine the status of a lease agreement, a client may be obliged to make enquiries of three agencies:
  - i. The Department of Lands and Surveys;
  - ii. The Ministry of Natural Resources;
  - iii. The Registry Department.
- e) DOLS could mistakenly assume that a proposed commercial application is consistent with the land use plan and recommend and gain approval on this basis without reference to planning.
- f) DOLS cannot confirm when a leasehold is converted to a freehold unless it physically obtains this from the Registry Department.

## **RECOMMENDATIONS**

- a) It is suggested that the Turks and Caicos Islands government establishes a Central Land Agency as illustrated in Annex 6. This would result in bringing together the Departments of Lands and Surveys, Physical Planning, Registry and the Geographic Information Systems Centre. While their respective responsibilities would remain as is presently the case, the agency would nevertheless require an internal organizational structure to ensure, inter alia, proper protocols for efficient networking. The benefits to be derived from this setup would include:
  - i. Greater reduction in duplication of current efforts to maintain different data layers.
  - ii. Significantly increased efficiency in managing land and providing information on its current status to pertinent government authorities.
  - iii. Increased ability of primary agencies dealing with land to perform their mandate.
  - iv. Reduction in cost to government in terms of resources required for collecting and maintaining these data sets.
  - v. Facilitate planning and policy development in respect of land.
  - vi. Facilitate public/private interface by centralizing information.

Alternatively, it is suggested that a Crown Estates Office as represented in Annex 7 be established. This is similar to the setup currently in place at the Department of Lands

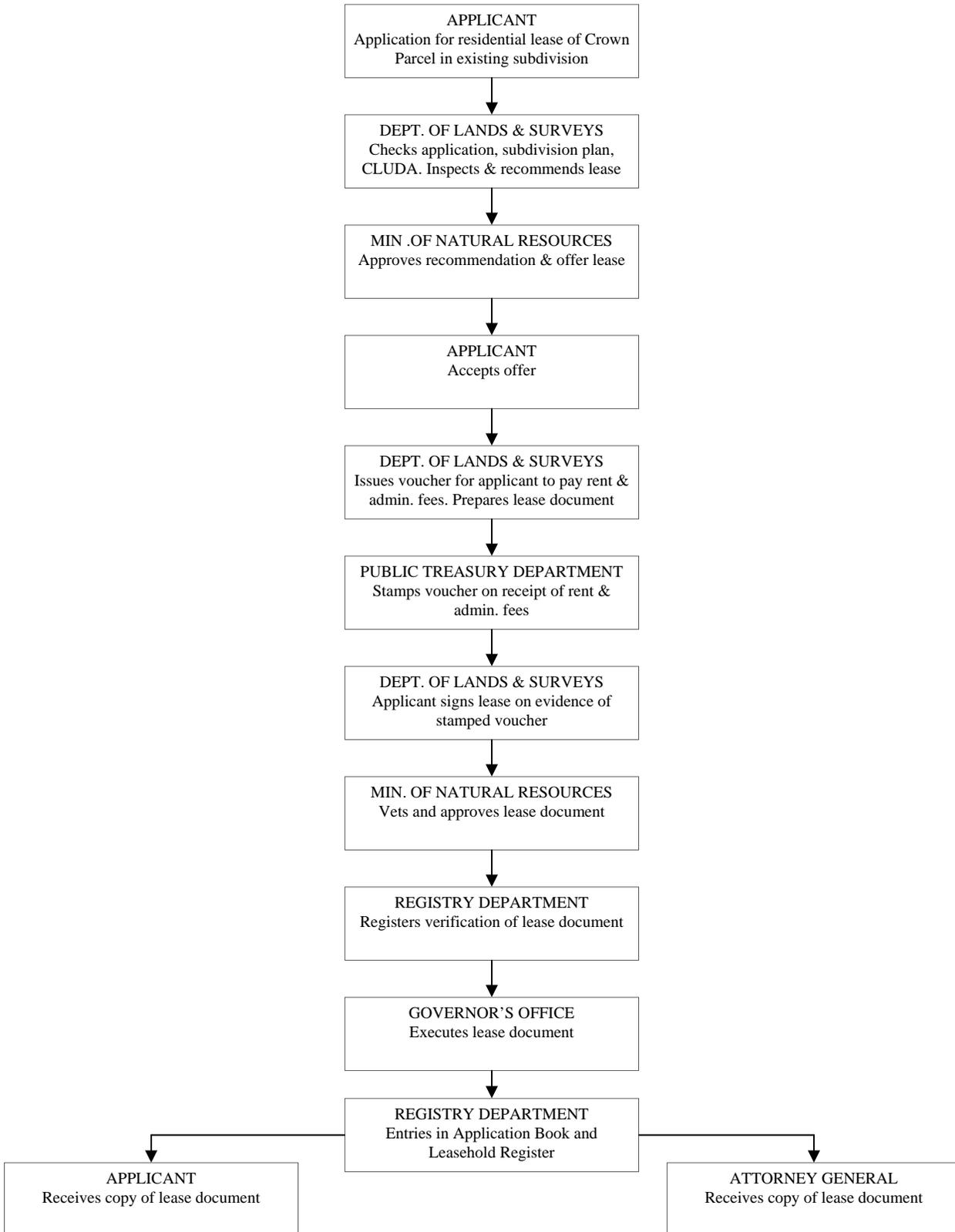
and Surveys in The Bahamas. While it places a greater administrative responsibility on the Department, it nevertheless guarantees the existence of one government agency which possesses and can provide all information regarding the administration of Crown Land.

- b) The Department of Lands and Surveys in The Bahamas has recently introduced an estate management tool known as the CAPS Uniform Estate Management System. To date this has proven to be most beneficial and accordingly it is recommended that the system be acquired by the government. The benefits to be derived from CAPS include:
  - i. It enables private and public sector organizations to manage multiple property interests more effectively.
  - ii. It offers a range of separate applications for property portfolio management – yet within a single system that uses a common and easily-navigable interface.
  - iii. In combination with associated products, it is capable of handling a wide range of administrative processes centered on land and property information.
  - iv. It holds records of all properties in which an organization has an interest.
  - v. It is built around a gazetteer management system that is fully compliant with the latest release of the standard for handling and managing address information.
  - vi. It deals with the many administrative processes for acquisitions, disposals, leasing, asset management and maintenance of properties.
  
- c) The appointment of a five to seven member Board to review and comment on recommendations for Crown Land disposal prior to their submission to the Ministry of Natural Resources or the Executive Council. This would assist in improving transparency while simultaneously reducing the ability to exercise discretion in recommending and deciding on applications. Also it would reduce the burden that is otherwise placed by applicants on government agencies that are involved in the process. Further, the Board could assist in ensuring equilibrium between Government's intention and the preservation and protection of Belongers right to Crown Land development.

APPLICATION PROCESS FOR  
LEASE OF RESIDENTIAL  
CROWN PARCEL IN A  
SUBDIVISION

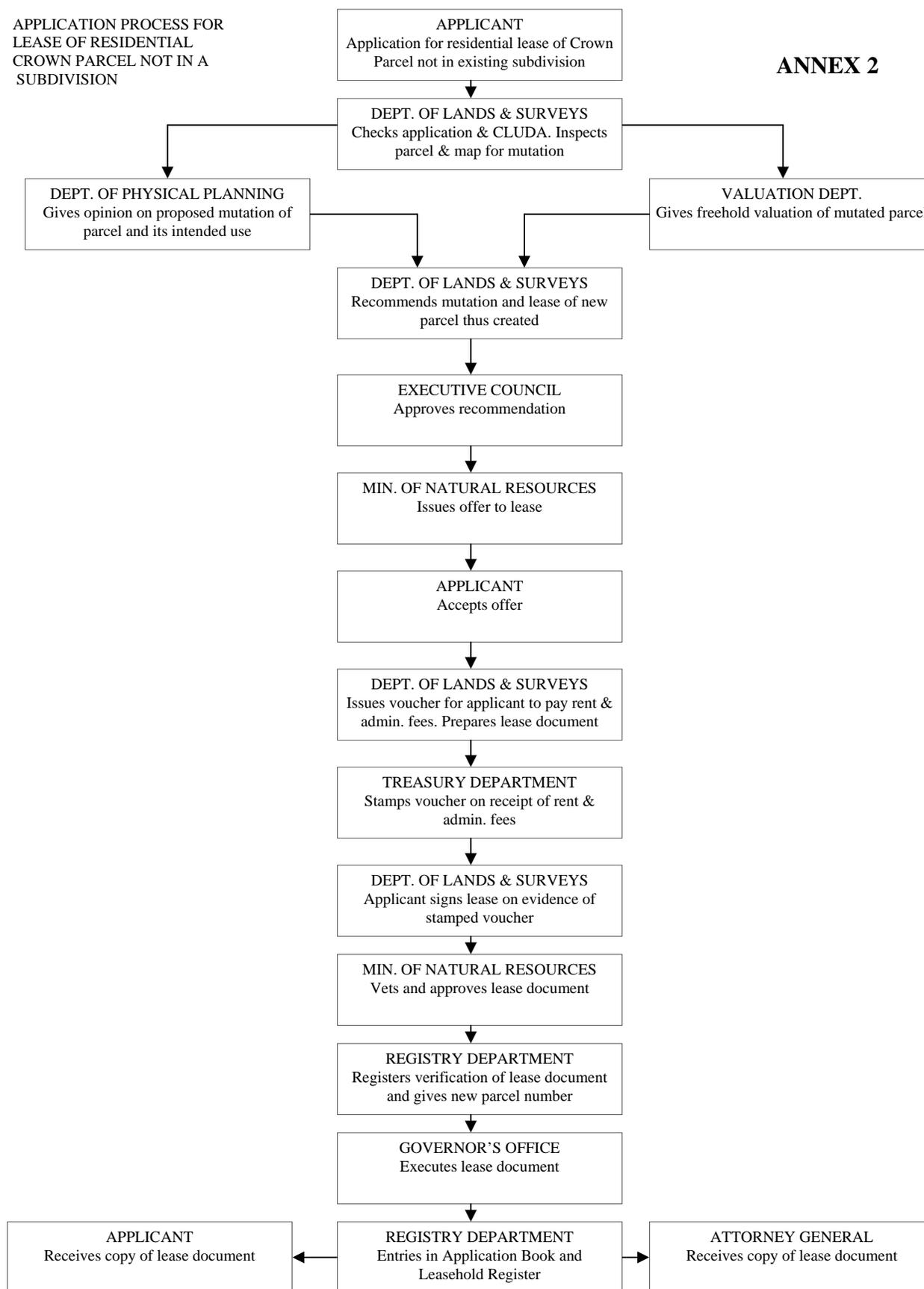
APPLICATION PROCESS FOR LEASE OF RESIDENTIAL  
CROWN LAND IN A SUBDIVISION

ANNEX 1



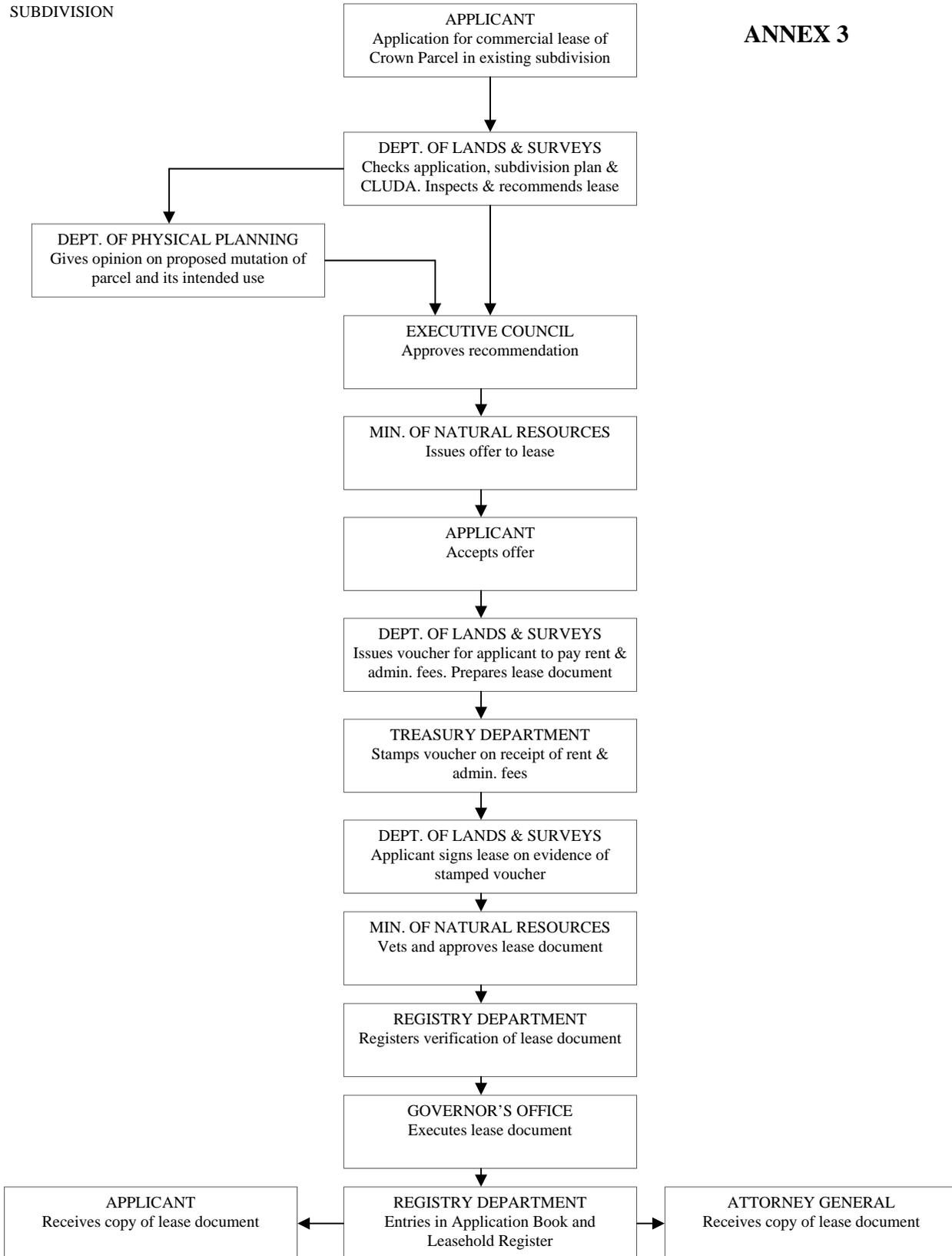
**ANNEX 2**

**APPLICATION PROCESS FOR  
LEASE OF RESIDENTIAL  
CROWN PARCEL NOT IN A  
SUBDIVISION**



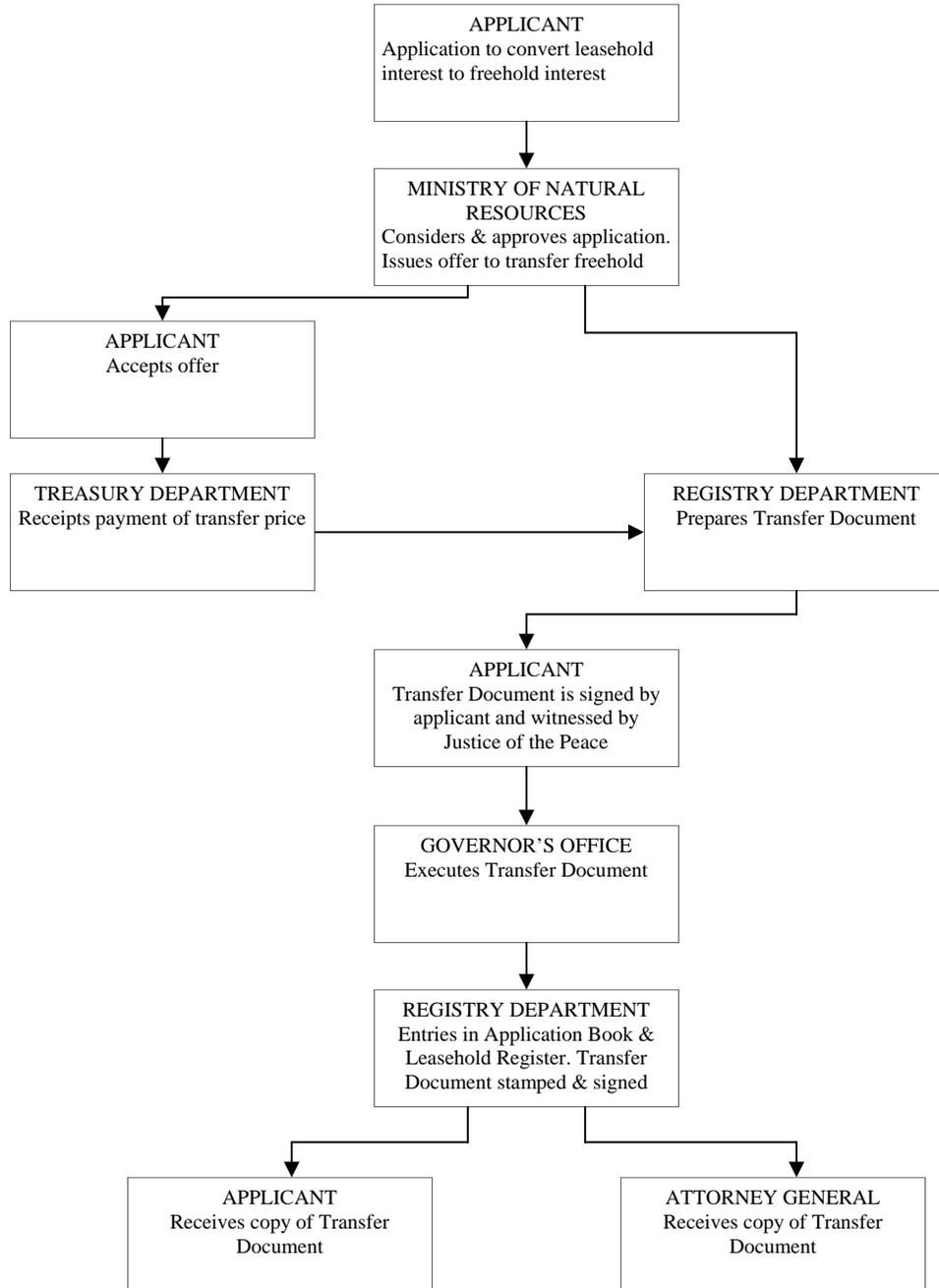
APPLICATION PROCESS FOR  
LEASE OF COMMERCIAL  
CROWN PARCEL IN A  
SUBDIVISION

**ANNEX 3**



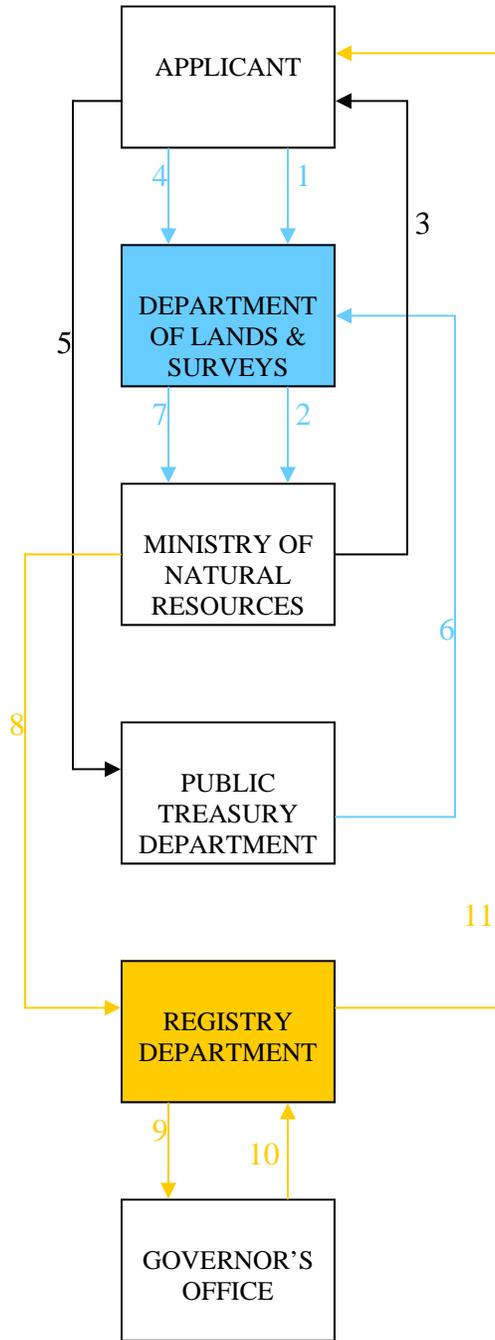
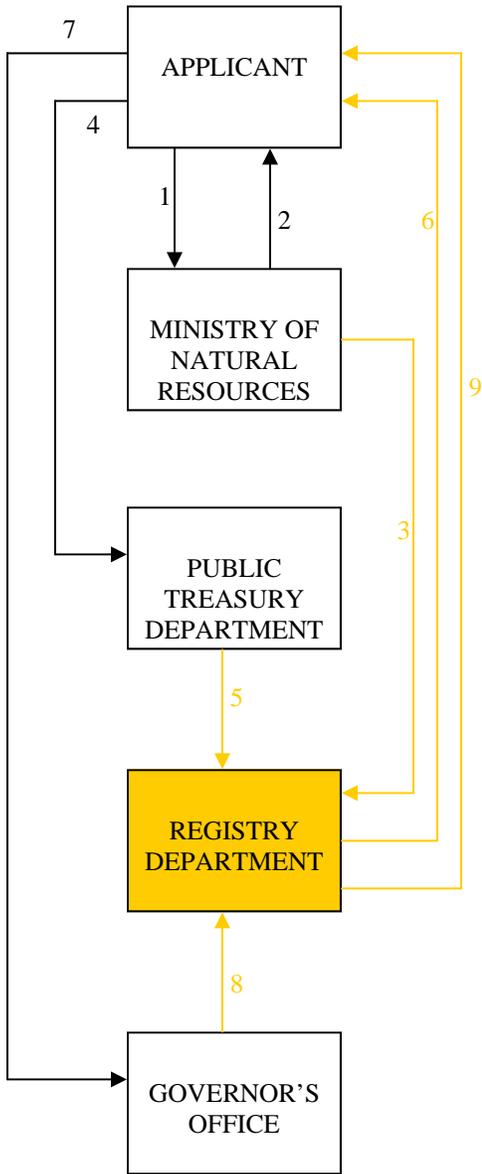
APPLICATION PROCESS FOR  
TRANSFER OF LEASEHOLD  
CROWN PARCEL TO

ANNEX 4



**TRANSFER TO FREEHOLD**

**CREATION OF LEASEHOLD**



**Registry Department**

- 3 Receives copy of offer
- 5 Receives receipt of payment
- 6 Issue transfer document
- 8 Receives executed transfer document
- 9 Issues executed transfer document

**Dept of Lands & Surveys**

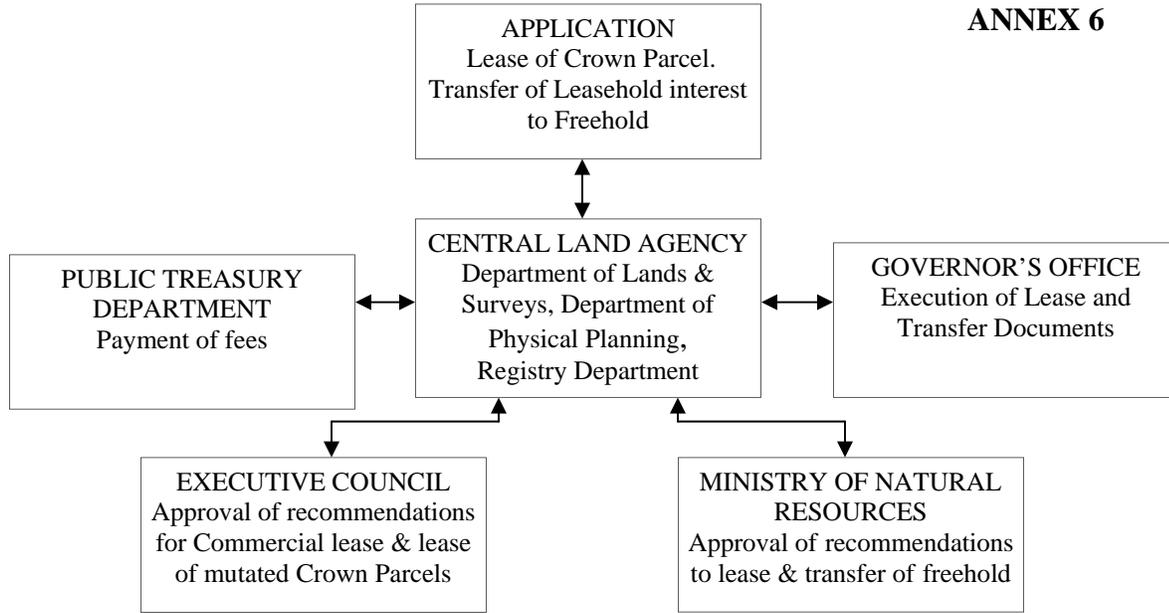
- 1 Receives application
- 2 Recommends application
- 5 Issues voucher
- 6 Receives payment receipt
- 7 Issues draft lease

**Registry Department**

- 8 Receives vetted lease
- 9 Issues lease for execution
- 10 Receives executed lease
- 11 Issues executed lease

**CENTRAL LAND AGENCY**

**ANNEX 6**



**CROWN ESTATES OFFICE**

**ANNEX 7**

