



Service Delivery in Indigenous Communities
PO Box 12112
George Street Q 4003

Date: 16th November 2017

RE: Submission to Queensland Productivity Commission (QPC) Inquiry to Service Delivery in Indigenous Communities

To Whom It May Concern

This submission has been written collaboratively by the General Manager of Hope Vale Congress Aboriginal Corporation (hereafter Congress) Mr Ivan Deemal; Policy Officer Cape York Partnership Mr Stuart Downs and Senior Lecturer James Cook University Dr Sharon Harwood. We are writing to express support for the QPC investigation into remote service delivery in Indigenous communities and to provide additional comment to the Inquiry regarding our collective experiences in trying to establish a private home ownership market in Hope Vale Aboriginal Shire on Congress owned lands.

To provide context to this submission, Congress owns 99.5% of the land in Hope Vale Aboriginal Shire Council (HVASC) area, yet has no control over the planning and development of this significant land holding. The HVASC owns 0.5% of the land and controls all planning and therefore all development opportunities. More ridiculously, the HVASC recently appointed an Economic Development Officer (DATSIP secondee) for a Council that owns 0.5% of the land base – with no consultation with the majority land owner about what they want for their future.

Congress seeks to establish a private home ownership market on three distinct areas of its land holding. Congress sought advice from Land Valuers (Herron Todd and White) about marketable lot sizes and advice from the banking sector on the types of security that the banks will accept on Aboriginal Freehold Land (pursuant to the *Aboriginal Land Act 1991*). Currently the lands outside of the township are zoned Rural and provide for a limited range of development opportunities. Congress made a submission to the draft Hope Vale Aboriginal Council's Planning Scheme when it was on public exhibition. However, our submission was not considered and as a consequence all of Congress's lands were subsequently zoned 'Rural' with no consultation with the owners of the land.

Congress is prepared to develop lands in accordance with the advice from the Land Valuers and the Banks, yet must make a development application to HVASC to do so.

The Development Application process is not only onerous in terms of the costs associated with preparing the application, but must also make application (and pay fees) to the state government for them to assess the application against a series of State Planning Policy overlays that are not reliably mapped outside of the major city boundaries.

The issue in this instance is not the tenure of the land, but the planning system that governs development of Aboriginal Land Trust owned lands. We note on page 229 of the QPC report that the Inquiry has identified that statutory plans constrain land. This is an understatement.

We believe that there needs to be a new zone applied to the *Planning Regulation (2017)* called 'Aboriginal Development Zone' and that the relevant Land Trust (in collaboration with PBC's if not already operating as an Aboriginal Corporation) create their own Local Area Plans with this zone to reflect the development aspirations of the land owners and native title holders.

We are aware of a number of organisations using 'Master Planning' processes to identify their aspirations (Yarrabah is but one), however none of these have been given ANY guarantee of statutory protection. Instead these Master Plans are no more than aspirational documents that must still go through a separate process to gain statutory protection within the planning system. This infers that the relevant local government has the final say as to whether the Master Plan can over-ride or vary the current planning scheme.

Congress commenced negotiations with DATSIP in 2016 to undertake a Master Plan for the three areas that they have identified and verified with the market as having economic development potential. It was through these negotiations that Congress realised that they were provided with no statutory protection to formalise and protect the sought after development rights. Congress was categorically advised by DATSIP that the planning scheme was 'owned' by Council and that it was entirely at Council's discretion as to the extent that they would incorporate the content of the Congress owned Master Plan.

DATSIP refused to support a Master Planning process undertaken by Congress that culminated in a statutory instrument to vary the planning scheme. This now means that Congress must find the funds to: a) develop a Master Plan; and b) create a statutory instrument to protect the development rights. This will cost in excess of \$250,000.00 and will take more than 2 years to achieve.

We acknowledge the economic value that planning schemes provide in the protection of development rights. However we believe that the current system is not 'fit for purpose' for Indigenous owned lands. We believe that a fundamental recommendation of the QPC Inquiry into Service Delivery in Indigenous Communities is the creation of a 'parallel system of planning for and of Indigenous owned lands' that:

- a) Reflects the development aspirations of Native Title holders and Land Owners;
- b) Values, protects and promotes Aboriginal and Torres Strait Islander knowledge, culture and tradition (ie implements S5,2,(d) of the *Planning Act 2016*);
- c) Does not put residents or property at unacceptable risk; and
- d) Provides statutory protection of identified development opportunities.

We would be more than happy to assist the QPC or the state in the design of such a system.
Please do not hesitate to contact me should you have any questions regarding this submission.

Kind regards

A handwritten signature in black ink, appearing to read 'Ivan Deemal', written over a circular stamp or mark.

Mr Ivan Deemal
General Manager

Hope Vale Congress Aboriginal Corporation
PO Box 318 Cooktown QLD 4895 | Ph 0419730463