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**Director-General**

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Department of  
**Communities, Housing  
and Digital Economy**

Romlie Mokak and Lisa Gropp  
Commissioners  
Aboriginal and Torres Strait Islander Visual Arts and Crafts  
Productivity Commission  
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Dear Commissioners

Thank you for the opportunity to provide a submission to inform the Productivity Commission's consideration of key issues impacting Aboriginal and Torres Strait Islander visual arts and crafts. This submission builds on the Commission's consultation meeting with Arts Queensland in November 2021 and follows on from submissions made to House of Representatives Standing Committee Inquiries in 2018 and 2019.

Aboriginal and Torres Strait Islander arts are an intrinsic part of Queensland's culture and identity. The Queensland Government is committed to elevating First Nations arts, as prioritised in the *Creative Together 2020-2030: A 10-Year Roadmap for arts, culture and creativity in Queensland*.

It is also acknowledged that a strong First Nations visual arts and craft sector will play a critical role in supporting Queensland's Path to Treaty, with a focus on cultural retention and sharing.

The attached submission outlines the current context in Queensland for First Nations visual arts and craft, noting the challenges being faced and the opportunities that could be realised with a national and holistic approach to strengthening the First Nations arts sector.

If you require any further information or assistance in relation to this matter, please contact Kirsten Herring, Deputy Director-General, Arts Queensland, Department of Communities, Housing and Digital Economy

I trust this information is of assistance and I look forward to hearing the outcomes as the inquiry progresses.

Yours sincerely

Clare O'Connor  
**Director-General**

Enc. (1) – AQ's initial submission to the Commission

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**Submission to Australian Government  
Productivity Commission Study:  
Aboriginal and Torres Strait Islander  
Visual Arts and Crafts**

**Arts Queensland, Department of Communities,  
Housing and Digital Economy**

**February 2022**

## Introduction

Arts Queensland (AQ), Department of Communities, Housing and Digital Economy, welcomes this opportunity to inform the Productivity Commission's consideration of key issues impacting Aboriginal and Torres Strait Islander visual arts and crafts.

The Queensland Government's Path to Treaty process commenced in 2019 with the establishment of an eminent panel and state-wide consultation to reframe the relationship with First Nations peoples. The second phase commenced with the appointment of the Treaty Advancement Committee to build on the work of the eminent panel and provide advice to government on the next steps in advancing the Treaty process in Queensland. The Government is currently considering the Committee's report. Along with the Brisbane 2032 Olympics and Paralympics, the Path to Treaty provides an important opportunity to highlight and strengthen the First Nations visual arts and crafts sector in Queensland and grow economic participation.

As the arts and cultural sector continues its COVID pandemic recovery and adaptation, it is important to note the ongoing and emergent issues impacting the First Nations visual arts and crafts sector. The Queensland Government's Arts and Cultural Recovery Package provided uplift funding to 14 Indigenous Art Centres in Queensland in 2020-21 and opened new funds for First Nations art and cultural organisations as a part of the first phase of the Creative Together 10 Year Roadmap for Arts, Culture and Creativity (2020 – 2030). This has enabled ongoing operational funding support for Aboriginal and Torres Strait Islander arts and cultural enterprises and supported new entrants to Arts Queensland's funding programs.

Now is the time to effect change that ensures the Aboriginal and Torres Strait Islander visual arts and craft sector is supported to grow through appropriate resource allocation and maintain its integrity and uniqueness through legislation that protects artists' and communities' revenue, intellectual and cultural property rights. This is a national opportunity that is best served through federally coordinated approaches to effect legislative change and collaborative support for First Nations arts and craft sectors and communities in every part of the country.

The work of IP Australia and its Indigenous Knowledge IP Hub is an important platform for information and advice. This ongoing work can be strengthened through a range of complementary strategies that could prevent rather than simply repair appropriated Indigenous contents and forms. Arts Queensland notes IP Australia's current study into standalone legislation for Indigenous Knowledge and its report to be presented to Government later this year. This work responds to a recommendation made by the House of Representatives' Standing Committee on Indigenous Affairs, in its Report on the impact of inauthentic art and craft in the style of First Nations peoples.

Each jurisdiction plays an important role in supporting First Nations arts and cultures, however there is a need for Federal whole-of-government action to protect the artistic and cultural integrity, and sustainability of Aboriginal and Torres Strait Islander arts and crafts through consideration of:

- strengthened Federal legislation to prevent appropriation of Aboriginal and Torres Strait Islander creative and cultural content and forms as highlighted by the House of Representatives' Standing Committee on Indigenous Affairs' recommendation
- enhanced national data collection to provide more accurate insights into the nature and scale of the First Nations arts, cultural and creative sectors
- nationally coordinated training of artists, arts workers, and creative enterprises to grow economic participation and supply chains
- tailored support that recognises the unique needs of Indigenous artists and Indigenous Art Centres across the country.

## Background

AQ acknowledges the Terms of Reference for the study including its scope to assess the nature and structure of markets for authentic and inauthentic products; challenges, risks, and barriers in and to markets, impacts on First Nations artists and sectors and possible policy responses.

This submission follows on from previous Queensland Government submissions to:

- the 2018 House of Representatives Standing Committee on Indigenous Affairs' Inquiry into the growing presence of inauthentic Aboriginal and Torres Strait Islander 'style' art and craft products and merchandise for sale across Australia, and
- the 2019 House of Representatives Standing Committee on Environment and Communications' Competition and Consumer Amendment (Prevention of Exploitation of Indigenous Cultural Expressions) Bill 2019.

AQ notes that many of the significant issues highlighted in previous submissions are pertinent to this study and will shortly commence collaborative work led by the Office for the Arts to identify strategies for more coordinated approaches to supporting the First Nations Visual Arts and Crafts sector (as determined at all-jurisdictions cultural officials' meeting of 6 October 2021).

This submission highlights a range of issues relating to:

- the need for accurate data concerning the scale of the First Nations visual arts and craft industry and the cost to that industry presented by inauthentic art, cultural appropriation, and unethical trade
- the role of Government policy in strengthening the First Nations arts and cultural sector
- supporting Queensland's Path to Treaty and ensuring sector preparedness to realise the opportunities presented through the Brisbane 2032 Olympics and Paralympics.

AQ's submission is informed by recent consultation with the arts and cultural sector in Queensland, in particular organisations led by, or working with Aboriginal and Torres Strait Islander artists and communities. This consultation was undertaken in developing the Queensland Government's *Creative Together - 10 Year Roadmap for arts, culture, and creativity 2020-2030*, and the initial supporting action plan, *Sustain 2022-2022*.

## The Queensland context

### *Data challenges*

ABS 2001 Census data revealed that 26.6% of 209 First Nations people surveyed in Queensland identified their main occupation as visual art or crafts. This represented the largest First Nations artist population in the country, followed by New South Wales (20.5% or 161 First Nations peoples identifying visual arts as their main occupation).

Equivalent cultural employment data has not been collected over the last twenty years; however, AQ has observed an increase in the size and activity of the First Nations arts and cultural sector in Queensland over the last decade. There is a clear need for government to collect cultural and economic data relating to the scale and value of the First Nations visual arts and craft sector in Australia including employment and revenue generation for Aboriginal and Torres Strait Islander artists and enterprises.

In 2020, Arts Queensland invested \$50,000 into Macquarie University's *National Survey of Remote Aboriginal and Torres Strait Islander Artists*. The Queensland component of the survey is investigating the potential of integrating art production and economic development in the Far North Queensland Region where there is a concentration of Indigenous art centres and discrete communities. While delayed by the COVID-19 pandemic, this study, which has employed local

First Nations researchers, will provide insights regarding the actual and potential income of First Nations artists and collectives involved with the research. Finalisation of the Queensland component will complete the national survey; however, this will not be an effective substitute for a census-based survey of First Nations artists' and communities' arts and cultural employment and participation.

### *Funding*

The Federal Government's Indigenous Visual Arts Industry Support (IVAIS) program and the National Indigenous Visual Arts action plan 2021 - 2025 are major sources of strategic and practical support for the First Nations visual arts and crafts sector. Arts Queensland facilitates regular conversations with the Office for the Arts to identify ways to enhance this support in Queensland, where most Indigenous art centres and collectives have operated for less than twenty years. Federal funding approaches that can work with State and Territory strategies for supporting First Nations arts are important for strategic growth of the sector.

Queensland Government provides significant funding to support the First Nations visual arts and craft sector in Queensland. Its Backing Indigenous Arts (BIA) initiative was established in 2007 to support 14 Indigenous Art Centres (IACs), the Indigenous Art Centre Alliance, the Cairns Indigenous Art Fair (CIAF), Laura Dance Festival and Winds of Zenadth Cultural Festival. BIA distributes \$3.2 million in operational funding annually across this Far North Queensland network, with each recipient part of a multi-year funding agreement to support micro-economic stability and continuity.

Since BIA's establishment, another nine IACs in Queensland identified their readiness for growth, three of which received two-year funding through the Indigenous Art Centre Launch Fund, part of the Queensland Government's two year \$22.5 million Arts and Cultural Recovery Package.

Queensland Government's *Creative Together - 10 Year Roadmap for Arts, Culture and Creativity 2020 - 2030* (see: <https://www.arts.qld.gov.au/creative-together>) has 'Elevate First Nations Arts' as a key priority to ensure:

- First Nations arts and cultures strategies and investment are led by Aboriginal and Torres Strait Islander peoples.
- Aboriginal and Torres Strait Islander practitioners are employed in arts, culture, and creativity at all sector levels.
- Queensland is home to strong and sustainable creative businesses owned and led by First Nations people.
- Queensland is internationally known for its ethical distribution of First Nations arts.
- Aboriginal and Torres Strait Islander arts and culture is prominent, appreciated, and valued, influencing state and national policy across a range of delivery areas.

Since the launch of the Roadmap several First Nations multi-arts organisations, which support creative development, training, production, presentations, and exhibitions of new work, have received Arts Queensland funding. Some of these companies have successfully applied for First Nations Pathways Funding, part of the first phase of the Roadmap (*Sustain* action plan 2020 – 2022) with funding outcomes announced in early 2022.

It is anticipated that the release of a draft Cultural Engagement Framework for consultation in 2022 will support increased collaboration with and employment of First Nations artists in Queensland. This Framework has been developed by Arts Queensland with the First Nations Arts and Cultures Panel, the establishment of which is a key initiative of *Creative Together 2020-22* (see: <https://www.arts.qld.gov.au/projects-and-initiatives/first-nations-arts-and-cultures-panel>).

The next stage of the Roadmap will be realised through a four-year *Grow 2022-26* action plan and will include a range of initiatives designed to deliver Elevate First Nations arts outcomes.

These initiatives, informed by consultation with the sector, will shape and extend Queensland Government's support of Aboriginal and Torres Strait Islander visual arts and crafts.

### **Ongoing issues for Queensland First Nations visual arts and crafts sectors**

The following issues have been identified through dialogue with BIA funding recipients and other First Nations stakeholders in the First Nations visual arts and craft sector as part of ongoing consultation and funding reporting and outcomes evaluation.

- *Inauthentic/fake Aboriginal and Torres Strait Islander style art and craft products*
  - Significant impact on the incomes of Aboriginal and Torres Strait Islander artists and craftspeople who produce works for sale, while potentially damaging the reputation and income of legitimate businesses.
  - Mass production of inauthentic products puts downward price pressures on producers and creates unfair competition for retailers seeking to stock authentic items.
  - Misuse of IP rights and reproduction on various items and merchandise, which are often produced at low cost and of poor quality.
  - Serious misappropriation of traditional knowledge and sacred cultural material and artefacts, causing harm to traditional arts and cultures and their practices for use.
  - Awareness and education of local and international buyers is essential on First Nations arts and crafts and the diversity and quality of authentic work, the value it provides to the purchaser and to artists, and the impact of inauthentic work on First Nations artists and communities.
  - The Federal Government's Competition and Consumer Act does not prevent appropriation of Aboriginal and Torres Strait Islander arts and cultural forms – it allows producers and distributors of First Nation 'style' products to sell them without penalty so long as they do not claim the work is 'authentic' and produced by Aboriginal and Torres Strait Islander artists and craftspeople.
  - New federal legislation is required that prevents production, import and export of inauthentic Aboriginal and Torres Strait Islander 'style' products, contents, tangible, and intangible heritage, which include contemporary cultural heritage content such as the 'always was always will be' statement (see: <https://www.sbs.com.au/nitv/article/2022/01/12/first-nations-clothing-brand-slams-attempt-trademark-always-was-always-will-be>) and the text of 'Statement from the Heart'.
- *Business management and leadership*
  - Most art centres are reliant on the attraction, retention and quality of management staff recruited into the community. Short tenure periods coupled with a limited number of quality of applicants, is often disruptive to the development of sustainable business practices and communities of artistic practice.
  - Most art centre managers are non-Indigenous people and there is a need to develop more effective succession planning and training to ensure First Nations peoples from local communities are recruited into management and leadership of these enterprises.
  - A national, coordinated approach to ensuring culturally appropriate mentoring and training and remuneration of First Nations arts managers and curators is required to ensure all Australian First Nations practitioners and communities are appropriately paid for their custodianship and stewardship of visual arts and crafts that are on and of Country.
- *Resourcing and logistics*
  - Supply chains for First Nations artists and makers need to be strengthened to increase career viability and product development. IACs are heavily reliant on Federal and State

support with own source income representing less than 30% of total income for most centres.

- It is acknowledged commercial galleries play an important role in increasing the profile of First Nations artists and growing international market access, however there is a need to facilitate stronger and more ethical linkages between art centres and commercial galleries, specifically the need for more assistance to art centres in relation to legal matters.
  - There is a need to address the cost of freight (materials in and art works out) for regional and remote centres and enterprises and to support the development of trade relationships with ethical suppliers and markets.
  - Most art centres require infrastructure upgrades to increase the quality of workspaces for artists as well as ensuring more reliable internet connectivity for business continuity and growth.
- *Data collection that informs and strengthens strategy and business*
    - Funders need better information about private art businesses; the Australian Bureau of Statistics could improve data collection of this sector to ensure an accurate understanding of the scope and scale of commercial activity
    - Australian Bureau of Statistics could recommence collection of data relating specifically to First Nations peoples' employment in visual arts, crafts, and design contexts.

### **Emerging issues and opportunities for Queensland's First Nations visual arts and crafts sector**

The following issues are emerging within consultation to inform action planning for *Grow* (2022-26), the second phase of the Roadmap.

- *Path to Treaty in Queensland*
  - The Eminent Panel's report to the Queensland Government in 2020 recommended the establishment of a Treaty Institute, truth telling and healing and a community and government treaty-readiness engagement program.
  - The Path to Treaty will place additional expectations on and provide opportunities for the First Nations visual arts and craft sector to support truth telling, healing and treaty discussion.
  - Arts Queensland will work with the arts and cultural sector to ensure appropriate support is in place for First Nations artists' choices and practice in relation to the Path to Treaty process.
- *Collaboration and coordination across jurisdictions*
  - There is a need for national approaches to address key issues including strengthening supply of authentic work, countering inauthentic work, and reducing the administrative burden of multiple funding applications and reporting tasks for First Nations arts businesses.
  - Arts Queensland is working with the Office for the Arts and other jurisdictions to identify strategies for more streamlined approaches to supporting the First Nations visual arts and craft sector.
  - Arts Queensland initiated cross-jurisdictional discussions on opportunities to harmonise IAC investment approaches, including application and reporting requirements, with a focus on removing administrative burden and enabling IACs to better focus on sustainability and capacity growing initiatives. The new National Framework for Performing Arts is an established tripartite funding model for the major performing arts

organisations and one that could be considered for a national approach to IAC investment.

- *Strengthening supply and distribution for Queensland based First Nations artists*
  - IACs are adapting to digital marketing and ecommerce, which is increasing their reach and reputation. The number of social media followers being reported has more than doubled since 2017, however partnered approaches that increase product development, connection to market and export of Queensland First Nations artists' products is required to increase viability of the sector.
  - CIAF continues to play an important role in showcasing and growing market access to First Nations arts in Queensland. In 2020, an enhanced digital presence, via e-commerce galleries, online workshops, conversations and music events, reach more than 2.5 million devices in 85 countries to significantly expand the organisation's profile within a global market.
  - In Queensland, sales are dominated by a small group of art centres, with 4 of the longer-running art centres generating around 61% of total sales each year. Less than 10% of buyers spend more than \$2,000 – most spend less than \$500. IACs and individual artists require support to respond to this market demand including growing market access and the development of robust supply chains.
  - The Brisbane 2032 Olympics and Paralympics provide an opportunity for First Nations visual arts and craft enterprises to supply to new and bigger markets – the sector will need to be supported to meet increasing demand through, where appropriate, scaled up and ethical manufacturing and supply options.
  - In 2022, Arts Queensland is exploring opportunities to strengthen ethical supply chains, product development, and enhance the showcasing of Aboriginal and Torres Strait Islander arts and crafts to global markets.

Arts Queensland anticipates providing a more detailed response to the Commission's study following its issuing of a Draft Report in May 2022, including key themes identified through the *Creative Together* - Grow action planning consultation with the sector.