



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

JOINT COMMITTEE ON NATIVE TITLE AND THE ABORIGINAL  
AND TORRES STRAIT ISLANDER LAND FUND

**Reference: Indigenous Land Corporation annual report 2003-04**

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**JOINT STATUTORY COMMITTEE ON  
NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND**

**Wednesday, 16 March 2005**

**Members:** Senator Johnston (*Chair*), Ms Vamvakinou (*Deputy Chair*), Senators Carr, Crossin, Lees and Scullion and Mr McMullan, Mr Randall, Mr Slipper and Mr Tollner

**Members in attendance:** Senators Carr, Crossin, Johnston and Lees and Mr McMullan

**Terms of reference for the inquiry:**

To inquire into and report on:

Indigenous Land Corporation annual report 2003-04

**WITNESSES**

**Cook, Mr Garry Edward, Director, Business Planning, Indigenous Land Corporation..... 1**  
**McPherson, Ms Shirley Anne, Chairperson, Indigenous Land Corporation ..... 1**  
**Owen, Mr Leonard Garry, Acting General Manager, Indigenous Land Corporation ..... 1**



**Committee met at 7.36 p.m.****Cook, Mr Garry Edward, Director, Business Planning, Indigenous Land Corporation****McPherson, Ms Shirley Anne, Chairperson, Indigenous Land Corporation****Owen, Mr Leonard Garry, Acting General Manager, Indigenous Land Corporation**

**CHAIR**—I declare open this public meeting of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, and welcome the representatives of the Indigenous Land Corporation. Tonight's hearing will focus on the ILC's management of its affairs over the financial year 2003-04. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. To the best of my knowledge, Ms McPherson, you have been here on a couple of occasions before so what I am about to say is well known to you. The committee prefers all evidence to be given in public but should you at any stage wish to give your evidence or part of your evidence or answers to any specific questions in private you may ask to do so and the committee will consider your request. I invite you to make some opening remarks about the committee's inquiry into the ILC annual report for 2003-04. At the conclusion of your remarks and in accordance with the standing orders the committee members will ask some questions.

**Ms McPherson**—Thank you. I am pleased to be able to appear again before this committee. I take this opportunity to advise the committee that the ILC general manager, Mr David Galvin, is on leave at present. I introduce the acting general manager, Mr Len Owen, who is accompanying me here tonight. I would also like to introduce Mr Garry Cook, who heads the Indigenous Land Corporation's commercial unit and is available to answer questions if required.

The year 2003-04 was historically significant as the land fund received its final appropriation from the Australian government of \$146.7 million. The ILC's ongoing program and administration costs are now funded from the investment returns from the fund, which currently totals approximately \$1.3 billion. The year 2003-4 was a building period for the Indigenous Land Corporation, and we focused on a number of strategic issues including, first, a revision of regional Indigenous land strategies to ensure stakeholder input was collated and fed into the annual revision of the National Indigenous Land Strategy. Extensive consultation was undertaken with ATSIC regional councils, native title bodies and community groups across Australia.

Second, the board undertook its second revision of the National Indigenous Land Strategy to require applicants to provide proper management plans and detailed work plans that clearly set out how benefits will be sustained and measured. Third, implementation of the new program structure requires applicants to identify the primary purpose of the proposed acquisition and clearly identify the economic, environmental, social or cultural benefits they aspire to.

Fourth, the property remediation program aims to ensure that ILC purchased properties are safe and capable of achieving genuine benefits for Indigenous land owners as a result of the ILC's acquisition. Fifth, development of the ILC capacity development framework provides assistance in building the capacity of Indigenous land owners. Key elements of the framework include corporate governance training and skills development.

Looking forward from today, the impending passage of the ATSIC Amendment Bill appears to have three implications for the ILC. The first is that the two ATSIC commissioners on the ILC board will be replaced by Indigenous members to be appointed by the minister, and land based assets owned by ATSIC will be transferred to the Indigenous Land Corporation. Second, we are advised that there are 19 parcels of land to be transferred to the ILC. The ILC plans to audit these properties, undertake good order and remediation works as necessary and identify Indigenous groups to whom the land might be divested in time. Third, those funds held in the ATSIC regional land funds will be transferred to the Indigenous Land Corporation. The ILC is confident that these matters can be handled seamlessly within the ILC's existing resources without detriment to our stakeholders. Thank you. My colleagues now look forward to responding to any questions from the members of the committee.

**CHAIR**—Thank you. First of all, I extend Senator Kim Carr's apologies to you. He has an Indigenous prize night function—so he told me; I did not get the full details—in the main hall. He is sorry that he has had to attend that.

**Senator LEES**—Thank you for your opening remarks—they have answered two of my questions. I want to look at the new structure you have where communities have to talk about their plans and what the various impacts are. Can you develop that a little and give us some examples of how it is working?

**Mr Owen**—In the case of land acquisition we have a four-stream program that stems from the act. People need to identify the primary purpose for their application, to provide them with social, cultural, environmental or economic benefits. For the first three of those, when they put in their application we require them to develop a property management plan to accompany the application. If it is an economic stream we need a business plan because obviously we are talking about a commercial business. That is our first indication of the capacity of the organisation and the focus they have—are they clear on what they expect to get out of acquiring land because land does not always equal benefit, as we have found. They submit that plan—an interim plan is fine. We have a look at that, undertake an initial assessment and then have a workshop with the group to flesh it out and assist them to fill in the gaps that might be present in the plan. It is all about testing their capacity and their commitment to what they believe their primary goal to be.

**Senator LEES**—Do you encourage them to work with other organisations if possible, to perhaps get other funding from elsewhere or to have other partnership arrangements? Can you give us some examples of those sorts of things? My particular interest here is in land purchased for environment purposes.

**Mr Owen**—We have bought only a couple of properties under that stream so far—we acquired them. One of the other organisations is the Australian Bush Heritage Fund, for example. We have an MOU with that organisation. They have a particular priority for the sort of land they want to buy—to preserve the bush. If we had an application from a group under that particular program stream this MOU would encourage us to talk to them to see whether it would be a property that they would be interested in part funding or acquiring in collaboration with us.

**Senator LEES**—Now to the future: you made some comments about the three changes. In particular, you mentioned the funds in regions. Can you provide a little more detail as to how those land acquisition funds will be used?

**Mr Owen**—The regional council land funds?

**Senator LEES**—Yes.

**Mr Owen**—We believe at the moment that probably a bit over \$7 million could be coming our way. The requirement is that we, in spending that money, would make sure that the acquisitions are consistent with regional council priorities and plans. So our intention is, once the amendments happen and the money comes over, to consult with those regional councils and get copies of their regional plan so we can ensure that we spend it in accordance with their wishes.

**Senator LEES**—You mentioned 19 parcels of land. Can you give me some examples of what that will involve, or what they are?

**Mr Owen**—Yes. They are all over the country.

**Senator LEES**—Perhaps you could hand something to the committee. That might shorten our time tonight. Give me some examples, by all means, and thank you for that, but if there is a fuller list or any more material that you have, that would be really helpful.

**Mr Owen**—There is a property called Merapah Station on Cape York. There are a number of similar sorts of properties. There is Trefoil Island in Bass Strait, off Tasmania, that is currently owned by ATSIC. The chairperson, I think, knows Warrama very well, up near Cairns. It is a 14-hectare block with a fair bit of infrastructure on it. I think you visited.

**Ms McPherson**—That is right—near Trinity Bay.

**Mr Owen**—So it is a range of urban and rural type properties spread all over—

**Senator LEES**—So obviously at the moment there are some local communities very interested in those particular properties, and you will then work with them. Basically ATSIC will go out of the picture, and then it will just be between that community and you. Is that right?

**Mr Owen**—Yes.

**Senator LEES**—Thank you very much.

**Mr McMULLAN**—Good to see you again, Ms McPherson. Before I ask my questions, I intend to follow up on one that Senator Lees raised about the land funds that were previously held by the regional councils. Let me be very explicit about my particular interest, because, as well as representing the northern half of the ACT, I represent the Jervis Bay territory and the Wreck Bay Aboriginal community, who have been in some serious discussion with the regional council about using some of that money for housing in Wreck Bay. If they now want to proceed with that matter, what do they do?

**Mr Owen**—They should put in an application to us. We will obviously talk to them about their priorities, and what sort of issues they have outlined in their regional plan as priorities. Housing is an interesting one.

**Mr McMULLAN**—They are part of the Queanbeyan based regional council.

**Mr Owen**—Right. We would be consulting with them about those priorities, and if they had some particular land in mind, they should put in an application to us. Housing is a difficult one for us because essentially we do not do housing, but there are elements of housing such as the land component of it that we may well be able to do, and we have been having similar discussions.

**Mr McMULLAN**—They already have the land, because it is Aboriginal land. If I can put on my local member's hat for a moment, Mr Chairman, with your licence, can I just ask you to get in touch with the Wreck Bay Community Council? It may be that, at the end of the day, the circumstances are such that you no longer can assist them in what they want, and they will need to go elsewhere. I will take that up and it will then be no longer your responsibility. But I would appreciate it if you took that initiative. Thank you. It is nothing to do with the committee. I am just grateful for your taking that initiative.

I was looking through the annual report—and this is simply you just writing out here a bit of the act—and what caught my eye, because I had not really looked at it before, is the section that authorises you to make grants of money to corporations for them to acquire land, or to guarantee loans to corporations for them to acquire land. That is rather than you acquiring it. What has happened under those provisions over the years?

**Mr Owen**—We haven't used them.

**Mr McMULLAN**—I thought you hadn't. That's why I asked. Is it because no-one has asked you, or because you think it is not a good idea?

**Mr Owen**—Very few have asked. I think we may have had one or two cases where we got close to guaranteeing a loan for an acquisition. But it did not eventuate. We are not really asked to do that because people generally think we can buy it.

**Mr McMULLAN**—It got my attention because I thought, 'I now remember we put that in the act'. But I thought you had never used it. I do not say that as a criticism because I have never considered it before, either. Often when you acquire, you have the difficult process of deciding 'To whom do we hand it?' and 'Under what circumstances?' and 'Is this the right time?' They are difficult issues for you, I know. Perhaps if you had originally operated under that section, it would change the nature of that transition, because the acquisition would have been done by somebody else, rather than by you. There might be some merit in that. You have told me what I expected and I was just checking.

At the bottom of page 22 of the annual report, in the last paragraph, you talk about the legal advice you have been seeking on a range of issues. I will not repeat the issues—they are all written out there. You say in the last sentence 'Legal advice on these issues is being sought at the end of the reporting period.' What is the current state of play? It relates to reserving policies,

land fund payments to you post 2003-04, and the definition of 'realised real return'—which is probably not something you want to get into a detailed discussion about here now. I would be interested if there is some written material on that. It is the first two things, in particular, that I am interested in and what the legal advice has been to you.

**Ms McPherson**—We still have not received the final advice on that because there is still some to-ing and fro-ing on what 'realised real return' is.

**Mr McMULLAN**—I figured the realised real return would be the hardest issue.

**Ms McPherson**—Yes, it is.

**Mr McMULLAN**—I would appreciate, when you do know the answer or when you do get an advice and form a view, your letting me know. The question about the minimum payments from the land fund to the ILC post-2003-04: have you got some advice on that?

**Mr Owen**—That is pretty much tied up with the realised real return issue. I guess our issue is that if we receive all the interest, the real value of the land fund decreases over time. So again, it is all tied up with getting this definition of the return correct so we know exactly what we are getting. If the real value of the land fund, I guess, is eroded over time by us getting all the interest, the investment income, then we need to develop some sort of strategy to make sure that that value is preserved.

**Mr McMULLAN**—What are you getting at the moment?

**Mr Owen**—Dollars?

**Mr McMULLAN**—Yes.

**Mr Owen**—Nothing at the moment, but the first payment is expected between about \$65 million and \$90 million, depending on the definition.

**Mr McMULLAN**—So who is going to decide on how much you get?

**Mr Owen**—The department of finance.

**Mr McMULLAN**—So they have a view, or are they forming a view?

**Mr Owen**—They are forming one.

**Mr McMULLAN**—In consultation with you?

**Mr Owen**—I don't know to what extent—

**Ms McPherson**—Not directly in consultation, but certainly through the consultative committee on the land fund.

**Mr McMULLAN**—Thank you. So if I want to pursue that any further, I need to ask them, don't I?

**Mr Owen**—Yes.

**Mr McMULLAN**—I notice and welcome the fact that, when properties are being bought under the economic aspect of your responsibilities, when you buy businesses under the heading of 'social acquisition', you now require people to develop some sort of business plan. For example, there are a few listed in the report. You bought a property in Kerang, in Victoria, with a workshop and small retail frontage to allow a local CDEP to operate a small furniture manufacturing business. That is listed here as a 'social acquisition', and I can see why that might be so. Do you require a business plan for those purchases, as well?

**Mr Owen**—No, because it has a track record. It is an established small furniture manufacturing business and they were going to be evicted from the premises. They had a shopfront and a factory at the rear. They came to us because they had nowhere to go. As we assessed it as a social acquisition, we did not look at the business side of it particularly because it was well established. I think we got the last couple of years' financials just as a due diligence thing to make sure everything was in order. We consulted with ATSIC about the performance of the organisation and of the CDEP. I guess in an urban acquisition sense we saw it as being primarily social because of the employment and training and those sorts of outcomes that it was able to deliver.

**Mr McMULLAN**—I do not have any problem with the fact that you bought it for that reason. That seems to make some sense. It is no less a business because you bought it for some other reason. So there was some initiative to assure yourselves that it was a business that was likely to continue to operate but it was not at the same level of detail that you would undergo for an economic acquisition?

**Mr Owen**—It was not actually operating as a business entity, as I recall. It was the CDEP involved in those activities with a retail frontage and whatever. It was actually the CDEP. We checked with ATSIC about their history.

**Mr McMULLAN**—Have you divested that property to them?

**Ms McPherson**—I do not think so.

**Mr Owen**—Not yet. We go into a lease arrangement for up to three years just to see how they manage the property and how they accept the responsibilities. It is a capacity assessment exercise. Once we are satisfied that they have the capacity to take it on, we will divest.

**Mr McMULLAN**—The point that you made about consultation with ATSIC leads on to my next question. You refer in a number of places in the report to consultation. You might have covered this in your opening remarks, Ms McPherson, but I came in in the middle. I think I heard what you had to say about the ATSIC changes and I do not think it covered the point of my question—but, if it did, I am sorry. You talk, for example, at one point about undertaking consultation and research with Indigenous people and other stakeholders, including ATSIC. Who

is going to replace ATSIC for you in that consultation process? How are you going to go about that now that you do not have representative bodies with whom to consult and liaise?

**Mr Owen**—That is a real dilemma for us because, not only does our act require us to consult with ATSIC but also we have used ATSIC extensively over the years because they have the local knowledge and they know the local politics and the players. It is going to leave a real gap for us in terms of consultation. I do not know that the Indigenous coordination centres will be able to do the same.

**Mr McMULLAN**—They are purported to be the same. They could be a source of some information about the facts of something but not the views of people. They do not have the capacity to be representative in that way. Given that, as I am told, the legislation went through the Senate this evening, I suppose you had better get a contingency plan in place. What is the plan?

**Mr Owen**—It is a plan that we have to work on. As I said, it is going to leave a real gap. There are a number of other organisations, like land councils and native title rep bodies, but not having the regional councils will leave a real gap.

**Mr McMULLAN**—The other thing—and this is not really your problem—that is going to exacerbate that is that some of those smaller organisations are consulted to death. They cannot do their job. The rep bodies are a very good example. They cannot discharge some of the obligations they have because they spend so much time being a representative body in a difference sense of the word—and now they might have to do more of it. As I say, that is not your problem. You have to try to consult as best you can, as the act requires and as sensible management would require. But I think that is something you need to look at very intensely.

This is not a criticism—you could not have it in this annual report obviously because it had not happened—but I would hope very much that the next annual report will have a section about how you have accommodated that issue. I think that is a public policy question of some priority. So, as I say, I do not say that as a criticism of this report. It would have been very imaginative of you to have solved the problem in time for this report. But I would regard it as being important for the next report to address.

**Mr Owen**—I can add that in the past we have done a lot of regional consultations by advertising in key centres and inviting people who have issues, land needs or other land related issues to come along. The consultations have generally been well attended. In the strategic planning framework we are putting together now we are saying that, rather than that being an option, it will probably be more like a compulsory thing for us to do on an annual basis. We will visit key regional centres around the country and take whatever steps we can, like advertising with local organisations and in papers, to get people to attend these forums to give us their views.

**Mr McMULLAN**—It may turn out even better. It will be interesting to see how it develops. In the financial statements on page 100 there are figures for both years but ‘Loans to Indigenous corporations’ has gone up by \$150,000. Where do those loans arise? It was \$714,000; it is now \$866,000. My concern is not that it has gone up by \$150,000—that is neither here nor there in

the discussion. Given my previous question about loans for acquisition, what are those loans and to whom are they made?

**Mr Owen**—This would be livestock—non-fixed assets.

**Mr Cook**—That would be for land management applications mostly to do with livestock businesses and associated things. We have a loan to a small table grape growing farm on the Murray River. We have funded people to put crops in—those sorts of things. They are mostly around land management and business activities.

**Mr McMULLAN**—Where does the repayment of the loans show up? There is a section that says ‘Other debtors’, so it might be there. I do not really need to know that tonight.

**Ms McPherson**—We will take that on notice.

**Mr McMULLAN**—It is of no consequence and I have no further questions arising from it. Could I get a list of who those loans are to, brief descriptions, without doing too much work, and what the repayment situation is?

**Mr Owen**—Yes.

**CHAIR**—I visited the Roebuck Plains property about six or eight months ago. There was a reclamation of land confronting the management of that pastoral lease. What has happened and has that affected the value? Did we negotiate a way through that successfully? I thought we had but could you confirm it with me now?

**Mr Cook**—We concluded the negotiations with Conservation and Land Management in WA in April last year. Their original proposal was to take all of the marine plain west of the highway, which basically tore the heart out of the pastoral property. I did some figures that showed that even though it only took something like 12 per cent of the land it was the highest carrying capacity land where all the sale cattle went, so it tore the heart out of the profitability of the property. CALM had also sought information from the Department of Agriculture that backed that up, so they came back to us with a proposal for a much smaller area to be excluded from the lease. There is still one area in that which we are trying to negotiate with them to enable us to continue to graze, even though it is a high conservation area for birds. The point we are making is that it is also very close to where people come and the birds, the painted snipe and other things, are there despite the fact the cattle are there—not because they are not there—and there is a real fire danger risk if the cattle are taken away. The grass grows to an extent where we consider it to be a fire danger. We are negotiating with CALM to undertake some grazing studies and some ecological surveys on that particular area of land. Suffice it to say, the impact now on the carrying capacity of the place has been reduced considerably. It might take a fraction of what it took before.

**CHAIR**—Do we know how many hectares we are going to lose ultimately?

**Mr Cook**—Yes. I could not tell you exactly what the figure is off the top of my head. I have a picture in my mind.

**CHAIR**—But it is not something that you consider to be overly detrimental to the general running and the value of the property?

**Mr Cook**—No. It is mostly the land above the high watermark, very much at the western end of the property against Roebuck Bay.

**CHAIR**—That is a scrubby portion of land that is probably very—

**Mr Cook**—Very salty, that is right.

**CHAIR**—A tidally, mangrove sort of—

**Mr Cook**—That is right. Six months of the year it runs magpie geese and that's it.

**CHAIR**—This question is not as relevant to the annual report as it might be, but I think it is relevant generally to ILC practice. Has the ILC ever had any responsibility for Windidda Station?

**Mr Cook**—No.

**CHAIR**—Do we know anything about Windidda Station?

**Mr Owen**—We do.

**CHAIR**—Could you give us a bit of a background on who is responsible for it and how they came to be responsible for it? We will stop there if it is not relevant at all to you. I would like to know what has happened there, if you can help me.

**Mr Owen**—We were also alerted by that article that there was a problem there. The reference to the Indigenous Land Corporation in the article was quite mischievous. No-one had tried to contact us that we were aware of, and it is not a property that we have had any involvement with. It is Aboriginal.

**CHAIR**—At all?

**Mr Owen**—No, not at all.

**CHAIR**—Is an Aboriginal corporation the present proprietor?

**Mr Owen**—It is.

**CHAIR**—Do we know how they acquired their proprietorship?

**Mr Owen**—I am not sure. It would have been by one of our predecessors, such as the ADC or the DAA, I believe.

**CHAIR**—A long time ago?

**Mr Owen**—Yes.

**CHAIR**—What you are saying is that that is an estimates matter: the funding flowed from some program a long time ago and there has been no ongoing surveillance? Do we know whether the pastoral lease has been fully conveyed to the corporation, such that there is no further oversight?

**Mr Owen**—The pastoral board took over the property after this incident.

**CHAIR**—We hoped they would have done, given the horrendous facts.

**Mr Owen**—The RSPCA are mustering it, with the agreement of the Aboriginal landowners, and they have an agreement that they will sell cattle to recoup their costs of doing that.

**CHAIR**—But it is not a matter that concerns the ILC?

**Mr Owen**—No.

**CHAIR**—Yet the article indicated that you were involved?

**Ms McPherson**—That is right.

**CHAIR**—Have you written and corrected that? Has there been any publication of any form of retraction?

**Mr Owen**—No.

**CHAIR**—Have you gone to the Press Council?

**Ms McPherson**—I wrote to the editor the very next day, pointing out the fact that we had no involvement and no-one had contacted us. We have not had a response.

**CHAIR**—We might take that up further at a later date. Mr Galvin is not with us tonight. Is there anything you want to tell us? Is he unwell?

**Ms McPherson**—He is on holidays.

**CHAIR**—Fair enough. Mr Owen, I have not met you before and it is very nice to see you here. Can you tell me a bit about yourself? I am interested to know so that people who read our transcript know who is running the operation.

**Mr Owen**—I have been with the ILC almost since its inception—from 1996, 12 months after it started. I started out as the manager of the central division. For the last year and a half I have been the Director of National Operations, which is a national role looking after the policy of research function, the capacity development function and the Human Resources Section of the ILC. But my primary role is the development of the strategic planning framework and the

remediation program that is referred to in the report. Prior to that, I was a regional manager of ATSIIC, from about the early nineties. I could go back further, if you wish.

**CHAIR**—No, that is fine. It is just so that everybody knows who you are and where you have been. Mr Cook?

**Mr Cook**—I am based in Canberra. I live at Bungendore. I have been with ILC exactly six years to the day now. My job involves running the businesses that the ILC owns and operates and I oversee the office that assesses business plans and provides support and advisory services et cetera for other applications with businesses attached. Prior to working for the ILC I worked for Commonwealth Funds Management, running their rural portfolio for 4½ years. Prior to that, for 10 years, I was an ag consultant. I ran a little cattle place south of Canberra at Tharwa for three or four years at that time and, before that, I worked on a sheep and cattle station near Goulburn.

**CHAIR**—Very good. It is very nice to meet you both. It is always interesting to see who is administering the programs and who is behind the scenes. Page 110 of the annual report, in the second last paragraph, talks about the Australian National Audit Office's review—this is in the green portion of your accounts, the financial statements. It says:

The review has identified a discrepancy in the indexation rate ... that has resulted in excess appropriations having been drawn and paid to the ILC via section 193A of the ATSIIC Act. ATSIIC is currently in discussion with Department of Finance and Administration about this issue.

Could you expand a little on what that means in terms of the magnitude and the likely outcome? Are we talking several millions?

**Mr Owen**—Yes. There is an amount of \$6.2 million. This audit undertaken by ANAO—there were a number of similar audits—identified that an incorrect indexation figure was used to calculate the annual appropriation of funds to the ILC from the land fund; therefore, the draw-down was incorrect.

**CHAIR**—The draw-down was more than it should have been.

**Mr Owen**—Yes. There are a number of other agencies where this also happened. We have had discussions with ANAO and the Department of Finance and Administration. In December we had some correspondence from them advising of the outcomes of the audit and requesting a repayment of \$6.2 million.

**CHAIR**—From the department of finance?

**Ms McPherson**—Yes.

**Mr Owen**—We made the repayment in January.

**Mr McMULLAN**—To whom?

**Mr Owen**—Back to the official public account.

**Mr McMULLAN**—Not to the land fund?

**Mr Owen**—No.

**Mr McMULLAN**—But it was paid from the land fund to you.

**Mr Owen**—Yes.

**Mr McMULLAN**—Then why didn't it go back to the land fund?

**Mr Owen**—Good question.

**CHAIR**—Because you are only allowed to appropriate from the land fund in accordance with the guidelines and that section. I take it that the only one who can contribute to the land fund is general revenue, is it not?

**Ms McPherson**—That is right.

**CHAIR**—So you cannot repay it to the land fund? Is that correct?

**Ms McPherson**—Yes.

**Mr McMULLAN**—That makes legal and accounting sense, if not much practical sense; nevertheless, we can only deal with Commonwealth funds in accordance with the law. Could you check—or perhaps we need to check, Chair—that the money has gone back to the land fund? I suppose it is not really your job; it is ours.

**CHAIR**—It needs to be reappropriated in this budget.

**Mr McMULLAN**—Could we write to them? I do not want to do it formally by any resolution, but I would appreciate if we could find out.

**Senator CROSSIN**—It is my understanding that the ATSIIC annual report that was tabled last year did not reflect this correction. Is that correct? Are you aware of that?

**Ms McPherson**—I do not know.

**Senator CROSSIN**—I understand that the ATSIIC commissioner signed off on the annual report highlighting this anomaly and the annual report was tabled, even though this anomaly was in it. Does that not impact on you? Even though you exist under the ATSIIC Act, you report separately. Is that right?

**Ms McPherson**—That is correct.

**Senator CROSSIN**—So you do not get to look at what is in the ATSIIC annual report before it is tabled?

**Ms McPherson**—No.

**Senator CROSSIN**—I will take that up somewhere else then.

**CHAIR**—Still on page 111 of the previous annual report, we have a cross-referencing issue. In the \$170,000 to \$179,000 remuneration bracket there is one director. Am I right, or is that director in the \$140,000 to \$149,000 bracket? You had one last year.

**Mr Owen**—Yes.

**CHAIR**—The current figures do not show that. Should the director in the \$140,000 to \$149,000 bracket be down a level? Feel free to say that you will take that on notice, but I would like you to look at that.

**Ms McPherson**—We will take that on notice because I think that is in the wrong place.

**CHAIR**—That is good. On that same page you mention that three directors are not remunerated because they are appointed by ATSIC. What is going to happen with respect to the number of directors—have you been made aware of that? What is the remuneration scenario going to be in terms of its impact upon you? Are you going to be remunerating the three directors that ATSIC no longer funds?

**Mr Owen**—It is only two directors. Three are mentioned there, but Mr Quartermaine was only acting when Geoff Clark was suspended, so it is two. The ATSIC chair is an ex officio member of our board, and one other commissioner is appointed. We have written to the minister pointing out that, with the demise of ATSIC, we will need two more members appointed. Those members would have to be remunerated as the others are.

**CHAIR**—So the burden for the two new members will fall upon the ILC; you are aware of that and provision will be made in the appropriation for that?

**Mr Owen**—Yes, it would have to be.

**Senator CROSSIN**—The number of people on the ILC board will not diminish by two?

**Mr Owen**—It will, and they will need to be replaced.

**Senator CROSSIN**—The act has gone through today.

**Ms McPherson**—As of today it will diminish by two.

**Senator CROSSIN**—Because they are only appointed by virtue of the fact that the ATSIC—

**Ms McPherson**—Yes.

**Senator CROSSIN**—But you are expecting to replace those two positions?

**Mr Owen**—We are expecting the minister to replace those two positions.

**Senator CROSSIN**—With an appointment by the minister?

**Ms McPherson**—Yes.

**Senator CROSSIN**—Have you put up any suggestions as to who you think should be appointed?

**Ms McPherson**—Not at this stage, but I have written to the minister making her aware that we will have two vacancies once the act has gone through.

**Senator CROSSIN**—Have you identified any preferred people?

**Ms McPherson**—Not at this stage.

**CHAIR**—Not anybody we want to talk about tonight, I am sure.

**Senator CROSSIN**—I am not asking you to name them; I am just wondering. When would your next board meeting be?

**Ms McPherson**—My next board meeting is on 3 May. I am going to be two directors short unless appointments are made between now and then.

**CHAIR**—That does not cause you any technical compliance problems, does it? I note that everybody attends and there are very rarely any absentees.

**Ms McPherson**—No, technically my quorum is four.

**CHAIR**—That is good. If I can take you to page 1, which program was the moratorium you established with respect to acquisitions? I am a little unclear. The sentence on the bottom of page 1 says:

Under the ILC's previous programs, these people had limited access to ILC support. Separately, the Board had legitimate concerns about cost and equity issues ...

What were they and how have you resolved them with your moratorium?

**Mr Owen**—There are two separate issues. The first reference about people having limited access refers to people in urban situations. Under the first National Indigenous Land Strategy, the focus was on the fact that land had to be of cultural significance.

**CHAIR**—So that put us out in the remote regions.

**Mr Owen**—People in cities were often not from that area. If they had no cultural connection to the land on which they were living then they were not really supported by our policy. But the

changes that the board made in December 2002 to make this four-stream approach actually assisted in eliminating that problem.

**CHAIR**—Did you make guidelines?

**Mr Owen**—Yes.

**CHAIR**—Would you oblige us with a copy of those guidelines? Could you send those to the secretary?

**Mr Owen**—Certainly.

**CHAIR**—Have you published those widely?

**Mr Owen**—Yes.

**CHAIR**—So it is a different approach to urban applications.

**Mr Owen**—Not so much urban but, with regard to the four streams now, the only stream where we need to take into account issues of traditional ownership is the cultural stream. The other three are social, environmental and economic. The traditional ownership is not a major issue because it is about addressing people's dispossession wherever they are.

**CHAIR**—I am unclear on the cost issues. I am starting to get a feel for the equity issues. What were the cost issues?

**Mr Owen**—This is about the economic acquisition program, which is separate again. The issue was that the applications we were getting were for very expensive pieces of land that appeared to be benefiting only a very few people. It really was not equitable to be spending millions of dollars buying land with businesses that only involved a very small number of people. Because this was very much a trend that they observed, the board decided to revise the economic program guidelines to come up with a better set of guidelines to make it more widely available.

**CHAIR**—Does your legislation enable the board to alter the guidelines as it sees fit?

**Mr Owen**—Yes.

**CHAIR**—That is interesting. When will we know—I suppose it will be in next year's annual report—whether the desired effect has been achieved? What outcomes are we looking for to identify the success of the change?

**Mr Owen**—I think it will be the number of successful applications where we are able to assist people to acquire land that has a commercial element, that provides them with an enterprise and the benefits that go with that—employment, income and those sorts of things.

**CHAIR**—Without getting into too much detail, can you give me some indication of what we have done since we changed the guidelines that we would not have been able to do before?

**Mr Cook**—Certainly the outcome has been that we are getting fewer individuals applying for \$4½ million cattle stations at St George. We were getting a rash of those—seriously, one or two people for those sorts of things. The other thing we recognised, which is not stated in the report, is that many of the applications we were getting under the business program were from people who really did not have the expertise or the capacity to run businesses. The classic example is a person who has worked as a station hand or whatever forever and now thinks it is time to run the station. The guidelines now speak of the need for applicants to form an arrangement with a suitable partner to bring expertise to the business proposal. The ILC is able to fulfil that role if necessary. We have had a couple of applications that have fulfilled those requirements.

**CHAIR**—So you have tightened up the feasibility aspects of applicants' aspirations.

**Mr Cook**—Yes.

**CHAIR**—That has to be a good thing. What do we expect to see over time in terms of those changes?

**Mr Cook**—We would hope to see some more applications whereby more than one or two people are potential beneficiaries, particularly applications where there is a business attached to the land that has the potential for training initially—certainly not just training for training's sake but for jobs to be created. If we are talking about agricultural businesses, which many of these applications are—and our policy looks at land based businesses—there is almost a contradiction in terms there because more efficient businesses run on fewer and fewer people. Their benchmark has been showing that all the time.

**CHAIR**—Is it reasonable for me to expect that there will be a more confident divestment by the ILC to some of these organisations down the track?

**Mr Cook**—Under this economic model, absolutely.

**CHAIR**—Requiring less oversight and ongoing management?

**Mr Cook**—By the ILC?

**CHAIR**—Yes.

**Mr Cook**—We would hope that was the result of a good application, yes.

**CHAIR**—What mechanisms do we anticipate building in so that the committee can see that that is going to happen? How do you propose that we will be able to identify that that is happening? This will probably have to be on notice or something to take down for next year's annual report—that is, a mechanism whereby we can see that the change in the guidelines that you are going to provide us is yielding some benefit in terms of successful outcomes with proprietorships, I suppose we should say.

**Mr Cook**—Okay.

**CHAIR**—I take you to page 113. Last year, according to this, you had an officer who was on \$279,999 per annum. This year there is an officer on only \$200,000 to \$209,000—a drop of \$60,000 to \$70,000. Can you explain that to me? Who was getting the \$270,000 and who is now getting only \$200,000? I do not want to know their names; I just want to know their positions.

**Mr Owen**—We will take that on notice but I think the \$279,000 range included a termination payment for an officer, so that artificially put them into that bracket.

**CHAIR**—I think we should put an asterisk next to that and you can take it on notice. One of the things we have to confront here is that people say, ‘Crikey! Someone’s getting \$280,000.’ These sensitivities need to be explained, and I would appreciate it if we could do that.

**Mr Owen**—Yes.

**CHAIR**—Page 122 shows that at Cardabia Station you have a couple of likely directors—Grantley Cooyou and Lawrence Cooyou. By my assessment, dating back to 2002-03, Grantley and Lawrence have never attended a meeting. What are we doing about that?

**Mr Cook**—Lawrence has been taken off the board.

**CHAIR**—Good.

**Mr Cook**—We have kept Grantley’s position open. He is a young Aboriginal man with a great deal of potential, and we are encouraging him to come back in and become actively involved.

**CHAIR**—Very good.

**Mr Cook**—I am told by his auntie that that should happen this year.

**CHAIR**—I am satisfied with your answer on that and I trust your good judgment in that regard. I move on to your consultants. If you want to take these questions on notice, I am happy for you to do so. I am looking generally at the cross-reference between last year and this year—and I note that you have not got last year’s. I take it that a lot of the services, like those of Albany Valuation Services, are with respect to one particular property. I refer to appendix 4 of last year. The figure for Albany Valuation Services, for example, has gone up by approximately \$1,300. In the scheme of things that would not normally attract my attention but I expect they are doing exactly what they did the previous year. That sort of increase is unreasonable.

**Mr Owen**—I can say that we have fairly detailed terms of reference when we obtain a valuation. Depending on the nature of the property, we sometimes require a lot more information about a particular property than about another. We do go out and get quotes from three valuation agencies and we accept the best quote but the amount depends on the nature of the property and the amount of work they have to do, so they do vary widely.

**CHAIR**—I accept that but just not in this instance. I suspect that in Albany you have got one property.

**Mr Cook**—Before acquisition we commission a valuation of the property. I am only guessing here but I would imagine that they valued a couple of properties in that area and they valued one or two more in the next year.

**CHAIR**—So you think it is just an anomalous figure?

**Mr Cook**—No, I think it reflects the amount of work that they have done between years.

**CHAIR**—But not the same work?

**Mr Cook**—No. It is the same sort of work but for different properties.

**CHAIR**—Okay. Just have a look at that for me on notice. I would be interested if you would confirm that for me.

**Mr Cook**—Okay.

**CHAIR**—Similarly, for Archicentre Ltd for a property inspection it is \$3,761, as opposed to \$1,575 last year. So there is a property, it has been inspected but the price of the inspection has gone up about threefold. Would you have a look at that for me and let me know?

**Ms McPherson**—Yes.

**CHAIR**—There has been a huge change in what we are spending with the Australian Government Solicitor and the Australian Valuation Office. In this year that we are reviewing we have spent \$57,580 and \$7,315, whereas last time in the previous financial year we spent \$212,720 and \$17,455, so there has been savings of about \$185,000 in those two items alone. Can you explain to me the policy and the objective of how you have gone about going, I take it, from government valuation and legal services to contracting out to private legal services.

**Mr Owen**—In the case of legal services we have actually established a legal section within the organisation, so we have in-house expertise now.

**CHAIR**—That is good.

**Mr Owen**—That is the explanation for the AGS figure.

**CHAIR**—How do we know that is cheaper? I hope it is.

**Mr Owen**—We do not know right now how effective it all is, but building up that legal expertise within the organisation has certainly made it far more efficient and the outsourced costs have gone down dramatically.

**CHAIR**—Yes, as we would expect. I think the committee would like to see some indication that you have done that. We would like to see the objectives and some indication that you believe—and I do not necessarily think you have to get into expensive analysis—that has achieved substantial savings, which I think these figures indicate it may well have. We would

like to see that. Let us turn to the internal audit fees. Last year they cost us \$40,491 and this year they have cost us \$237,800. That is a happy event for the contractor.

**Mr Owen**—The reason for that is that in the previous year we were only just starting this internal audit program. This report is pretty much for a full year of internal audits.

**CHAIR**—So the \$40,491 is only for part of the year?

**Mr Owen**—Yes, we had only just commenced the program back then.

**CHAIR**—So one of these previous items fills out the balance of the 12-month period, and I have to go through each line item to work out who the other auditor was in addition to Deloitte Touche Tohmatsu. That is what you are suggesting.

**Mr Owen**—Deloitte's tendered for the position. They started the audit program.

**CHAIR**—But the \$40,000 is only for a couple of months, or a proportion of the year.

**Mr Owen**—That's right.

**CHAIR**—Is that seriously what it costs to audit the ILC—over \$200,000 per annum?

**Mr Owen**—Yes, it is a fairly large internal audit program that covers a whole range of internal/external operations.

**CHAIR**—Did we go to tender on that?

**Mr Owen**—Yes.

**CHAIR**—And how many applicants did we have?

**Mr Owen**—I would have to take that on notice.

**CHAIR**—Sure. I would be interested to know for when people say, 'Goodness me; that's a lot of money for an audit'—which maybe it is not; I know what these things cost. But I would like some further information on what process you went through. What do you use Gavin Anderson for? I have 'media services'. This year I have 'public relations services'.

**Mr Owen**—We will have to take that on notice.

**CHAIR**—Certainly. Page 126 shows you have spent \$96,000 on 'extension, education and training', with eight 'trainers'. I take it we would call those people 'contract trainers'. What exactly are they doing, and how do we know that what they are doing is yielding the sorts of benefits I think we all want?

**Mr Owen**—The extension, education and training strategy was a project over several years. Some of the people listed there formed a board of studies looking at developing a holistic

training strategy for the ILC to work with Indigenous land owners. It was multilayered, starting at people in traineeships or apprenticeships through to management through to the board of directors. The outcome of that project has informed our capacity development policy and strategy. We learned a lot of lessons out of the strategy development itself about how to do training with Indigenous people on country.

Another outcome was that we now have a corporate governance program for Indigenous land owners, an accredited package, that can be delivered on property, in modules. We are in the process of calling for expressions of interest from training providers who can deliver that training because we have found, particularly through the remediation program, that corporate governance is a major foundation issue for a lot of land owners. So this extension, education and training strategy and what we spent on that has had some extremely positive outcomes in that we have this package. It has been widely distributed. As I said, we have informed our capacity development policy and our practice from the lessons we have learnt from this whole project.

**CHAIR**—Could you tell us a bit more about that next year? I think we would like to know what areas you are investing in, in terms of training, how you propose to audit internally—or benchmark is probably a better expression—and your success in capacity building. I know that you have some very good pastoral leases in the Kimberley in Western Australia, for instance, but that you have not got too many people who know how to run them, as we discussed over the years with respect to our plan of having stock come off Roebuck Plains—good, prime stock raising the standard in those pastoral leases. Given the current price of beef, we have an opportunity to do things. I would like to see you expand on what you are training them in, what technical skills you are imparting, and how long the project is going to go for. I would have thought it may well be an annual fixture, but I will leave that entirely up to your good judgment. How you are going to benchmark it to indicate what level of testing you are going to put the graduates through? And I hope they are graduates in some respects so we can see that we are getting a result.

**Mr Owen**—I will add that the extension education training strategy itself has finished. It has been completed. We piloted the corporate governance package. I think there were three graduates with certificates in governance and one with a diploma, and a number of people achieved competency. That pilot phase has been completed. We have used that exercise to inform and develop our capacity development policy. It has almost been subsumed by a larger capacity development approach.

**CHAIR**—Have I missed the discussion of that in this report? Have you expanded upon that? Have I missed that?

**Mr Owen**—Yes, it is on pages 46 and 47.

**CHAIR**—Okay. I think we need some statistics about how many are attending. I have the costs there now. I would like to know what precisely those skills are, how many graduates and certificate attainments there are and those sorts of details. There is not much point having a training program if no-one is attending or getting their certificates. On page 79 we have ‘Cash used: employees.’ In 2004 we have \$7,294,742 compared to \$6,000,052 the previous year. The year before that there was a similar increase: in 2002 we went from \$4.4 million to \$6 million. This year we have gone from \$6 million to \$7.2 million. That is a sizeable annual increase. What

is driving that? Over what length of time are we going to continue to see the increases at that level? I am happy for you to take that on notice.

**Mr Owen**—We will take that on notice.

**CHAIR**—Thank you.

**Senator CROSSIN**—I refer to page 38. I have a question about land management issues. You say some are ‘not stated’. What does it mean that it does not fall into one of the four? I am referring to the graph on that page.

**Mr Owen**—This was a record of applications received and in some cases the applicants did not tell us what their primary purpose was.

**Senator CROSSIN**—How can they do that in an application?

**Mr Owen**—They have to identify which stream they are applying under—cultural, social, environmental or economic.

**Senator CROSSIN**—What if they do not?

**Mr Owen**—The application does not go very far; it goes back to them.

**Senator CROSSIN**—On the page with a map of Australia you have 11 not stated. So you sometimes get an application and people do not tell you specifically what it is for. Is that right?

**Mr Owen**—They have not identified one of those four streams.

**Senator CROSSIN**—Their application does not go any further until they do that?

**Mr Owen**—That is right.

**Senator CROSSIN**—There is a lot of activity happening in the Territory. I refer now to pages 41 and 42. Until I flicked through your report I was not aware of the diverse activities you get involved in, particularly in the Territory—from crazy ants to land management issues. You have also undertaken leasing of several properties this year. Are these new properties that the ILC has taken over?

**Mr Owen**—In relation to the Indigenous pastoral project?

**Senator CROSSIN**—The land management approvals for 2003-04.

**CHAIR**—Where are we talking about?

**Senator CROSSIN**—It is the sixth dot point on page 41, about collaboration between the ILC and the NT government.

**Mr Owen**—The majority of those properties at this stage are existing Indigenous held land that had been acquired by other means prior to us—places like Elsey Station and a number of other properties. With possibly one or two properties that we have acquired we have assisted the landowners to go into lease arrangements with other operators. But this particular project is about addressing the 37 or 38 Indigenous, former pastoral properties that have been acquired under a range of mechanisms. A lot of them are certainly not being utilised to their full potential. This joint project is about getting them back into production, working with the NT government and the two major land councils.

**Senator CROSSIN**—That is something that has only just come on board in the last 12 months—is that right? It is a new project.

**Mr Owen**—Pretty much.

**Senator CROSSIN**—Also, in the Top End, I notice you are training 85 people how to control the *Mimosa pigra*. Senator Johnston was talking about Roebuck Plains. How has Roebuck Plains moved on in its training capacity for people in the pastoral industry? When we went on the tour the station manager talked about developing it as a training facility. Is that happening, or has that occurred?

**Mr Cook**—Yes, that is commencing now. A scoping study has been undertaken. That was presented to the board at its last meeting, and I will let the chair speak about the board's decision and where to next.

**Ms McPherson**—There was a decision to have a subcommittee of the board. I was selected as the chair of that subcommittee. We have to do further work now, particularly talking to the federal government, with the Prime Minister's decision to have technical colleges around Australia. We are hoping very much to link in with the Commonwealth on that.

**CHAIR**—Have we not got a technical college at, say, Karratha or Broome in Western Australia?

**Ms McPherson**—Yes.

**CHAIR**—But they do not do the sorts of things you are looking to do?

**Ms McPherson**—No.

**CHAIR**—Are you having enough input into the technical colleges? Are you talking to Dr Nelson about what you want?

**Senator CROSSIN**—Have you put in an expression of interest?

**Ms McPherson**—We have not as yet. All we have obtained so far is a full scoping study. There is certainly a lot of interest from all agencies. The land councils are very supportive. The traditional owners, the TAFE colleges, the Pastoralists and Graziers Association and all the main stakeholders are very supportive of this, so we have to now take it to the next step.

**Senator CROSSIN**—Where is the closest rural college in that part?

**CHAIR**—Kunjin ag, Narrogin ag or Harvey agriculture?

**Mr Cook**—Somewhere near Perth.

**Senator CROSSIN**—Or Katherine.

**Ms McPherson**—Katherine in the Territory would be the closest.

**CHAIR**—Does Pundulmurra in Broome do the sorts of things you are looking at?

**Ms McPherson**—It does not.

**CHAIR**—No, it is a technical sort of college.

**Mr Cook**—What we have done is to sign up anyone who is working for us with appropriate certificates in rural studies with one of the private providers up there. I had a meeting with Djaringo—one of the training and CDEP organisations based in Broome—three or four weeks ago. We are getting them to quote on doing some extensive work on Roebuck to refurbish some cattle yards and other work, and building that into a training program. Rather than wait for the college to get up and running, we are actively engaged in getting those local service providers working with us.

**Senator CROSSIN**—Will the proposed changes to CDEP impact on the ILC? Have you seen the discussion paper on the changes?

**Ms McPherson**—Yes.

**Senator CROSSIN**—You do not have anybody at the ILC employed on CDEP, I take it?

**Ms McPherson**—No.

**Mr Cook**—At Cardabia, there are a number of positions available to CDEP employees.

**Senator CROSSIN**—Where is that?

**Mr Cook**—At Cardabia on the west coast of Western Australia. Because they are CDEP positions we can keep four or five people employed, rather than two. There is a constant stream of people coming through, for various reasons, and we are able to keep more people employed on a place that could really only afford to run two.

**Senator CROSSIN**—On page 15 it says that your board has developed a code of conduct. That is due to be considered in 2004-05. Is that in operation yet?

**Mr Owen**—The board accepted it at the meeting in December, I think.

**Senator CROSSIN**—On pages 164, 166 and 167 your tables are a little out of whack. Can you explain to me the land management activities? In that list on page 164, next to Kidman Street, Broome it has NT as the state. What does that mean? Or is there an alignment problem here?

**Mr Owen**—I think it is Kidman Street, Alice Springs. I will take that on notice and check it.

**Senator CROSSIN**—I think there is a problem with some of your other tables as well. On page 166, Hermannsburg and Wallace Rockhole are not in New South Wales. And on the next page, the Tiwi Islands are not in New South Wales, either. I was thinking that that is perhaps the state that has bought in the Tiwi Islands or that your office was in New South Wales. I was trying to give you an out there.

**Mr Owen**—No outs possible there.

**Senator CROSSIN**—I do not know enough about some of the other smaller places. But I did pick up the Territory ones. Finally, you outline in great detail, which is very good, your community consultations. When you talk about ILC communication workshops or guideline workshops, is that when you have a roving team of staff that go around explaining what you do and how people can access the services of ILC?

**Mr Owen**—That is correct.

**Senator CROSSIN**—Are the communications workshops different from the guideline workshops? They serve two different purposes?

**Mr Owen**—I think that is a terminology issue.

**Senator CROSSIN**—Basically, it is about spreading information about the ILC and how people can get on board.

**Mr Owen**—That is right. There was a series of workshops specifically about the changes to guidelines when the four-stream approach was introduced. There are broader workshops which are more generally about ILC programs and services.

**Senator CROSSIN**—It seemed to be fairly comprehensive. I was exhausted by the end of the year, looking at all the places your people had been to. It is quite good.

**Ms McPherson**—It is very comprehensive.

**CHAIR**—The committee would be pleased if you could respond to the questions on notice within 30 days, which is our standard estimates practice. If you have any problems with that, please contact the secretary. It is not exactly a hard and fast rule, but it is convenient to all concerned. That concludes this evening's public hearing. Thanks very much for coming. It was a delight to meet you, Mr Owen and Mr Cook, and thank you, chair, for coming along. I look forward to seeing you next year.

**Committee adjourned at 8.55 p.m.**

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