**Jabalbina Yalanji Aboriginal Corporation RNTBC Submission**

**Expert Indigenous Working Group investigation into Indigenous Land Administration and Use.**

**Background:**

Jabalbina was established in 2007 as the Eastern Kuku Yalanji People’s Registered Native Title Body Corporate and primary Land Trust, with responsibility to administer the 15 Eastern Kuku Yalanji ILUAs on behalf of Traditional Owners. This includes the management of approximately 15,000 hectares of Aboriginal Freehold Land. In 2011, Jabalbina was also registered as the Cultural Heritage Body for Eastern Kuku Yalanji Country under the Queensland Aboriginal Cultural Heritage Act.

These combined roles have resulted in Jabalbina developing as a “one stop shop” for all of the Eastern Kuku Yalanji People’s land and sea business. Jabalbina continues to assist Eastern Kuku Yalanji people seeking to return to live and work on Country and manages a large workload of native title, cultural heritage and other referrals and enquiries. Increasingly however, Jabalbina has developed as a land and sea management organisation through its management of the Eastern Kuku Yalanji Indigenous Protected Area. This has been an objective of Jabalbina’s but has also been one of the few ways that it can access resources to support the governance and administration of the corporation. TOs would like Jabalbina be able to support them to return to live, run business and work on country. There is not effective systemic support for PBCs to undertake this work and individuals are supported in an adhoc way when staff find time.

**Problems with the current system:**

**No stystemic governance and administrative support to RNTBC and Land Trusts**

* RNTBC and Land Trusts are established by Australian and the Queensland Government with legislated responsibilities under the Native Title and relevant Land Act. Neither level of government however resource RNTBC or Land Trusts to undertake these legislative responsibilities.
* So that millions of dollars are spent on Native Title determinations but no support is provided to Traditional Owners once a determination has occurred to develop or generate an income from their land or native title rights.
* The Boards of RNTBC are required to consult with TOs on matters related to their land and native title rights but this is not resourced. There is a need to develop good models for TO decision making and to effectively resource these if land is to be developed for residential or commercial purposes.

**Lack of preparedness to pay for services provided by RNTBC or Land Trusts**

* Government and the private sector have a culture of not paying for services provided by TOs.
* There needs to be a fee for services framework established for all Future Act requests and land dealing requests made by the State and by private individuals or businesses to RNTBC and Land Trusts.
* Rates of payment should be inline with others in the services sector including accountants and lawyers dependent on the type of work that needs to be undertaken to meet the request.
* For example Jabalbina gets Future Act notices from the Queensland Government for leases on reserves held in trust by Jabalbina. There is an assumption by the State that Jabalbina will respond to these yet the organisation has no funding to undertake the necessary consultations of obtain relevant legal advice. As a result these activities are given a low priority as they generally result in private benefit rather than TO benefit.

**Lack of resources to navigate the complexity of the Land Administration System**

* Development on Aboriginal Freehold Land is complex involving not only extensive consultations with TOs but the navigation of multiple layers of government regulation at the local, state and federal levels.
* Aboriginal people wanting to undertake development are therefore at a significant disadvantage as compared with non-indigenous Australians with freehold tenure.
* RNTBC and Land Trusts are not funded to support working through this complexity.
* Aboriginal people can not afford therefore to pay the necessary development costs to undertake the necessary negotiations with TOs let alone work through the layers of government administration which could include:
  + Development Approvals at local government levels
  + A range of other possible referals at the State level for environmental, tree clearing, planning scheme etc.
  + Meeting the regulatory requirements of the Wet Tropics Queensland World Heritage Area.

**There is a need to fund land management planning on Aboriginal Freehold Land to enable development to occur**

* There is often conflict between TOs and potentially historic owners in relation to the development of Aboriginal Freehold Land.
* This conflict could be overcome if effective planning was resources that bought TOs together to work through competing interests and agree planning schemes on Aboriginal Freehold land.
* The failure to see this effectively resourced means that conflict continues and land isn’t developed.

**Planning Schemes are further dispossessing TOs of hard fought rights to land established through Native Title**

* The Native Title Settlement achieved by Eastern Kuku Yalanji people was hard fought and the land handed back was a significant compromise by TOs.
* TOs are now finding that new local and state government planning schemes have been develop completely divorced from the extensive negotiations that occurred in establishing the ILUAs that set out what land could be used for once handed back to TOs.
* These planning schemes are now further dispossessing TOs through restricting development and creating another layer of red tape.

**Recommednations:**

1. **That if governments are serious about development on Aboriginal Freehold land then PBCs and Land Trusts must be resourced to:**
   1. **develop the necessary governance frameworks to work with TOs to resolve conflicts**
   2. **work with TOs to plan and submit the necessary development applications and steer them through to approval**
2. **This requires a focus on development outside of the main Indigenous so called growth towns or welfare reform communities in Queensland and support for PBCs and Land Trusts to develop lands outside of these centres.**
3. **Planning schemes need to be required to recognise and respect the negotiated outcomes of native title determinations and not undermine ILUAs.**
4. **Planning schemes developed for non-Indigenous Australians in established towns and cities are not applicable to Aboriginal Freehold land in more regional and remote centres and should not be applied in the same way to prevent development.**
5. **That governments recognise that they have completely failed to support the development and empowerment of PBCs and Land Trusts and this is a major barrier to Indigenous economic development. How can development occur on Aboriginal Land if the legal entity and trustee of that land is not effectively resourced and functioning to support development.**

**Jabalbina Directors would welcome the opportunity to speak to the Expert Working Group further about this submission. For further information please contact:**

**Jim Turnour**

**Chief Executive Officer**

**Jabalbina Yalanji Aboriginal Corporation RNTBC**

**Email:** [**ceo@jabalbina.com.au**](mailto:ceo@jabalbina.com.au) **or phone 07 4051 1400**