



**Cape York Land Council Aboriginal Corporation**  
ICN 1163 | ABN 22 965 382 705

6 June 2017

Queensland Productivity Commission  
PO Box 12112  
George St Brisbane  
QLD 4003

Dear Queensland Productivity Commission

Cape York Land Council considers that the *Inquiry into service delivery in remote and discrete Aboriginal and Torres Strait Islander communities* provides an important opportunity to identify and address the underlying causes of Indigenous disadvantage in the remote areas of Queensland. Many of the communities that are the subject of your Inquiry are located on Cape York so your Inquiry is of strong interest to us, and we are hopeful that positive outcomes will be achieved for the people we represent.

Please find attached the Cape York Land Council submission regarding the Inquiry. Many of the issues raised in our submission are complex and may require further discussion for you to fully appreciate their relevance and effects. If you wish to discuss any aspect of our submission please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Peter Callaghan'.

Peter Callaghan  
Chief Executive Officer  
Cape York Land Council

## **Cape York Land Council submission regarding the Queensland Parliamentary Commission Inquiry into service delivery in remote and discrete Aboriginal and Torres Strait Islander communities**

### **Introduction**

The Cape York Land Council (CYLC) is the Native Title Representative Body (NTRB) for the Cape York region. In our NTRB role we are recognised and resourced to fulfil statutory functions under the *Native Title Act 1993* (Cth). In our broader Land Council role we support, protect and promote Cape York Aboriginal peoples' interests in land and sea to positively affect their social, economic, cultural and environmental circumstances. In this capacity, we welcome the opportunity to comment on the Queensland Parliamentary Commission Inquiry into Service Delivery in remote and discrete Aboriginal and Torres Strait Islander Communities (the Inquiry).

CYLC's Representative Area includes many of the remote and discrete communities that are the subject of the Inquiry, namely Aurukun, Hope Vale, Kowanyama, Lockhart River, Mapoon, Napranum, Northern Peninsula Area (Bamaga, Injinoo, Seisia, New Mapoon, Umagico), Pormpuraaw, Wujal Wujal and Coen. Each of these communities, with the exception of Coen, is located in an Indigenous Local Government Area (ILGA). CYLC therefore has a very strong interest in the Inquiry, and has significant experience in identifying the underlying causes of Indigenous disadvantage, and the constraints that prevent these causes from being addressed.

CYLC supports the Queensland Government's objective in the Inquiry's Terms of Reference "*... to increase social and economic participation and achieve service outcomes that meet the needs of Aboriginal and Torres Strait Islander communities by ensuring that high quality services are delivered in a culturally capable, timely, affordable, efficient and effective manner.*" There is a number of contributing factors that constrain the achievement of this objective on Cape York and in other parts of Queensland, but foremost is the dysfunction of the land administration system (LAS) in ILGAs.

A functional LAS is an essential and fundamental requirement for the creation of legally secure and certain interests in land. In turn, secure and certain interests in land are essential for the formation and regulation of markets in land, social and economic participation, and service delivery. In turn, land markets, economic participation and service delivery are essential for the social, cultural, environmental and economic wellbeing of any person or community, including remote and discrete Aboriginal and Torres Strait Islander people and communities.

This submission focusses on the failings of the existing LAS in Queensland's ILGAs and identifies reforms and improvements to create a LAS in ILGAs that is equivalent to the LAS enjoyed in the rest of Queensland. If the LAS reforms proposed in this submission are implemented CYLC is confident that an effective platform for increased social and economic participation will then exist. In addition, service delivery and the relationship between government and discrete indigenous communities in Queensland will become normalised and the last anachronistic vestiges of the mission era and Indigenous protection and control will finally be erased.

Ultimately, over time, increased social and economic participation by community residents will reduce the need for government service delivery in ILGAs to levels which are closer to the average levels of service delivery in the rest of Queensland. Reform of the LAS therefore is an essential starting point to address many of the issues that the Inquiry is seeking to address.

### **The state of the Land Administration System (LAS) in Cape York's ILGAs**

Land administration is a broad subject, but in essence a LAS consists of an interconnected and interdependent system of parts which, when effectively operating, provides a secure and certain system for using and managing interests in land, and this in turn creates the confidence and certainty required for investment and development to occur. It is important to understand that the LAS in

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discrete indigenous communities includes land ownership, land tenure and property rights, land use planning, and native title. The failure to date to include and settle these foundational aspects into ILGAs LAS must be addressed.

In Queensland, the LAS is enabled by legislation such as Queensland's *Land Act 1994*, *Land Title Act 1994*, *Planning Act 2016*, and in addition for ILGAs the *Aboriginal Land Act 1991*, *Torres Strait Islander Land Act 1991*, and the *Aboriginal and Torres Strait Islander Land Holding Act 2013*. In areas where native title continues to exist, as it does in the vast majority of land within ILGAs, the *Commonwealth Native Title Act 1993* is also part of the LAS, and the governance of communal ownership of Indigenous land is often managed under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*. In addition, land use and management is subject to legislation such as Queensland's *Vegetation Management Act 1999*, *Nature Conservation Act 1992*, *Water Act 2000*, *Mineral Resources Act 1989*, *Aboriginal Cultural Heritage Act 2003*, *Cape York Peninsula Heritage Act 2007*, and the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*.

The combination of

1. the legislation listed above, and other legislation,
2. the Queensland Government's Land Title Register,
3. the functional capacity of Indigenous Corporations and individuals to competently utilise their rights in land,
4. the adequacy of Local Government municipal service delivery, and
5. the willingness of the providers of capital to accept land in ILGAs as collateral for loans,

largely determines if the certainty and security that is essential to underpin social and economic participation and effective service delivery exists in ILGAs.

CYLC, as a long term active participant in trying to use the ILGA LAS for the purpose of promoting home ownership, economic development, service delivery and other land uses for Cape York's Indigenous people has become acutely aware of the failings of the current state of the LAS in ILGAs, and can demonstrate that this is a fundamental issue that must be addressed if social and economic participation and effective service delivery is to be achieved.

It is clear that the LAS is dysfunctional in Cape York ILGAs and other remote and discrete Aboriginal and Torres Strait Islander communities, and it lags far behind the standard of LAS services that the rest of Queensland enjoys and depends upon to successfully enable social and economic participation. It is clear that a major reason why social and economic participation in remote and discrete Aboriginal and Torres Strait Islander communities is much lower, and government service delivery levels are much higher and more difficult than in other parts of Queensland, is because of the failings of the LAS in these communities. This dysfunction is also directly linked to what many Indigenous leaders have described as the 'structural disempowerment' of Indigenous people living in discrete communities.

An understanding of the LAS and its failings is important to understand the reforms that are necessary. To assist the Inquiry's understanding, the dysfunction of the current LAS is outlined in more detail in Attachment A to this submission. Many of these issues have been raised in many other forums many times before, and CYLC has been partially successful in influencing reforms that are being implemented by the Queensland Government, such as through the work of the Remote Indigenous Land and Infrastructure Program Office. However, there is not a clear model for LAS reform outcomes that is agreed between all levels of government and communities. These outcomes must be agreed so that all parties involved in the reform process are coordinated and complementary in the reform actions they are taking.

The CYLC proposed reform outcomes are outlined below. CYLC proposes that achieving these outcomes should form part of the Inquiry Recommendations to the Queensland Government.

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## **Inquiry Reform Outcomes**

Amongst the recommendations in the Inquiry Report to the Queensland Government should be that:

All land in each ILGA, and land around remote and discrete Indigenous communities located in mainstream local government areas, should enjoy the following LAS arrangements:

- 1. Land Tenure and Property Rights.** The primary land tenure layer is inalienable and communal Aboriginal freehold, except for small areas where other tenures such as road reserves exist as appropriate. Aboriginal freehold property rights include rights to resources such as timber, gravel, carbon, water, vegetation, etc, and the right to grant legally secure and fully transferable leases and other interests in land to individuals or companies as a secondary tenure layer;
  - 2. Native Title.** A native title determination has been completed, and land where native title continues to exist has been confirmed;
  - 3. Holding of Interests in Land.** A single Indigenous Corporation performs the functions of (1) a Registered Native Title Body Corporate (RNTBC) to hold and manage native title rights and interests, and (2) a Land Trust to hold and manage Aboriginal freehold and other tenure rights and interests in land. The Corporation's constitution identifies how it operates in the interests of native title holders and Indigenous parties with historical interests in land;
  - 4. Land Title Registration.** Each parcel of land used for (or planned to be used for) a discrete purpose (such as home ownership, business or service delivery) is surveyed and registered as a lot. The party/ies with an interest in each lot are recorded on the Land Title Register. This includes existing land users, such as the local government and service deliverers, having registered leases over the land they use;
  - 5. Native Title Consent.** A process ILUA provides simple, inexpensive and quick processes for the consideration of native title consent for a range of future acts, including leasing of land and associated development, and a cultural heritage management process for development;
  - 6. Land Use Planning and Management.** An assessment of land values and appropriate uses is performed and used to prepare a statutorily-compliant planning scheme that provides for appropriate development in the ILGA. Other legislation and plans do not constrain appropriate development. If the Indigenous Corporation agrees to manage some land for public good conservation outcomes then the Indigenous Corporation is appropriately resourced to achieve these agreed outcomes;
  - 7. Capacity for Social and Economic Participation.** Indigenous Corporations, home owners, development proponents, local governments, and other social and economic participants and service deliverers have adequate capacity and support to participate successfully. Significant legal, accounting, governance and other relevant advice and support is provided by a regional level organisation/s which has suitable capacity and relationships with Indigenous Corporations;
  - 8. Municipal Service Delivery.** Local government provides adequate municipal services to support home ownership and economic development, and annual State land valuations supports a local government rates system;
  - 9. Development Prospectus.** A Development Prospectus, based on outcomes of the land assessment and land use planning, is prepared for each Indigenous Corporation to identify opportunities for social and economic participation based on land use and development;
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**10. Proactive Leasing.** The Indigenous Corporation proactively grant interests in land through the lease of lots for home ownership, commercial, service delivery and other purposes. Leases are proactively facilitated using the Development Prospectus; leasing policies such as home ownership eligibility criteria and a price schedule; and a Trust Account to underpin home ownership to ensure finance options, equity and resale certainty.

**11. Implementation Plan.** To achieve these outcomes an All Parties Implementation Plan, identifying actions, roles and responsibilities, timelines and resourcing should be developed and implemented by government and non-government parties for each ILGA. Required actions could include statutory reform, statutory implementation, policy reform and administrative actions.

## Attachment A: Issues associated with land administration in ILGAs

The failings of the current ILGA LAS may be summarised as below:

- 1. Land Tenure and Property Rights.** The mix of land tenures in ILGAs is overly complicated and confusing, and the tenures do not consistently provide the range of property rights that are required to adequately underpin economic development.

Land tenures in ILGAs include Deed of Grant in Trust (DOGIT), Aboriginal freehold, Aboriginal freehold lease, Land Holding Act ('Katter') lease, Aboriginal reserve, Reserve for Departmental and Other purposes, USL, road reserve, and fee simple freehold. Each of these tenures includes a unique set of rights and interests, and are held by a variety of parties. The mix and proportion of tenures varies in every ILGA and is especially variable within town areas. The mix of rights and resources provided by the various tenures, quite often in adjoining or adjacent lots in a small community, creates confusion and uncertainty for people wanting to engage and invest in enterprise. Alternatively, because of land administration issues, the rights and interests associated with various tenures are ignored and the land is used for purposes inconsistent with the purpose of the tenure, which creates further confusion and conflict.

In addition to the various rights and interests associated with each tenure, the resource rights associated with grants of Aboriginal freehold varies. In some cases resource rights such as rights to gravel and timber vary between grants of Aboriginal freehold, and the rights to carbon sequestered in vegetation is unclear.

Overall the mix of tenures and associated interests, land uses and resource rights is overly complicated for small communities and inconsistent between ILGAs and results in a mind boggling and unnecessary array of variations and exceptions that stymie participation in the use of land for social and economic purposes, and service delivery.

- 2. Native Title.** Determinations of where native title continues to exist varies between ILGAs, and this creates uncertainty about where it exists, where and why it is extinguished, how it coexists or not with land tenures, which Indigenous people speak for what country, and what to do to address native title when development is proposed.

Social and economic participation, and government service delivery, is made more difficult in areas where there is uncertainty about native title. However, for areas where native title has been determined there is certainty about where native title coexists with tenure and how to address native title requirements if it is affected by social and economic participation or government service delivery. CYLC is pursuing native title determinations across all areas of Cape York that have not been previously determined.

- 3. Holding of Interests in Land.** In most of Queensland, social and economic participation (such as home ownership and business enterprise) is predominantly driven by the private interests of individuals and corporations, and this relies on individuals and corporations being able to hold an interest in land, in the form of a registered tenure. In ILGAs, interests in land for the entire LGA, are generally held by either the Local Government Council as trustee, or an Indigenous Corporation as trustee, or both, on behalf of the community. Virtually all the land in every ILGA town area is held by the Council, with the only exceptions generally being reserves held by the State and some leased areas.

In ILGAs, individuals or business corporations holding discrete and private interests in land for the purpose of social and economic participation are rare. In this way the nature of land

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holdings in ILGAs differs substantially to the rest of Queensland and is a major contributor to the dearth of home ownership and business enterprises, and difficulties associated with service delivery.

In addition, because native title has been determined to coexist with other interests in large areas of land in many ILGAs, Registered Native Title Bodies Corporate (RNTBCs) have been established to hold native title rights and interests. As further native title determinations occur it is likely in the foreseeable future that native title will coexist with other interests for about 99% of land in Cape York ILGAs, and RNTBCs will be established to hold the native title rights and interests. Concurrently, land in ILGAs is being transferred from existing tenures such as DOGIT to Aboriginal freehold, and Aboriginal land trust corporations are being established to hold Aboriginal freehold rights and interests. In the foreseeable future, native title rights and interests will coexist with Aboriginal freehold rights and interests in most of the land in ILGAs.

Whilst native title determinations and tenure transfers to Aboriginal ownership in land trusts are strongly supported, issues have arisen in some ILGAs where separate Indigenous corporations have been established to hold different rights and interests in the same area of land. This arrangements is cause for further confusion and conflict in communities, and presents significant obstacles to social and economic participation and government service delivery.

- 4. Land Title Registration.** The foundation for most social and economic participation and government service delivery in Queensland is secure and certain interest in land and the resultant interaction of these rights in regulated land markets. A secure and certain interest is achieved by having an unambiguous interest in a clearly defined area of land recorded on the Queensland Government's Land Title Register. A record on the Land Title Register enables the exclusive use of the land, access to finance, property equity, insurance policies, an asset that may be traded and passed on through a will, and other features that create the certainty and security in land that enables a modern and democratic society to thrive.

A record on the Land Title Register requires a registered lot (usually), which requires a surveyor to survey the size, shape and location of the land, and for this area to be subdivided out of a larger lot ("reconfiguration"), and for the party with an interest in the land to be unambiguously identified so that there is certainty about who holds the interest.

All land users in ILGAs, including service providers, should have a registered interest in the land they use to provide certainty and security for both them and the land Trustee. Currently many land users, including service providers, do not have a registered interest in the land they use.

However, in ILGAs, until recently, virtually all infrastructure (including houses) and land users coexisted on one or a few large lots. Interests in land, such as a lease for home ownership, commercial activity or government or third party service delivery, could not be created and recorded on the Land Title Register because no separate lot existed for the area used for the infrastructure. Most infrastructure therefore was untenured for the party that built it and belonged to party recorded on the Land Title Register for that land, which is usually the Council.

To enable the granting of registered leases over DOGIT or Aboriginal freehold for social and economic participation and government service delivery steps must be taken to reduce obstacles, such as the lack of lot surveys and reconfigurations. Fortunately, the State has recognised this issue and is taking steps to address many of the cadastral issues associated

with lot creation and lease registrations, but progress is incomplete and must be linked to other aspects of LAS to be properly effective.

A flow on impact of land users not having a lease is the reluctance of the State to satisfy ALA land transfer requirements. The lack of security for Local Government Councils and other service providers over the infrastructure they built has been a reason given by the State to justify why transfers of DOGIT and other transferable tenures to Aboriginal freehold, as required by the ALA, have been delayed. Local and State Governments and sometimes the Commonwealth Government have been comfortable with building infrastructure without a lease whilst the Council (a subsidiary of the State) has been the trustee, but if the land is transferred then an Indigenous Corporation land trust will hold the land. (Note that the National Partnership Agreement for Remote Indigenous Housing (NPARIH) has seen the Commonwealth Government requiring that the State take out a lease over any land where NPARIH investment is to be made, including DOGIT.)

To facilitate land transfers, all existing land users, including Local Government Councils, should take out leases over their infrastructure. The lease will continue in force after the transfer and continue to provide security of tenure for the land user. To ensure leases are in place, agreements should be made that any transfer is conditional upon the Land Trust immediately granting leases to agreed existing land users if a lease is not already in place.

- 5. Native Title Consent.** The creation of an interest in land, through the grant of a lease, is defined under the *Native Title Act 1993* as a future act requiring native title consent through an Indigenous Land Use Agreement (ILUA). Because native title may exist or has been determined to exist in virtually all land in ILGAs an ILUA will be required before a land Trustee may grant a lease for home ownership, business activity, service delivery or other purpose.

The negotiation of an ILUA is typically expensive, slow and difficult to the extent that it makes the grant of a lease unviable except for proponents with significant resources such as government or big business. For example, it is simply not economically rational to negotiate an ILUA for a lease for a small business of marginal profitability, and it is beyond the means of a community member to negotiate an ILUA for a home ownership lease when the ILUA may cost more than the property is worth.

However, the extinguishment of native title is generally not supported by ILGA community members as a way of eliminating the need for an ILUA for a lease because extinguishment would also eliminate opportunity for the enjoyment of native title rights including from future act consents.

What is required is simplified, faster and less expensive native title consent processes that apply to multiple future acts. Currently the State, with the support of CYLC, is facilitating the negotiation of Town ILUAs for several remote and discrete Aboriginal communities on Cape York which provide simple, quick, inexpensive processes for native title consent for the grant of leases and local government municipal service delivery. These ILUAs provide an example of how native title consent can be efficiently achieved, but the extent of the areas they apply to is currently limited.

- 6. Land Use Planning and Management.** Statutory land use planning can be an important facilitator and manager of the pattern and types of development throughout Queensland. Statutory land use plans include local government planning schemes and regional plans prepared in compliance with the *Planning Act 2016*, and land use and management must also comply with other legislation such as Queensland's *Nature Conservation Act 1992* and
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*Vegetation Management Act 1999*, and the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* which restrict certain land uses. However, if applied inappropriately, statutory planning can also stymie appropriate development in remote and discrete Aboriginal and Torres Strait Islander communities. This is occurring despite government declarations of aspiration for economic participation in these communities.

The preparation of planning schemes is a new initiative in ILGAs with the first generation of planning schemes only recently being put in place. The State supported Indigenous Local Government Councils to prepare these plans but resources were limited so land use suitability research and the identification and zoning of areas suitable for development was limited to small parts of town areas. In most cases the remainder of most ILGAs a precautionary approach was adopted and land was zoned as being suitable only for Conservation and Environmental Management use purposes, or in some cases, Rural. These zonings severely limit the types of land use and economic activity that could easily receive development approval. Similarly, the Cape York Regional Plan applies across several ILGAs and adds an additional layer of land use regulation and restrictions.

In addition, land use restrictions resulting from plans and controls enabled by conservation legislation such as the *Nature Conservation Act 1992*, *Vegetation Management Act 1999*, and the *Environment Protection and Biodiversity Conservation Act 1999* further restrict land uses on land owned by Cape York Indigenous Corporations for the purpose of achieving public good environmental outcomes such as carbon sequestration to mitigate climate change, water quality flows to the Great Barrier Reef, terrestrial biodiversity conservation, or preservation of world heritage, national heritage or wet tropics values.

It is accepted that the most suitable land use in most of the area in ILGAs on Cape York is conservation or rural, and that because of the high environmental values across much of Cape York that land uses in most areas should be statutorily restricted to conserve environmental values.

However, insufficient research has been conducted to identify the environmental values in ILGAs and to identify areas where more intensive economic land uses could occur without significantly affecting environmental values. All levels of government must coordinate and invest in more detailed research into the environmental values and potential land uses in ILGAs, and subsequently review and amend planning schemes and other statutory plans to enable economic land uses to occur in areas where this is suitable to occur.

Furthermore, the use of privately owned Aboriginal land has been constrained by statutes designed to provide public good conservation outcomes without the consent of, or compensation to, the Aboriginal land owners for the loss of opportunity to develop their land. Yet the Aboriginal land owners are still statutorily responsible to manage their land to achieve public good conservation outcomes without public support or the opportunity to use their property rights to generate an income to reinvest in land management, such as feral animal and weed control and erosion management.

In addition, the right to manage carbon abatement and sequestration on their land, which is one of the few economic opportunities based on environmental conservation activities, have been appropriated by external corporations which have secured the right to control and trade these rights through Australian Government funded carbon management contracts.

- 7. Capacity for Social and Economic Participation.** Reforms are required to improve the LAS in ILGAs, as detailed above, so that an efficient, effective and consistent development
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foundation is established, so that secure and certain interests in land are more easily achieved, so that social and economic participation and service delivery is enabled.

Ultimately this will result in improved social, economic, cultural and environmental wellbeing ILGA communities and lead to lower levels of government service delivery requirements that are closer to the Queensland average. The required LAS reforms are mainly government responsibilities to amend legislation, policy and the types of services delivered. In the short term, the types of services delivered must aim to enable suitable and sustainable development in ILGAs.

However, in addition to establishing an effective statutory and policy base for the LAS, reforms must also include building the capacity of the participants to use the LAS and to participate in social and economic activities. Currently there is insufficient capacity in all participants to effectively engage with the LAS in its current dysfunctional state, but also in a future functional state.

The participants who require support and increased capacity include:

- Commonwealth agencies that have an nationwide role in enabling social and economic participation in ILGAs and other Indigenous communities,
- State Government agencies that have a Statewide role in enabling social and economic participation in ILGAs and other Indigenous communities,
- Regional organisations, such as CYLC, that currently have a regional native title function, should also be empowered to provide a coordinated support function for all land related matters to all Cape York Indigenous land related corporations,
- Aboriginal corporations which have dual functions as an RNTBC and a Land Trust,
- Aboriginal corporations which have a sole function as an RNTBC or Land Trust (although dual function corporations are preferred),
- Aboriginal Councils in their Local Government function,
- Home ownership lease holders and aspiring home owners, and
- Local and external economic development proponents.

A few capacity building services currently exist but they are usually low level, uncoordinated between the State and Commonwealth, and service a LAS model which is dysfunctional and dominated by government service delivery needs. As a result the capacity of social and economic participants remains low. Capacity supports must be designed to complement a LAS that is reformed along the lines proposed in this submission.

The required capacity building services are varied but include:

- Education and awareness raising of social and economic participation opportunities, such as home ownership and economic activities, and how to participate in these opportunities,
- Support for implementing the roles and responsibilities of Indigenous Corporations to create interests in land, including their receipt of native title consent. They types of services required include:
  - Legal advice and support related to Commonwealth and State land related legislation, including the *Native Title Act 1993* (Cth) and the *Aboriginal Land Act 1991* (Qld) which outline RNTBC and Land Trust roles and responsibilities.
  - Financial management advice and support, in particular relating to native title compensation and rents from leases, and how to invest, distribute and account for these funds.

- Corporate governance advice and support, relating to requirements under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* and other corporate legislation.
- Roles and responsibilities of Indigenous Local Governments in land use planning, development assessment and municipal service delivery.

Capacity building services must be delivered at the appropriate national, state, regional and local level, noting that:

- National and State wide scale service delivery is often too removed and difficult to tailor to suit local circumstances,
- local scale capacity is often unnecessary, for example locally based Indigenous corporations do not require and cannot afford full time lawyers, accountants and corporate governance managers, but still require access to these services,
- regional organisations, such as CYLC if empowered to deliver a broader range of services beyond native title functions, can deliver the appropriate scale of service because a regional organisation is close enough to the local level to understand the local context and have relationships with local organisations, but also sufficiently large to achieve economy of scale without being out of touch. For example, lawyers, accountants and corporate governance managers can be located in a regional organisation and deliver part time advice and support to local Indigenous corporations as need be at a reasonable price.

- 8. Municipal Service Delivery.** Social and economic participation, including home ownership and business enterprise, and other service delivery is usually dependent on adequate levels of municipal service delivery by the local government, such as the essential services of water, sewerage, roads, and waste disposal, plus other municipal services such as parks, libraries, swimming pools, animal management, cemeteries, etc.

The adequacy of municipal service delivery varies between ILGAs and this is often due to the adequacy of funding received from the State and other opportunities for revenue generation. Revenue generation in ILGAs is inconsistent with other Queensland local governments because rates are not collected and much of the non-State supplied funding is generated from social housing lease rents and “service charges” for water and sewerage that substitute for rates. It is this dependence on social housing rents and service charges for leases of DOGIT land that is one of the main factors that make Indigenous local government resist the land being transferred to Aboriginal freehold tenure held by an Aboriginal land trustee corporation, despite there being a statutory requirement to do so.

This is an anomalous and undesirable situation that is unfair to Indigenous local governments since they cannot generate revenue in the same way and to the same extent as other Queensland local governments, and therefore struggle to provide adequate levels of municipal services. It is also unfair for the Aboriginal corporations who would be the recipients of transferred land and could use the income from social housing and other lease rents to enable them to adequately operate and manage their land holdings. These anomalous and unfamiliar land arrangements, and the resulting impact on local government revenue and municipal service delivery, dampen social and economic participation levels.

- 9. Development Prospectus.** The proposed research into environmental values and suitable land uses in ILGAs that would be used as the informed basis for statutory land use planning could also be used to prepare a “Prospectus” for each ILGA. This Prospectus would detail the land use opportunities in ILGAs by identifying areas such as those suitable for agriculture including grazing and horticulture, aquaculture and fishing, sustainable timber harvesting, quarry resources, tourism including ecotourism and cultural tourism, renewable energy,

bioprospecting, gold and gem prospecting, retail, small scale manufacturing and other suitable land use activities. The Prospectus could then be used to promote and attract local and external people to take up leases and other interests in land to conduct these activities as private operations or in joint ventures with the Indigenous Corporation land holder.

- 10. Proactive Leasing.** The Trustees of DOGIT and Aboriginal freehold have had powers under the ALA since 1991 to grant leases. However, they have been constrained in doing so by issues such as the need for Ministerial consent, lack of registered lots, native title consent requirements, statutory planning constraints and other obstacles. These constraints have created a lasting impression with Trustees that the granting of private interests in land, in the form of a lease for home ownership, commercial activity, service delivery or other land uses, is effectively impossible and has discouraged them from promoting or engaging in the grant of leases.

There was a significant opening up of ALA leasing provisions in 2015 but more reform is still needed to further simplify the provisions and empower trustees to create and manage appropriate interests in land. Trustees must be made aware of their rights, powers and opportunities and be encouraged and supported to advise community members and other parties that they are ready to do business and grant leases that will enhance social and economic participation.

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