

**ABORIGINAL AND TORRES STRAIT ISLANDER  
COMMERCIAL DEVELOPMENT CORPORATION**

**Submission**

to the

**Inquiry into Indigenous Businesses**

being conducted by the

**House of Representatives Standing Committee on  
Aboriginal and Torres Strait Islander Affairs**

# Contents

	<b>Section</b>	<b>Page No.</b>
Abbreviations		3
1.	Introduction	4
2.	About the CDC	4
	2.1 Establishment	4
	2.2 Corporate Vision and Statement of Purpose	4
	2.3 Purposes	5
	2.4 Functions	5
	2.5 Performance of Functions	5
	2.6 CDC Operations	5
3.	Inputs to Inquiry Terms of Reference	7
	3.1 Introduction	7
	3.2 Success of Existing Commonwealth Indigenous Commercially Oriented Programs	7
	3.3 Possible Future Policy and Administrative Directions	10
	3.4 Barriers to Indigenous Participation in Business	13
	3.5 Means of Raising the Profile of Indigenous Business Interests	16
4.	Recommendations	18
Attachments		
	A	19
	B	23
Enclosures		
	<i>CDC Annual Report 1996-97</i>	
	<i>CDC Corporate Plan 1998-2001</i>	

## ABBREVIATIONS

ABC	Aboriginal Business Canada
ABTA	Aboriginals Benefit Trust Account
ALFC	Aboriginal Land Fund Commission
ALC	Aboriginal Loans Commission
ALR(NT) Act	<i>Aboriginal Land Rights (Northern Territory) Act 1976</i>
ATSIC	Aboriginal and Torres Strait Islander Commission
ATSIC Act	<i>Aboriginal and Torres Strait Islander Commission Act 1989</i>
ATSILF	Aboriginal and Torres Strait Islander Indigenous Land Fund
BFS	Business Funding Scheme
CDC	Aboriginal and Torres Strait Islander Commercial Development Corporation
CEO	Chief Executive Officer
CSO	Community Service Obligations
DAA	Department of Aboriginal Affairs
DEETYA	Department of Employment, Education, Training and Youth Affairs
IBIP	Indigenous Business Incentive Programme
ILC	Indigenous Land Corporation
NT	Northern Territory
OEA	Office of Evaluation and Audit

## **1. Introduction**

This submission has been prepared by the Aboriginal and Torres Strait Islander Commercial Development Corporation (CDC) for the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs Inquiry into Indigenous Businesses. The submission is underpinned by four fundamental views that are strongly held by the CDC.

- Given the adverse socio-economic circumstances faced by the vast majority of Indigenous people today, participation in mainstream commercial activity offers a means for some people to break free of welfare dependency and for improving the conditions under which they currently live.
- Commercially oriented programs (with similar focuses) for Indigenous people, that have been developed to assist them participate in the business world, should be administered by one organisation to enable more effective and efficient program delivery.
- These commercially oriented programs, often referred to as “Indigenous commercial programs” (term used in this paper), should be separated from socially oriented programs as much as possible so that program objectives are not confused and program outcomes consequently placed in jeopardy.
- Indigenous commercial programs require strong mechanisms to meet community support obligations that are central to the rationale of having the programs at all.

Based on these views, the CDC’s position is amplified, in this submission, against the key focus areas in the Terms of Reference for the Inquiry.

## **2. About the CDC**

### **2.1. Establishment**

The CDC was established by section 145 (1) of the *Aboriginal and Torres Strait Islander Commission Act 1989* (ATSIC Act). It commenced operations on 5 March 1990 with assets transferred from the former Aboriginal Development Commission, mainly: Bonner House, a commercial property located in Woden, Australian Capital Territory; and approximately \$9.6 million in funds. These funds were augmented by \$10 million a year appropriated for the four financial years 1990-91 to 1993-94.

### **2.2 Corporate Vision and Statement of Purpose**

The CDC’s vision is contained in its new *Corporate Plan 1998-2001* as follows:

“Our vision is of a strong Aboriginal and Torres Strait Islander business presence actively participating in mainstream economic activities within the Australian business community as a means of achieving greater economic self-sufficiency and well-being for our peoples.”

The Corporate Plan also contains the CDC's statement of purpose:

"The Corporation will stimulate the economic advancement of Aboriginal and Torres Strait Islander peoples through investing in sound commercial ventures and encouraging and supporting Indigenous participation."

This statement is derived from the ATSIIC Act which sets out the Corporation's **purposes** (section 146), **functions** (section 147) and how the Corporation will act in the **performance** of its functions (section 148).

### **2.3 Purposes**

- To assist and enhance Aboriginal and Torres Strait Islander self-management and economic self-sufficiency; and
- to advance the commercial and economic interests of Aboriginal persons and Torres Strait Islanders by accumulating and using a substantial capital asset for the benefit of the Aboriginal and Torres Strait Islander peoples.

### **2.4 Functions**

- To engage in commercial activities;
- to promote and encourage Aboriginal and Torres Strait Islander self-management and economic self-sufficiency; and
- such other functions as are conferred on the Corporation by "the Act".

### **2.5 Performance of Functions**

- The Corporation shall act in accordance with sound business principles.
- The Corporation shall have regard to the desirability of:
  - a) encouraging and facilitating Aboriginal and Torres Strait Islander participation in commercial projects and enterprises;
  - b) securing, as far as practicable, Aboriginal and Torres Strait Islander participation in the ownership and control of entities engaged in activities that are likely to have a significant impact on Aboriginal or Torres Strait Islander interests;
  - c) promoting the development of industries and other commercial and economic activities that are likely to have a beneficial impact on Aboriginal or Torres Strait Islander interests; and
  - d) making specialist commercial expertise available to Aboriginal persons and Torres Strait Islanders engaged in commercial activities.

### **2.6 CDC Operations**

The CDC is managed by a Board of Directors comprising:

- a Chairperson;
- a Deputy Chairperson; and
- up to seven other members.

All Directors are appointed by the Minister for Aboriginal and Torres Strait Islander Affairs.

Day to day administration is undertaken by a small contingent of staff comprising:

- a General Manager;
- a Deputy General Manager; and
- 10 other staff located in three operational areas.

These operational areas are:

- Business Identification and Development;
- Investment Monitoring and Support; and
- Financial Management and Human Resources.

The CDC has not received any Government funding since 1993-94. Thus it meets all its administrative costs from its investment earnings. While these are sufficient to meet day to day administration, there is a limit to the extent which the CDC can adequately fulfill its community service obligations (CSO - promoting and assisting Indigenous participation in commercial activities) as well as its other statutory purposes and functions outlined above. These CSO are an important component of any Indigenous commercial program.

As at 30 June 1997, the CDC was engaged in 19 different business ventures over a diverse range of activities including:

- commercial operations;
- land development;
- horticulture and aquaculture;
- tourism;
- retail and services;
- mine contracting services;
- commercial property;
- shipping;
- motor trades; and
- waste management.

Investments in these activities totalled almost \$32 million. Currently, the CDC is investigating a number of prospective new business investments.

Further details of the CDC's operations as at 30 June 1997 are contained in the enclosed *Annual Report 1996-97*. While this report provides a good overview of the CDC's business activities, the CDC has had management changes and is currently developing new directions and undertaking reforms in its administrative processes. The Corporation's new directions are reflected in a new *Corporate Plan 1998-2001* (unpublished copy enclosed). The Corporate Plan sets out three goals (participating in investments that maximise a range of benefits for Indigenous people, establishing a well balanced investment portfolio, and providing expert business advice), and strategies to achieve them. The CDC Board approved the plan recently but pursuant to section 150 of the ATSI Act, the plan still has to be sent formally to ATSI and approved by the Minister for Aboriginal and Torres Strait Islander Affairs.

### **3. Inputs on Inquiry Terms of Reference**

#### **3.1 Introduction**

The Inquiry Terms of Reference require the Committee to examine “the existing opportunities and arrangements for encouraging sound Aboriginal and Torres Strait Islander economic initiatives at the small and medium business level” with a focus on four areas briefly summarised as follows:

- success of existing Commonwealth Indigenous commercially oriented programs;
- possible future policy and administrative directions;
- barriers to Indigenous participation in business; and
- means of raising the profile of Indigenous business interests.

The Committee is also required to “consider State, Territory, corporate and international examples of good practice in encouraging sound indigenous economic initiatives at the small and medium business level.”

At the outset, it is important to point out that the Minister for Aboriginal and Torres Strait Islander Affairs has asked the CDC to prepare a draft discussion paper on future directions for Indigenous commercial programs. This work is in progress and a draft paper is currently being considered in the Minister’s office. In these circumstances, there are, understandably, similar views expressed in the CDC’s submission and the draft paper in the Minister’s Office.

#### **3.2 Success of Existing Commonwealth Indigenous Commercially Oriented Programs**

##### ***Terms of Reference focus number 1***

***“The success of existing Commonwealth programs that help Aboriginal and Torres Strait Islander people (including those in joint ventures with non indigenous people), to acquire, control, and develop sustainable commercial opportunities.”***

##### **3.2.1 Introduction**

In any consideration of current Indigenous commercial programs, it is useful to examine the past to determine what lessons might be learned from it. Such an approach is important in Indigenous affairs where policies, programs and organisations have changed regularly and substantially over the years. These changes have not always resulted in improved administration or better outcomes for Indigenous people.

##### **3.2.2 Past Programs**

Between 1969 and 1980, five organisations were established to assist Indigenous economic development. Two of these continued to operate until 1990.

- Commonwealth Capital Fund for Aboriginal Enterprises (1969-1974)
- Aboriginal Loans Commission (1974-1980)
- Aboriginal Land Fund Commission (1974-1980)
- Department of Aboriginal Affairs (1972-1990)
- Aboriginal Development Commission (1980-1990)

A short history of these past organisations, adapted from a chapter in the draft paper prepared for the Minister's consideration, is given at Attachment A. The CDC believes that the lessons from this history are very pertinent to this inquiry.

The main lesson is that past Indigenous organisations with economic development programs have been burdened with the conflict between social and economic goals. Too often, attempts to meet social needs with commercial programs have led to poor commercial decisions and thus commercial failures in so-called Indigenous economic ventures. Arguably, such conflicts were inevitable due to the mixed aims and functions of the organisations involved.

Given the range of social disadvantages experienced by Indigenous people in Australia, it has been and still is, difficult for decision takers to separate the goals of commercial and social programs when they are responsible for administering both. This conflict has no doubt contributed to the demise of the organisations concerned.<sup>1</sup>

### **3.2.3 Current Programs**

Current Indigenous commercial programs are administered by three organisations.

- ATSIIC has a Business Development Programme with two elements:
  - the Business Funding Scheme (BFS) which provides loans mainly to small businesses and operates within commercial parameters. Funding criteria are closely aligned with those applied by commercial lending institutions; and
  - the Indigenous Business Incentive Programme (IBIP), which started in 1997-98, aims to assist Indigenous persons that might otherwise not be able to enter into business. The emphasis is on seed funding, training and other support to newly established businesses. A key measure of the success of IBIP will be the capacity for businesses assisted by it to create new and sustainable jobs.
- ILC was established with the purposes of assisting Indigenous people to acquire land; and assisting them to manage Indigenous-held land. While not restricted to commercial considerations, the ILC is required to act in accordance with sound business principles whenever it performs its functions on a commercial basis.
- CDC - see section 2.

The ILC is a new organisation and it is premature to comment on the success or otherwise of activities it undertakes on a commercial basis. The fact that it deals with land acquisition and land management, and has the capacity to pursue either social or commercial goals suggests that it may be able to avoid the conflicts between social and commercial programs that have occurred in other organisations.

---

<sup>1</sup> While the establishment of new organisations coincided with new governments of different political persuasion, it would be simplistic to attribute the changes solely to political ideologies. The ALC and ALFC, created by a Labor Government, operated for almost 5 years under a Coalition Government. Similarly, the ADC, established by a Coalition Government, operated for nearly 8 years before being abolished by a Labor Government.

It is too early to comment on ATSIC's new IBIP but the success of BFS has been varied. On one hand, the BFS has been positive in that the scheme has:

- assisted a substantial number of Indigenous people start and successfully operate businesses, and thus gain economic independence;
- provided aftercare for Indigenous businesses during times of difficulty, and
- enabled successful Indigenous entrepreneurs to serve as positive role models for their own people and the wider community.

On the other hand, the BFS and the forerunner to IBIP (the Community Economic Initiatives Scheme) had failures due to the conflict between social and commercial considerations in decision taking. A contributing factor to this conflict was probably the fact that ATSIC has responsibility for both social and commercial programs. Other problem areas include:

- clients' complaints over delays; and
- the use of business agents, with varying degrees of success, to supplement staff resources and expertise.

The CDC has had its share of problems. Recently, one of its investments in a business enterprise failed due primarily to alleged fraud within the business. An independent report has revealed that professional reports that the CDC had relied upon were inadequate. The CDC is pursuing legal avenues in respect of the alleged fraudulent activities and the quality of the professional advice it was provided. It is noteworthy that other lending institutions were adversely affected in the same way as the CDC, though not to the same extent financially, and these institutions have treated their losses as part of everyday business.

Within the remaining CDC investments in business enterprises, a few face difficulties associated with current economic circumstances or internal problems. Steps are being taken to have their operations assessed to determine what, if any, remedial action is required.

In contrast, the majority of CDC investments in businesses are performing satisfactorily. Some are doing exceptionally well. For example, Peter Kittle Motor Company, a joint venture involving the former Kittle Toyota, CDC and an Aboriginal investment group, had another record year in 1996-97 and won another Northern Territory Toyota Dealer of the Year Award. A shopping centre complex in Burnie, jointly owned by the CDC and the Tasmanian Investment Corporation, has long term leases with the Coles Myers Group for a Coles Supermarket and K-Mart store. Rental from this group and 12 other specialty shops generate satisfactory commercial returns.

In addition to business successes such as these, CDC investments offer employment and training opportunities that otherwise might not be available. In 1996-97, CDC business investments offered direct employment opportunities for 120 Indigenous people. But this figure only tells part of the story. Some businesses have high percentages of Indigenous employment in areas where opportunities might otherwise be limited. One example is the Tjapukai Cultural Theme Park, a tourist venture at Cairns, North Queensland. This venture has around a 60% Indigenous employment rate. At present, the CDC is negotiating a joint consultancy with DEETYA to examine ways to increase employment and training opportunities in CDC joint ventures. Our next step will be to include employment and training strategies in joint venture agreements so that CDC partners are aware of the CDC's expectations in these areas.

### **3.3 Possible Future Policy and Administrative Directions**

#### ***Terms of Reference focus number 2***

***“Possible future policy directions and administrative arrangements at the Commonwealth level to encourage indigenous commercial activities.”***

#### **3.3.1 Introduction**

The CDC believes that future policy on Indigenous participation in commercial activities should focus on ways to improve such participation as one means of reducing the reliance, by many Indigenous people, on welfare programs. This belief is based on the broad notion that economic self-sufficiency will help improve the social circumstances of Indigenous people in areas such as employment, housing, health and the criminal justice system.

The capacity for people to break away from welfare dependency can only come if opportunities to do so are available. Indigenous people have clearly demonstrated that, when given sufficient opportunities and support, they can dramatically improve their social circumstances. A recent report commissioned by ATSIC, *ABSTUDY: An Investment for Tomorrow's Employment* (1998) by Stanley and Hansen, illustrates this point in respect of education. For example, the authors reported that Indigenous higher education graduates grew from less than 10 in 1967 to around 8,000 in just 30 years. Importantly, they found that available evidence suggests that well over 90% of these graduates are employed, mostly in jobs commensurate with their education. Given this response to education opportunities, it seems certain that a sound, longer term focus on providing opportunities for Indigenous people to participate in business activity would also result in positive outcomes.

Perhaps the lesson from this success in education is that any policy underpinning advancement opportunities, such as Indigenous commercial programs, should take a medium to long term view. In addition, it would be essential that the policy be soundly based. Judging from the lessons from history provided in section 3.2.2, this would include the clear defining of social and commercial goals, supplemented by separate administrative arrangements to manage social and commercial programs. Also, it is important that adequate support mechanisms are put in place so the administration can meet its CSO.

#### **3.3.2 Future Policy**

Against this background, and in summary, the CDC believes future policy for Indigenous commercial programs should:

- set goals separate from social considerations;
- provide opportunities for Indigenous people to participate in commercial activities as a means of reducing reliance on welfare programs;
- not set unrealistic short term performance outcomes on the basis that, as in education, full benefits for Indigenous people from assistance with business participation might occur in the longer term; and
- include a recognition that effective support mechanisms need to be put in place for Indigenous entrepreneurs who access Indigenous commercial programs.

### 3.3.3 Future Administration

Bearing in mind the above background and basic ingredients offered for future policy, the CDC proposes that related Indigenous commercial programs should be brought under one new administration. In defining related programs, commercial programs in the ILC have been excluded on two grounds:

- they are land related and the ILC is able to take decisions on land using either social or commercial considerations and thus has the capacity to avoid the conflicts of the past; and
- the ILC is a relatively new organisation and it is appropriate to allow time to determine how successful its role can be.

This leaves Indigenous commercial programs managed by ATSIC and the CDC as the contenders for being placed in a single administration. Between these organisations, resources devoted to Indigenous commercial programs are somewhat fragmented and drawing these resources together in one organisation could result in programs being managed:

- more **effectively** through accumulating a greater spread and depth of commercial expertise, and greater financial leverage in the commercial sector; and
- more **efficiently** through achieving economies of scale.

The CDC believes legislative and administrative changes should go further than simply addressing these programs. It proposes that changes should enable the new organisation to:

- engross ATSIC's Business Development Programme (BFS and IBIP) and the Housing Fund established by section 67 (1) of the ATSIC Act;
- engross current functions of the CDC;
- manage investments of the Aboriginal and Torres Strait Islander Land Fund (ATSILF) established by section 192W (1) of the ATSIC Act;
- manage investments of the Aboriginals Benefit Trust Account (ABTA) established by section 62 (1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALR(NT) Act - currently being reviewed); and
- take on a key policy advising role on Indigenous economic development within the overall policy advising role of ATSIC.

With regard to managing the investments of the ATSILF and the ABTA, it is envisaged that the new organisation's role would be restricted to investment management akin to that of a merchant banker. There is scope for all parties to benefit from the financial leverage and investment expertise that would accrue from IBA managing a substantial pool of funds, particularly if the restrictive provisions of section 62B of the *Audit Act 1901*, which apply to ATSILF and ABTA investments, were removed. Scope would also exist for other Indigenous organisations to lodge funds for investment.

Once fully established, the broad responsibilities of the new organisation would be to:

- build and sustain a large capital base for its client group; and
- accelerate Indigenous economic development (including to maximise employment and training outcomes from its activities).

In relation to Native Title issues, the new organisation could provide the means for gaining maximum economic benefits for the Aboriginal and Torres Strait Islander

peoples in areas where development agreements can be made. Industry has already shown a willingness to involve Indigenous people in commercial activities that could be affected by Native Title claims.

More specifically, it is proposed that a new organisation would be responsible for:

- Assisting and advising Aboriginal and Torres Strait Islander communities, organisations and individuals on matters relevant to achieving economic growth and development.
- Advising the Minister for Aboriginal and Torres Strait Islander Affairs, through the Board of the new organisation and ATSIC, on matters relating to facilitating and supporting economic development for Indigenous Australians.
- Accumulating and using a capital asset for the benefit of Aboriginal and Torres Strait Islander communities.
- Engaging in commercial activities.
- Promoting and participating in joint venture arrangements with the private sector.
- Providing loans, grants and guarantees to Indigenous persons to assist and advance Aboriginal and Torres Strait Islander self-management and self-sufficiency.
- Managing the Housing Fund.
- Managing ATSILF and ABTA investments and funds lodged by other Indigenous organisations.
- Acting as a conduit for Indigenous business interests to access other Government assistance or enhancement programs for businesses.
- Exploring ways of developing an “Indigenous Bank” based on experiences gained through acting as a merchant banker.
- Such other functions as are conferred on Indigenous Business Australia by the Government.

### **3.4 Barriers to Indigenous Participation in Business**

*Terms of Reference focus number 3 is:*

*“Any barriers to the establishment, acquisition or development of indigenous controlled businesses or businesses in which indigenous people are joint venture partners.”*

#### **3.4.1 Introduction**

Barriers to Indigenous participation in business arise from a range of circumstances. Some are obvious such as the poor socio-economic circumstances that exist for many Indigenous people while others are more subtle, for example low self-esteem caused by years of negative stereo-typing by non-Indigenous people. Also there are administrative barriers, and the point that has been made throughout this paper on the need for adequate support mechanisms to overcome the range of disadvantages faced by Indigenous people.

#### **3.4.2 Socio-economic Barriers**

Given the socio-economic circumstances of the vast majority of Indigenous people in Australia today, lack of capital and limited access to it are major barriers to the establishment, acquisition or development of Indigenous controlled businesses or joint venture partnerships. Problems with access falls into two main categories:

- first, most Indigenous people do not have sufficient assets to offer as a deposit or security for loans (they generally have had low incomes and have received little inherited wealth); and
- secondly, there can be mutual difficulties for many Indigenous people and lending institutions due to a lack of understanding and communication skills between the parties.

Inadequate skills levels and a lack of formal training in business also create barriers for participating in business. Good business ideas might not be pursued due to a lack of skills for fundamentals such as business planning and managing cash flow. At a larger scale level, for example in a joint venture, Indigenous people might lack the skills to participate fully as directors and may not fully understand the legal obligations that attach to such positions.

For many Indigenous people, low self esteem caused by negative stereotyping over generations, has created a fear of failure that might override any excitement generated by business opportunities. Many people see failure as a norm - something to be expected. Yet as the education example given in section 3.3.1 shows, success can be achieved given proper support and some long term commitment an advancement program.

Furthermore, there is scope in both the public and private sectors to assist by facilitating the placement of suitably skilled and ambitious Indigenous people into major government and private-sector organisations at a level where, over time, they can progress to middle management and/or senior management. Experience gained from such placements might not be very relevant to small business aspirants but would be invaluable for Indigenous people wanting to be involved in larger businesses through directorships.

### 3.4.3 Administrative Barriers

Apart from the barriers that might exist in dealing with mainstream financial institutions, others can also be inadvertently set up by the organisations with specific functions to assist Indigenous people participate in business. An hypothetical example, based on some real cases, serves to illustrate the point.

#### **Hypothetical Case Study in Accessing Indigenous Economic Programs**

An Indigenous organisation has an opportunity to buy an existing caravan park in a town where a new mining development is about to commence. The town is in a remote area where economic opportunities for the people are scarce. To them, the venture offers a chance to share meaningfully in the economic benefits that the mine will bring to the district. Overall, the venture will cost about \$800,000 (\$450,000 initial purchase and \$350,000 for re-development).

The Indigenous organisation first contacts the ILC because freehold land is involved in the purchase. Their representatives are told that they should approach ATSIC because the project is really a commercial venture and ATSIC has a commercial program. They approach ATSIC and are told that the venture is probably worth a detailed assessment - however, ATSIC cannot assist because the funding required is too much. ATSIC suggests the organisation approach the CDC but warns that the CDC tends to invest in larger projects.

With mounting frustration and having lost considerable time already through preparing correspondence, waiting for replies and subsequently attending meetings, the organisation contacts the CDC. Here they are informed the CDC might be able to help but it will have to take the following coordination and assessment steps by:

- having appropriate assessments undertaken (for example, market analysis, sensitivity analysis, financial assessment and a due diligence report);
- if the venture is commercially viable but needs some debt free capital to reduce the size of a CDC loan (and thus the interest bill), approaching ATSIC and/or the ILC to determine whether grant funding and/or low interest loan funding could be made available (the CDC cannot make grants);
- if assistance is offered by ATSIC and/or the ILC, establishing coordination arrangements with all the parties;
- liaising with DEETYA or other organisations as appropriate to utilise employment and training assistance programs suitable for the venture; and
- finally, proceeding with the investment.

Drawbacks with this process are:

- it is cumbersome and inefficient;
- each organisation would have to make its own assessment and go through its own approval processes;
- staff resources and expertise in the assessment process are thinly spread at present;
- the Indigenous organisation faces the frustration of dealing with three different organisations, each with its own potential for delay, with the possible consequences of: the organisation becoming disheartened and giving up (yet another “failure” as expected - see section 3.4.2); or the opportunity being lost through the inability of the three organisations being able to respond quickly enough.

Reducing the number of players in this process must reduce the barriers both real and perceived by the clients and should enable a much more efficient and effective means for service delivery.

### **3.4.4 Support Mechanisms**

The extent that barriers to Indigenous people participating in business exist due to socio-economic disadvantage provides the rationale for having Indigenous commercial programs. However, little purpose would be served by simply creating an organisation run purely on commercial banking lines. The market already provides this service. What is needed is an organisation that still acts commercially in respect of business opportunities but has a strong support mechanism for Indigenous businesses. This mechanism is central to any rationale for the Government establishing Indigenous commercial programs. It helps meet the Government's CSO.

The CDC has its CSO outlined in its statutory purposes and functions. However, the legislation creates a major problem for the CDC due to conflicting requirements whereby the Corporation has to:

- act commercially and meet all operational costs from investment returns as does at present;
- accumulate and sustain a capital asset; and
- meet its CSO to the extent prescribed.

The CDC has particular difficulties in adequately meeting its CSO due to its small size (in terms of both its capital base and its organisational structure) and the fact it is expected to fund this role out of its investment returns. If it is unable to vigorously promote business opportunities and guarantee adequate aftercare to Indigenous business it is, by default, creating barriers to opportunities. The Corporation believes this issue should be addressed as a priority. This matter is discussed in greater detail in Attachment B.

### **3.4.5 Conclusions**

In light of the above barriers, there is a need for a new Indigenous business organisation to:

- have a sufficiently large capital base and balanced investment portfolio across all sectors of business to be available with a stable source of funds;
- be able to provide (or access) seed capital by way of concessional loans (or grants in some circumstances) to individual Indigenous entrepreneurs who may wish to pursue entry into mainstream business;
- be able to respond promptly and effectively to business inquiries from Indigenous people; and
- be able to promote Indigenous participation in business and provide appropriate aftercare to clients by being adequately resourced by Government.

### **3.5 Means of Raising the Profile of Indigenous Business Interests**

*Terms of Reference focus number 4 is:*

*“Means of raising the profile of indigenous controlled businesses or businesses in which indigenous people are joint venture partners.”*

#### **3.5.1 Introduction**

Finding means of raising the profile of Indigenous controlled businesses is more than simply finding a way of advertising the fact that Indigenous businesses exist and the products they sell. It certainly encompasses the advertising role but importantly, it includes the need to recognise that some business opportunities exist that need the involvement of Indigenous people. For example, opportunities exist in areas actually or potentially affected by Native Title that can be tapped into by non-Indigenous interests much more easily if they seek meaningful partnerships with the Indigenous people concerned. Thus, raising the profile of opportunities may well be as important as raising the profile of existing businesses. These issues are addressed below by reference to initiatives taken in Canada and some opportunities in Australia.

#### **3.5.4 Aboriginal Business Canada - Some Ideas from Overseas**

In looking at possible means of raising the profile of Indigenous businesses in Australia, there are some lessons to be learned from the operations of Aboriginal Business Canada (ABC). This organisation was established in 1989 to assist existing Indigenous businesses and support new ones. It is head-quartered in Ottawa and has eight other offices in major centres across the nation. Since its inception, ABC has worked with over 5,000 firms providing financial and non-financial support, and has program investments worth over \$300 million.

Canadian Aboriginal companies are active in all business sectors, including manufacturing, forestry, knowledge based services, fine art, traditional crafts, high fashion, and software development. Independent studies are said to show that past clients are running profitable enterprises whether these are community-based operations, in urban or remote locations, or individually owned businesses.

A 1996 study on financial performance and employment creation relating to ABC assisted firms has led ABC to conclude:

- In the 1,341 firms studied, including start-ups, expansions, modernisations, and acquisitions (each with at least two full years of operation) the equivalent of 5,575 full-time jobs were provided for Aboriginal and non-Aboriginal Canadians.
- Job creation is a significant and consistent result of these businesses which notably, employ many of the growing Aboriginal youth population.
- Business performance improves with higher levels of education of the owners.
- Growth is limited and firms need to give attention to strengthening, expanding and modernising for long-term viability.

While some caution regarding objectivity is required when analysing information on an organisation that has been prepared by that organisation, there are some aspects of ABC's role in raising the profile of its clients worth noting. Briefly, the ABC assists its clients profiles either collectively or individually by:

- creating an increased awareness of their operations on national and world markets;
- seeking to improve access by Indigenous business people to other federal agencies' services and expertise regarding domestic and international trade;
- emphasising the importance of entrepreneurial role models for young people to provide them with options for future remuneration; and
- emphasising the link between educational achievement and business success to create greater awareness of this point among existing or potential business people.

The above form only part of the overall operations of ABC but clearly they provide useful ideas for consideration in Australia.

### **3.5.2 Opportunities in Australia**

The existing organisations which facilitate Indigenous businesses and the Indigenous managers of those business, currently have very little access to executive management forums of major listed companies within Australia. The reality is that the vast majority of company CEOs would not be aware of the existence of an organisation called the Aboriginal and Torres Strait Islander Commercial Development Corporation or of its role in facilitating Aboriginal involvement in mainstream business activities.

There are a vast number of forums, both formal and informal, through which the leaders of industry get together on a regular basis. The opportunity to inform such forums of the current situation in relation to Indigenous businesses and the hopes and aspirations of these businesses and the people involved may go a long way to overcoming this ignorance.

Better access to such forums could also lead to better understanding of the role of Indigenous business now and in the future, as well as the benefits that could flow as a result of major companies joint venturing in a "win:win" situation with Indigenous partners. As non-Indigenous businesses become more aware of opportunities that exist in areas affected, or potentially affected by Native Title, they are seeking ways of doing business with Indigenous people.

This scope to do business with Indigenous people has become increasingly recognised by non-Indigenous business interests, particularly the mining industry. Terry Strapp, Chief Executive of the mining company Zapopan, gave testimony to this recognition when he said:

"Mining companies are now accepting that they need to negotiate. We are seeing that more and more from the major companies - they have become very committed to it. And more and more Aboriginal communities see the benefits of a pro-development approach. They want the benefits that come from it, the community infrastructure, the jobs, the opportunities."

Better advertising this fact would help open up more opportunities for non-Indigenous business and for Indigenous people to seek meaningful partnerships through joint ventures.

### **3.5.3 Conclusion**

The above indicates that there is scope for raising the profile of Indigenous businesses and joint venturing opportunities by:

- better marketing of Indigenous products and businesses, both nationally and internationally, through better coordination with existing government agencies involved in domestic and international trade;
- better publicising Indigenous business success stories and the reasons for their success, to generate greater interest and awareness in the Indigenous and non-Indigenous community;
- improving access to national business forums to market investment opportunities;
- better publicising what the mining industry in particular has learned - Indigenous people want to be involved in business but on terms mutually beneficial to all parties.

## **4. Recommendations**

The CDC asks that the Standing Committee give careful consideration to the issues raised in this paper with the view to formulating recommendations to Government broadly as follows:

1. That a new Indigenous business organisation be established to: administer commercial programs currently administered by ATSIC and the CDC; manage the Housing Fund; manage ATSILF and ABTA investments (and investments for other organisations if they wish); and provide an advisory and advocacy service in respect of Indigenous businesses.
2. That the new Indigenous business organisation:
  - administer only commercial programs;
  - have a sufficiently large capital base to operate effectively;
  - be able to provide seed funding, if necessary with grants; and
  - importantly, be properly resourced to meet its community service obligations.
3. That the Government support a campaign to promote, nationally and internationally, Indigenous businesses and the increasing opportunities that exist to enter business partnerships with Indigenous people.

## PAST COMMONWEALTH INDIGENOUS COMMERCIAL PROGRAM ADMINISTRATIONS

### 1. Introduction

This is a brief history<sup>2</sup> which outlines the Commonwealth organisations and programs that have:

- been established since the 1967 Referendum to promote economic development for Indigenous Australians; and
- operated as predecessors to current organisations.

### 2. Commonwealth Capital Fund for Aboriginal Enterprises (1969-1974)

Commonwealth responsibilities for Indigenous Australians at a national level commenced after the 1967 Referendum. In its 1968-69 budget, the Federal Government established an Aboriginal Advancement Trust Account with funds divided almost equally between:

- non-repayable grants to the States and Northern Territory for Aboriginal advancement, particularly in the fields of housing, education and health; and
- a Commonwealth Capital Fund for Aboriginal Enterprises.

The Capital Fund, established by the *Aboriginal Enterprises (Assistance) Act 1968*, was the genesis of successive commercially oriented programs. It was a revolving fund used to make loans to potentially successful enterprises established by Indigenous people either individually or cooperatively. Moneys in the Capital Fund could be applied:

- a) in making loans, or providing security for the making of loans by banks;
- b) in subscribing for, or otherwise acquiring, shares or stock in the capital of a company;
- c) in making payments in respect of the investigation or supervision of a business enterprise;
- d) in making any other payments incidental to the application of moneys in accordance with paragraphs a) and b) above; and
- e) in meeting any liability under a guarantee given by the Minister to a bank for a loan which will further the object of the Fund.

The Capital Fund operated until 27 November 1974 when its functions were expanded and embodied in the functions of the Aboriginal Loans Commission.

### 3. Aboriginal Loans Commission (1974-1980)

The Aboriginal Loans Commission (ALC) was established by the *Aboriginal Loans Commission Act 1974* and commenced operations on 28 November 1974. Functions of the former Capital Fund were expanded in the following major areas:

---

<sup>2</sup> Compiled from annual reports of the organisations concerned and discussions with officers who served in them

- The ALC was constituted as a corporation with perpetual succession subject to the direction of the Minister for Aboriginal Affairs on matters of policy.
- Two funds were established:
  - ◊ **Aboriginal Enterprises Fund**  
This fund principally differed from the former enterprises fund in that the Commission could acquire property for the purpose of a business enterprise and could, to enable Aboriginals to engage in that enterprise, sell, lease or otherwise make the property available to an Aboriginal or an approved Aboriginal body.
  - ◊ **Aboriginal Housing and Personal Loans Fund**  
This fund could provide loans for:
    - a) the erection or purchase of dwellings or the purchase of land;
    - b) the payment of medical, dental and funeral expenses;
    - c) the purchase of household effects;
    - d) the purchase of vehicles for purposes connected with earning income;
    - e) the payment of expenses for or in connection with education;
    - f) the repayment of existing debts.

At the outset it was claimed that the overall efficiency of operations would be improved through the Minister empowering the Commission to delegate any of its powers or functions, with the exception of the power to delegate, to a member of the staff of the Commission.

The ALC ceased to exist with the establishment of the Aboriginal Development Commission in 1980. At this time the ALC was subject to general directions given by the Minister for Aboriginal Affairs to:

- set strict lending criteria;
- restrict housing and personal loans to housing and essential furniture; and
- apply a minimum interest rate to housing loans.

Such directions suggest that the ALC was considered “too generous” thus implying a focus on social rather than commercial objectives that conflicted with the Government’s policy.

#### **4. Aboriginal Land Fund Commission (1974-1980)**

The Aboriginal Land Fund Commission was established by the *Aboriginal Land Fund Act 1974*, assented to on 17 December 1974. The ALFC controlled a new Aboriginal Land Fund to purchase land for Aboriginal groups throughout Australia. The legislation required the ALFC to perform its functions in accordance with any general directions from the Minister for Aboriginal Affairs. Such directions were given at the outset and included:

- securing land granted against disposal;
- obtaining the best form of land title;
- acquiring land only on request from an Aboriginal community;
- acquiring land for groups that did not already have adequate land available to them;
- providing land direct to communities rather than State Land Trusts; and
- generally restricting land purchases for other than purely housing purposes and to non-metropolitan areas.

The last direction from the Minister is quoted in full as it was fundamentally flawed:

“While the strength of traditional ownership of particular areas of land is an important factor, the Commission should have regard to communities (particularly in N.S.W. and Victoria) which, while not being able to claim traditional ties, have had a long association with particular areas since European settlement commenced. Where traditional ties or long association no longer exist, economic considerations for the usage of land should have a greater role in influencing the Commission’s decisions. This does not mean however, that economic factors should outweigh social considerations and the Commission is empowered to acquire land for purely social purposes.”

The direction lacks clarity in defining economic ideals which impacted on other programs because the ALFC could only provide funds to the value of the land and fixed improvements on it. The Department of Aboriginal Affairs (DAA) was called upon to provide operational and developmental funding to enable communities to conduct “enterprise” activities on the land regardless of the weighting of economic and social considerations underlying each purchase.

The conflict between economic and social goals on one level, and the inevitable conflicts between the ALFC and DAA when DAA was called upon to provide funds for operations and development of properties without consultation prior to purchase, ultimately contributed to the ALFC’s demise. The ALFC’s functions were embodied in those of the Aboriginal Development Commission in 1980.

## **5. Department of Aboriginal Affairs (1972-1990)**

Following the 1967 Referendum, the Commonwealth established the Office of Aboriginal Affairs which was located in three different departments until the Department of Aboriginal Affairs (DAA) was established in December 1972. For the period to 30 June 1974, the DAA had an Aboriginal business enterprises grants scheme incongruously forming part of its Welfare head of expenditure. Following the establishment of the ALC and ALFC, DAA created a new Enterprises head of expenditure which accounted for appropriations to both Commissions and DAA’s enterprise grants. Although the location of enterprise grants for accounting purposes changed periodically, the DAA enterprise grants scheme continued until it was transferred to the ADC on 1 July 1980.

Following the transfer of the enterprise grants to the ADC, DAA continued to retain an interest in economic development. Apart from policies relating to land and mining, DAA continued to focus on employment and was instrumental in developing the Aboriginal Employment Development Policy which still underpins programs today.

## 6. Aboriginal Development Commission (1980-1990)

The Aboriginal Development Commission (ADC) was established by the *Aboriginal Development Commission Act 1980*. It commenced operations on 1 July 1980 and was heralded as placing program administration more effectively in the hands of Indigenous people. Having taken on the functions of the former ALC and ALFC, and the DAA Enterprise Program, the ADC's functions were broadly defined as:

- to acquire land for Aboriginal communities and groups;
- to lend money to Aboriginals for business enterprises; and
- to lend and grant money to Aboriginals for business enterprises.

The apparent large economic focus of these functions was weakened with the transfer of DAA's Housing Grants-in-Aid Program to the ADC on 1 July 1981.

The ADC had administrative problems over its life, many caused by the conflict between social and economic goals. A long analytical history is not warranted here but several examples serve to illustrate the point:

- Early practice for the purchase of pastoral properties hinged on communities expressing an intention to run an economic business when the reality was that in many cases:
  - ◊ the main community interests were land acquisition for social and cultural purposes;
  - ◊ the properties were marginal in supporting a nuclear family experienced in pastoral management, let alone a whole community; and
  - ◊ later injections of funds for commercial operations were largely wasted in terms of commercial benefits.
- By 1988-89, the Minister for Aboriginal Affairs had issued 8 directions in an attempt to tighten perceived administration deficiencies in the ADC.
- The ADC was starting to come to terms with its problems in 1988-89 when it reported improved practices such as:
  - ◊ introducing a policy for home loans which included a scheme of prioritisation of applicants; and
  - ◊ in the area of commercial development, placing further emphasis on loans rather than grants, with proposals needing to demonstrate clear prospects of viability.

Despite these reforms in 1988-89, the conflict between social and economic objectives remained in the ADC's Enterprise Development Scheme. This scheme aimed at increasing employment and income opportunities for Indigenous people by providing loans and grants to Indigenous organisations to acquire or develop enterprises but focused on rural and remote areas where Indigenous employment was highest. This geographic focus was doomed commercially simply by the adverse economic circumstances that generally existed in rural and remote areas.

Arguably, the ADC was handicapped by having social and economic functions that, as history had already shown, would lead to some level of conflict.

Functions of the ADC and the DAA were absorbed into the ATSIC and the CDC, both established by the ATSIC Act of 1989. Both organisations are discussed in Chapter 3.

## CDC'S CONFLICTING ROLES: A NEED FOR REVIEW

Two recent studies<sup>3</sup> highlight, among other things, a fundamental conflict between the requirement for the CDC to act commercially and also to assist Indigenous people in a variety of non-commercial ways. Examples of the problem were:

- Administration costs are high due to the CDC servicing clients across Australia, often in remote areas. Any organisations serving Indigenous Australians find such costs are inescapable. For the CDC, they represent an abnormal impost on commercial activity.
- More generally, and of greater concern, is the cost to the CDC in meeting what is called its Community Service Obligation (CSO).

These issues require discussion of the CDC's legislation.

On one hand, the CDC is required by the ATSIC Act to:

- engage in commercial activities (section 147(a));
- act in accordance with sound business principles (section 148(1)); and
- advance the commercial and economic interests of Indigenous people by accumulating and using a substantial capital asset (section 146(b)).

The fact that the CDC receives no annual appropriations for operational funding reinforces the thinking that appears to have underpinned these requirements. On the other hand, the ATSIC Act sets a CSO by requiring the CDC to:

- assist and enhance Indigenous self-management and self-sufficiency (section 146(a));
- promote and encourage Indigenous self-management and self-sufficiency (section 147(b)); and
- in performing its functions under section 148(2) to:
  - ◇ encourage and facilitate Aboriginal and Torres Strait Islander participation in commercial projects and enterprises;
  - ◇ secure, as far as practicable, Aboriginal and Torres Strait Islander participation in the ownership and control of companies engaged in activities that are likely to have a significant impact on Aboriginal or Torres Strait Islander interests;
  - ◇ promote the development of industries and other commercial and economic activities that are likely to have a beneficial impact on Aboriginal or Torres Strait Islander interests; and
  - ◇ make specialist commercial expertise available to Indigenous people engaged in commercial activities.

---

<sup>3</sup>

Arthur, W.S. 1996. "The Aboriginal and Torres Strait Islander Commercial Development Corporation: a new approach to enterprise?", *CAEPR Discussion Paper No. 113/1996*, Centre for Aboriginal Economic Policy Research, ANU, Canberra.  
Office of Evaluation and Audit (OEA) 1995. *Report of the Evaluation of the Operations of the Commercial Development Corporation*, OEA, Canberra.

Clearly there is conflict in these legislative requirements for the CDC to concurrently :

- act commercially and meet all operational costs from investment returns as at present;
- accumulate and sustain a capital asset; and
- meet its CSO to the extent prescribed.

The rationale of the CSO is soundly based and is consistent with the notion of having Government Indigenous commercially oriented programs. However, the existing conflict needs to be reviewed by Government. To expect the CDC to meet all its administrative costs and its CSO from commercial operational returns is unrealistic, given its current size, in that it pre-supposes the CDC will be able to generate returns greater than mainstream commercial entities to meet the additional imposts. Arguably, some or all of the CSO imposts should be funded by annual appropriations so that the commercial earnings are utilised for meeting commercial operational costs and some re-investment for growth (or to retain real value) of the CDC's capital asset.

Three options for overcoming the above problems in a new organisation are:

- remove the statutory CSO requirements (**not recommended** as CSO are part of the rationale for having Indigenous commercial programs); or
- guarantee regular budget support to enable the new organisation to meet fully any statutory CSO requirements; and/or
- provide a sufficiently large capital base to generate sufficient revenue to enable the new organisation to meet the cost of providing adequate CSO, and generate further investment funds.