

## Chapter 3

### Findings on Terms of Reference

3.1 The committee requested, and received a substantial quantity of material from the Central Land Council (CLC), Centrecorp and Yeperenye Pty Ltd. That material has all been placed on the committee's website, with personal and some confidential details removed.<sup>1</sup>

3.2 Due to the huge quantity of documents, the committee was not able to undertake an in-depth examination of these detailed management and financial records of the CLC and Centrecorp. However, on an initial review of the essential elements of this material, the committee did not find any evidence of impropriety in the operation or management of either organisation, nor in the relationship between the organisations. Accordingly, the committee decided that it was unnecessary to further investigate by holding public hearings for the inquiry.

3.3 However, the committee has residual concerns about the lack of transparency in the operations of Centrecorp, and in the relationship between the CLC and Centrecorp. Although both organisations denied that there was any basis for concern, their reluctance to provide the committee with basic financial and management documents did not demonstrate that either organisation is committed to openness and accountability.

3.4 The committee also reiterates the transparency concerns identified in two recent Office of Evaluation and Audit (OEA) reports, only some of which appear to have been addressed.<sup>2</sup>

3.5 The committee's findings on each of its terms of reference, based on the documents provided, are set out below. The issues are not dealt with in the same order in which they appear in the terms of reference, but instead are set out in a way which deals logically with key themes, and avoids repetition.

---

1 [www.aph.gov.au/Senate/committee/fapa\\_ctte/central\\_land\\_council/additional\\_info/index.htm](http://www.aph.gov.au/Senate/committee/fapa_ctte/central_land_council/additional_info/index.htm)

2 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, pp 11, 42–44; and OEA, *Performance Audit of the Northern Territory Land Councils*, January 2008, pp 8 and 37.

## The relationship between the Central Land Council and Centrecorp<sup>3</sup>

### *Financial relationship*

3.6 As noted in chapter 2, the CLC owns three out of the total five shares in Centrecorp.

3.7 Given that the CLC is a Commonwealth statutory authority with various reporting and transparency obligations, questions have been raised as to the relationship between the two entities and whether Centrecorp should improve its level of transparency and accountability.<sup>4</sup>

3.8 In 2006, the Australian National Audit Office (ANAO) undertook an internal review of the matter of consolidation of entities with the land councils. The ANAO submitted that the review 'was solely for the purposes of providing advice based on the Accounting Standards as to whether these types of entities should be consolidated in the financial statements of the Land Councils.'<sup>5</sup>

3.9 As a result of that review, the ANAO agreed to the current method of the CLC's accounting for its interest in Centrecorp (i.e. nominally valuing its three shares at \$1 per share). The ANAO submitted to this inquiry that:

The accounting treatment, was agreed to on the basis that the CLC does not have the power to govern the financial and operating policies of Centrecorp so as to obtain benefits from its activities and thus does not have control.<sup>6</sup>

3.10 The ANAO informed the committee that the basis of its ruling was Australian Accounting Standards Board Accounting Standard number 127 entitled *Consolidated and Separate Financial Statements*. Paragraph one of that Standard states that 'this Standard shall be applied in the preparation and presentation of consolidated financial statements for a group of entities under the control of a parent.'<sup>7</sup> Paragraph four of the Standard defines control as 'the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities'.<sup>8</sup>

---

3 This section covers Terms of Reference (a) and (b)(i).

4 Russel Skelton, 'The Double Standard of Centrecorp', *The Brisbane Times*, 29 March 2009; Erwin Chlanda, 'Centrecorp: Elders Fume', *Alice Springs News*, 4 May 2006.

5 ANAO, *Submission 1*, p. 3.

6 ANAO, *Submission 1*, p. 3.

7 Australian Accounting Standards Board, Accounting Standard AASB 127, 'Consolidated and Separate Financial Statements, July 2004, *Submission 1*, p. 3, emphasis added by ANAO.

8 Australian Accounting Standards Board, Accounting Standard AASB 127, 'Consolidated and Separate Financial Statements, July 2004. The committee notes that the AASB 127 has been amended since July 2004, but that the quoted portions have not changed.

3.11 The ANAO submitted that because Centrecorp's trust deed 'specifically excludes CLC from receiving any benefit from the trust, CLC is not considered to have control over Centrecorp.'<sup>9</sup>

3.12 Based on the ANAO's advice, land councils do not report on the operations or financial statements of the external commercial entities in their annual reports, as according to the OEA, 'they do not consider the commercial entities to be related entities'.<sup>10</sup>

3.13 One of the implications of that advice is that '[a]s Centrecorp is not a controlled entity of the CLC, it is not audited by the ANAO.'<sup>11</sup>

3.14 The OEA's 2008 audit of the Northern Territory land councils seems to support the ANAO's view, stating that Centrecorp is '[a]n external economic entity within the Central Land Council region facilitated and part-owned by the CLC.'<sup>12</sup>

3.15 The CLC, Centrecorp and the Department of Families, Housing, Community Services and Indigenous Affairs, have each made statements to the effect that no financial impropriety has occurred in the relationship between the CLC and Centrecorp.<sup>13</sup>

3.16 In an answer to a question on notice at the October 2008 Supplementary Estimates, the CLC assured the Senate Community Affairs Committee that '[n]o transfer payments have been made from the CLC to Centrecorp or from Centrecorp to the CLC.'<sup>14</sup>

3.17 Centrecorp reiterated the assurance to this committee: '[t]he Central Land Council has never sought, nor received benefit from the Charitable Trusts or any related entity.'<sup>15</sup> In relation to each of its trusts, Centrecorp submitted that:

No grants, loans or payments have been made to any director, officer or employee of the Central Land Council except where persons in those

---

9 ANAO, *Submission 1*, p. 3.

10 OEA, *Performance Audit of the Northern Territory Land Councils*, January 2008, p. 37.

11 ANAO, Answer to question on notice, Additional Estimates, February 2009, Question F57, [www.aph.gov.au/Senate/committee/fapa\\_ctte/estimates/add\\_0809/finance/answers/F57-ANAO.pdf](http://www.aph.gov.au/Senate/committee/fapa_ctte/estimates/add_0809/finance/answers/F57-ANAO.pdf).

12 OEA, *Performance Audit of the Northern Territory Land Councils*, January 2008, p. 4.

13 CLC, *Submission 2*, p. 5; Centrecorp, *Submission 3*, p. 2; Mr Roche, Branch Manager, Portfolio Governance, Department of Families, Housing, Community Services and Indigenous Affairs, *Estimates Hansard*, Senate Community Affairs Committee, 24 October 2008, pp 29–30.

14 CLC, answer to question on notice, Supplementary Budget Estimates, 24 October 2008, Question 125.

15 Centrecorp, *Submission 3*, p. 2.

positions are also directors or officers of Centrecorp in which case the payments are detailed [herein].<sup>16</sup>

3.18 The CLC has also objected strongly to the media's allegations that it has an improper financial relationship with Centrecorp, submitting that:

Embedded in this repeated allegation is the necessary inference that the CLC as:

- A Commonwealth statutory authority;
- That is governed by a representative council of 90 Aboriginal people from throughout central Australia;
- That is independently audited annually by the Commonwealth's Australian National Audit Office;
- That is subject to the Commonwealth Authorities and Companies Act;
- That is subject to the Commonwealth Financial Management Act;
- Whose budget is approved annually by the Commonwealth Minister;
- That lodges its annual report with the Minister; and
- The Minister tables the annual report in Parliament every year;

has, in spite of all of that scrutiny and all of those controls, year after year somehow concealed a series of unlawful actions involving the wrongful transfer to Centrecorp ... of large amounts of compensation funds received on behalf of traditional landowners.

Setting the proposition out in this way demonstrates how ridiculous the allegations are.<sup>17</sup>

#### *Committee view*

3.19 Due to the fact that the CLC and Centrecorp are treated as separate financial entities for the purposes of Australian Government financial reporting, and because Centrecorp is under no obligation to report to the Australian Government, the committee found it difficult to make its own assessment of the propriety of the financial relationship between the CLC and Centrecorp.

3.20 Centrecorp provided the committee with highly edited versions of its financial reports, with large quantities of data removed on the alleged grounds that the information is 'commercial-in-confidence' or that it was beyond the scope of the inquiry. The documents provided by Centrecorp are available on the committee's website.<sup>18</sup>

---

16 Centrecorp, additional information, 24 August 2009, pp 3, 6 and 10, at [www.apf.gov.au/Senate/committee/fapa\\_ctte/central\\_land\\_council/additional\\_info/index.htm](http://www.apf.gov.au/Senate/committee/fapa_ctte/central_land_council/additional_info/index.htm)

17 CLC, *Submission 3*, p. 4.

18 [www.apf.gov.au/Senate/committee/fapa\\_ctte/central\\_land\\_council/additional\\_info/index.htm](http://www.apf.gov.au/Senate/committee/fapa_ctte/central_land_council/additional_info/index.htm)

3.21 On the basis of the limited financial information provided, the committee was unable to find any evidence to contradict the CLC's statement in its submission that '[t]here is no financial relationship between the CLC and Centrecorp' beyond the CLC's 60 per cent shareholding. The documents did not on their face disclose any payments between the two entities.

### ***Management relationship***

3.22 In its January 2008 audit of four Northern Territory land councils including the CLC, the OEA noted of the relationship between the land councils and their respective commercial entities:

In many instances, the Land Council retains a shareholding in the entity and a certain number of positions on the governing committee of the entity (as per the entity's rules of association).<sup>19</sup>

3.23 This is true of the CLC and Centrecorp, with the former holding two of the four current board positions.

3.24 The OEA's useful diagram showing the relationship between Centrecorp and the CLC is at Appendix 5.

3.25 In response to questions at Senate Estimates in October 2008 suggesting that the CLC had a 'controlling interest' in Centrecorp on the basis of its ownership of three of the five shares of Centrecorp, Mr David Ross stated:

...there is no financial impediment on either side of the Central Land Council. We are not at risk one way or another. There are three \$1 shareholdings and that is the end of it. There is no more involvement by the Central Land Council in the day-to-day activity of Centrecorp...<sup>20</sup>

3.26 Similarly, Centrecorp submitted that 'the Constitution of Centrecorp does not provide for any relationship between the number of shares held and any concomitant right to appoint directors.'<sup>21</sup>

3.27 These statements are based on Centrecorp's trust deeds, regarding which Centrecorp submitted:

[i]t follows that neither the Trustee, nor any shareholder of the Trustee may obtain benefit from the Trust(s) nor incur any liability in performing their duties as a Trustee. In other words, Centrecorp's shareholders, including the Central Land Council, can never be paid any capital or income from either

---

19 OEA, *Performance Audit of the Northern Territory Land Councils*, January 2008, p. 36.

20 Mr David Ross, CLC, *Estimates Hansard*, Senate Standing Committee on Community Affairs, 24 October 2008, p. 34.

21 Centrecorp, *Submission 3*, p. 2.

CAACT and [sic] CACT by way of remuneration or otherwise either directly or indirectly under any circumstances.<sup>22</sup>

3.28 Centrecorp's trust deed expressly states that:

Notwithstanding anything declared or implied in the Deed of Trust:

- (a) the Trust Fund and the income thereof shall henceforth be possessed and enjoyed to the entire exclusion of every member of the excluded class and of any member of the excluded class whether by contract or otherwise;
- (b) no part of the capital or income of the Trust Fund shall be paid or lent to or applied whether by remuneration or otherwise howsoever for the benefit either directly or indirectly of any member of the excluded class in any manner or any circumstance whatsoever;
- (c) no power conferred upon the Trustee by this Deed or by virtue of anything done pursuant to this Deed or by law shall be capable of being exercised and no provision herein contained shall operate in any manner that any member of the excluded class will or may become entitled either directly or indirectly to any benefit in any manner or in any circumstance whatsoever.<sup>23</sup>

3.29 The term 'excluded class' in the above excerpt of the Trust Deed, is defined in the deed to include:

- the Organisations (i.e. Centrecorp's existing shareholders);
- the Shareholders;
- any notional shareholder of the Trustee;
- any person claiming under or in right of the Organisations or the Shareholders or of any notional shareholder of the Trustee.<sup>24</sup>

3.30 Accordingly, Centrecorp has concluded that there is 'no management relationship' or 'equitable relationship' between the CLC and Centrecorp, and that '[t]he activities of Centrecorp as a trustee of CAACT and CACT are entirely autonomous.'<sup>25</sup>

3.31 It should be noted however, while not disputing the veracity of that statement, the OEA audit recommended that Centrecorp 'develop clear rules and procedures for the declaration and management of potential conflicts of interest' on its board, in order

---

22 Centrecorp, *Submission 3*, p. 2.

23 Centrecorp, *Submission 3*, p. 1.

24 CLC, answers to questions on notice, Supplementary Budget Estimates, 24 October 2008, QON no 121, p. 59,  
[www.aph.gov.au/Senate/committee/clac\\_cte/estimates/bud\\_0809/vol6\\_fahcsia.pdf](http://www.aph.gov.au/Senate/committee/clac_cte/estimates/bud_0809/vol6_fahcsia.pdf).

25 Centrecorp, *Submission 3*, p. 2.

---

to ensure that the CLC, or any other shareholder, did not improperly influence the management of Centrecorp's trusts.<sup>26</sup>

3.32 The committee notes that the OEA was unable to make any findings with regard to the Board's management of Centrecorp, and the level of influence that those Board members who are also directors and members of the CLC have, as Centrecorp refused to provide the OEA with minutes of board meetings, claiming that those documents are 'commercial-in-confidence'.<sup>27</sup>

*Committee view*

3.33 Like the OEA, the committee is not in a position to draw firm conclusions on the management relationship between the CLC and Centrecorp, and specifically on the question of the level of influence the CLC has on the management and distribution of Centrecorp's trusts.

3.34 The committee notes the findings of the OEA in its January 2008 report on the four Northern Territory land councils, that:

Notably, the [OEA] found a lack of transparency surrounding Land Councils' dealings with external commercial entities they established to promote economic development, including Councillor appointments and positions within these entities.<sup>28</sup>

3.35 While both the CLC and Centrecorp have repeatedly stated that no management relationship exists between the two entities, neither organisation has shown evidence of procedures in place to prevent such a relationship from developing.

3.36 The committee suggests that, should the CLC and Centrecorp wish to avoid continued speculation on the appropriateness of their management and financial relationship, both organisations should be more forthcoming and transparent about those arrangements. The committee found it difficult to identify any evidence provided to this inquiry, other than assertions by the CLC and Centrecorp, of the management of, and interaction between, the two organisations.

---

26 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 39.

27 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 39.

28 OEA, *Performance Audit of the Northern Territory Land Councils*, January 2008, p. 8.

## Centrecorp's business activities and revenue

### *Business activities*<sup>29</sup>

3.37 Centrecorp invests in a wide range of business activities, including a supermarket, hardware retailer, tourist resort and car retailer. The business ventures in which Centrecorp invests, include:

- NT Gas Pty Ltd – Centrecorp owns 1.5 per cent interest.
- Big O Pty Ltd – a hardware retailer in Alice Springs – Centrecorp owns 50 per cent interest.
- Magnetic Pty Ltd – a corporation established by Centrecorp to acquire shares in an LJ Hooker real estate franchise. Magnetic (through another trust) owns 50 per cent of the LJ Hooker Joint venture.<sup>30</sup>
- Tancor Nominees Pty Ltd – which is the trustee of Tancor Supermarket Trust, which trades as Milner Road Food Town. Centrecorp has a 50 per cent share.
- Kings Canyon Nominees Pty Ltd – a trustee for the Kings Canyon (Watarrka) Resort Trust which trades as the Kings Canyon Resort. Centrecorp owns a 32.67 per cent interest in the resort.
- Aboriginal Property Nominees Pty Ltd – a trustee for the Central Australian Aboriginal Property Trust. Centrecorp owns 4.94 per cent of the units in the trust through the CAACT (2.01 per cent) and CACT (2.93 per cent).
- CAAMV Pty Ltd – a trustee of the CAAMV Unit Trust which holds 50 per cent of Alice Car Centre Pty Ltd which trades as Peter Kittle Motor Company.
- Yeperenye Nominees Pty Ltd – Centrecorp owns a 60 per cent interest. Yeperenye Nominees is trustee for Yeperenye Charitable Trust which owns Yeperenye Pty Ltd which in turn owns Yeperenye Shopping Centre.
- Central Railway Equity Benefit Trust – and the associated company (Central Railway Aboriginal Investment Pty Ltd) is an investment held in the Alice Springs/Darwin railway operating company, on trust by Centrecorp for the traditional owners. Centrecorp receives no benefit from holding this investment and is currently restructuring ownership to transfer the asset to appropriate Aboriginal bodies identified by the CLC.
- Centrefarm Management Pty Ltd – a wholly owned Centrecorp corporation established to provide corporate and management services to horticulture projects on Aboriginal land.<sup>31</sup>

---

29 This section covers Term of Reference (b)(iii).

30 Centrecorp holds two shares or 66.7 per cent and Mr Bob Kennedy (Centrecorp General Manager) holds one share (33.3 per cent) in Magnetic as bare trustee for Centrecorp because two shareholders are required. According to the OEA, Mr Kennedy does not receive any benefit from holding this share. OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 17.



---

### *Sources of revenue*<sup>32</sup>

3.38 Centrecorp receives its income from two main sources:

- returns on investments; and
- loans and grants from Australian Government bodies.

3.39 In terms of the financial performance and position of Centrecorp, the OEA noted that Centrecorp does not produce 'group accounts' and for this reason, it was not possible to identify the exact current value of its various investments. However, the OEA stated:

...review of audited financial statements for those entities that have been in receipt of Government support has revealed that Centrecorp has been successful in growing the value of its asset base in the years since Australian Government benefits were provided.<sup>33</sup>

3.40 Press reports have speculated that Centrecorp's assets are between \$60 million and \$100 million.<sup>34</sup>

3.41 The dividends received by Centrecorp and the value of shares owned by Centrecorp are recorded in the financial statements of the two charitable trusts, the CACT and CAACT, except its investment in Yeperenye Pty Ltd.

3.42 Centrecorp provided the committee with audited copies of the financial statements of its two trusts. These statements were edited by Centrecorp, purportedly to exclude '[f]igures for those investments acquired with private funds, including external partners and operating in competitive environments', which Centrecorp claims are 'commercial-in-confidence'.<sup>35</sup>

3.43 All of the statements have been externally audited by Deloitte Touche Tohmatsu, and have received unqualified audit opinions.

---

31 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, pp 17–19.

32 This section covers Term of Reference (b)(iv).

33 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 6.

34 Erwin Chlanda, 'Bush Tribes own Centrecorp Millions', *Alice Springs News*, 30 August 2007; Ben Schneiders and Russell Skelton, 'Centrecorp rethinks its spending priorities', *The Age*, 25 August 2007.

35 Centrecorp, additional information, 24 August 2009, p. 1.  
[www.aph.gov.au/Senate/committee/fapa\\_ctte/central\\_land\\_council/additional\\_info/index.htm](http://www.aph.gov.au/Senate/committee/fapa_ctte/central_land_council/additional_info/index.htm).

3.44 The OEA review of the financial statements of the two Centrecorp trusts established that the primary source of income for both is dividends and distributions generated from their investment in commercial activities.

3.45 The total income and net profit generated by both trusts between the financial years ending 2002 to 2008 is as set out at Table 2.

**Table 2—Income and financial performance of CAACT and CACT (\$)**

Year	CAACT total income	CAACT net profit/(loss)	CACT total income	CACT net profit/(loss)	<b>Consolidated net profit/(loss)</b>
2001–02	1 030 869	663 886	1 146 159	1 126 236	<b>1 790 122</b>
2002–03	517 895	154 149	468 747	452 427	<b>606 576</b>
2003–04	876 115	573 193	216 891	205 770	<b>778 963</b>
2004–05	801 988	317 793	396 520	382 655	<b>700 448</b>
2005–06	508 471	(1 018 994)	356 590	338 650	<b>(680 344)</b>
2006–07	574 370	84 831	565 377	422 127	<b>506 958</b>
2007–08	2 159 218	1 338 536	1 291 650	(489 972)	<b>848 564</b>

OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 31; Centrecorp, additional information, 21 August 2009 (received 24 August 2009).

3.46 Centrecorp also provided the committee with details of its assets. The net asset position of CAACT and CACT, detailed in Table 3 below, demonstrates that the financial position of both trusts is strong and has generally improved over the years.

**Table 3—Financial position of CAACT and CACT (\$)**

Year	CAACT net asset position	CACT net asset position	Consolidated net asset position
2001–02	5 274 610	3 710 272	<b>8 984 882</b>
2002–01	5 428 759	4 162 699	<b>9 591 458</b>
2003–04	6 002 051	4 752 124	<b>10 371 520</b>
2004–05	6 319 844	5 090 774	<b>11 071 968</b>
2005–06	5 300 850	5 090 774	<b>10 391 624</b>
2006–07	5 385 681	5 512 902	<b>10 898 582</b>
2007–08	5 943 217	5 022 929	<b>10 966 146</b>

OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 32; Centrecorp, additional information, 21 August 2009 (received 24 August 2009).

### ***Grants and loans from the Australian Government***<sup>36</sup>

3.47 Centrecorp received significant levels of funding from the Australian Government from 1990 to 2005 through a range of benefits including loans, share transfers and grants totalling \$25 102 311.<sup>37</sup> The support focused on assistance in the acquisition of three investments; that of Kings Canyon Resort, Yeperenye Pty Ltd, and the Peter Kittle Motor Company.<sup>38</sup> The OEA has detailed the benefits to Centrecorp as follows:

36 This section covers Term of Reference (b)(ii).

37 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 22.

38 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 21.

**Table 4—Summary of Australian Government benefits provided to Centrecorp**

Year	Type of Benefit	Source of Benefit	Entity receiving Benefit	Purpose	Amount (\$)
1990	Loan	ATSIC	Centrecorp	Purchase of shares in Kings Canyon Resort	800 000
1991	Loan	ATSIC	Centrecorp as trustee of CACT	Purchase of shares in Peter Kittle Motor Company	190 000
1991	Grant	ATSIC	Centrecorp as trustee of CACT	Consultant fees associated with purchase of shares in Peter Kittle Motor Company	160 000
1992	Grant	ABTA	Centrecorp as trustee of CACT	Purchase of shares in Peter Kittle Motor Company	310 000
1994	Grant	ATSIC	Centrecorp as trustee of CACT	Consultant fees associated with purchase of shares in Peter Kittle Motor Company	30 000
1995	Grant	ATSIC	Centrecorp	Purchase of shares in Kings Canyon Resort	200 000
1997	Grant	ATSIC	Centrecorp as trustee of CACT	Purchase of shares in Peter Kittle Motor Company	800 000
1998	Loan	ATSIC	Centrecorp	Purchase of shares in Kings Canyon Resort	3799 508
2005	Share Transfer	IBA	Yeperenye Nominees Pty Ltd	Transfer of 60 per cent share in Yeperenye Pty Ltd (valued at \$32 688 005)	19 612 803
<b>TOTAL AUSTRALIAN GOVERNMENT BENEFITS</b>					<b>25 102 311</b>

OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 22.

3.48 Centrecorp did not provide the committee with information breaking down certain aspects of its business and financial transactions which it claimed to be commercial-in-confidence. It excluded any material relating to 'investments acquired with private funds, involving external partners, and operating in competitive markets'.<sup>39</sup> For this reason, much of the material provided by Centrecorp and published by the committee contains blank sections or entire blank pages where information has been removed by Centrecorp.

3.49 However, Centrecorp did provide some information relating to the success of those businesses in which Centrecorp had acquired its interest with Australian Government assistance. Centrecorp submitted that:

[The Australian Government] support assisted towards the acquisition of two investments viz; units in Kings Canyon Resort Trust and CAAMV Unit Trusts [which is the part owner of the Alice Car Centre] both investments being partnered with the then Aboriginal and Torres Strait Islander Commercial Development Corporation, now Indigenous Business Australia (IBA).

39 Centrecorp, additional information, 24 August 2009, pp 1, 4 and 8.

[www.aph.gov.au/Senate/committee/fapa\\_ctte/central\\_land\\_council/additional\\_info/index.htm](http://www.aph.gov.au/Senate/committee/fapa_ctte/central_land_council/additional_info/index.htm)

In the accounts of CAACT and CACT the funds are capitalised as part of the asset cost in the respective balance sheets.<sup>40</sup>

3.50 In its submission to the committee, Centrecorp set out details of the dividend payments of those Centrecorp investments which were in receipt of government funding:

**Table 5—Financial performance and dividend payments of relevant Centrecorp businesses (\$)**

Year	Kings Canyon Resort Trust Net profit (loss)	Dividend received by Centrecorp (CAACT)	Yeperenye Pty Ltd Net profit/(loss)	Dividend received by Centrecorp	Alice Car Centre Ltd Net profit/(loss)	Dividend received by Centrecorp (CACT)
2001–02	2 299 513	506 393	643 454	-	873 792	786 623
2002–03	(160, 325)	163 353	749 139	-	1 162 198	327 746
2003–04	1 817 311	294 036	(247 191)	-	1 370 918	136 280
2004–05	397 026	156 981	2 990 683	-	1 531 266	237 743
2005–06	(2 976 059)	-	1 598 369	-	1 535 837	194 183
2006–07	1 031 665	-	1 006 707	-	1 770 073	358 954

Centrecorp, *Submission 3*, p. 7.

3.51 In its audit of Centrecorp, the OEA found that:

Review of the direct benefits provided in respect of Kings Canyon Resort, Yeperenye Nominees and Peter Kittle Motor Company investments did not identify any instances where Australian Government funding was used for purposes other than those specified in the relevant funding agreement.<sup>41</sup>

3.52 The OEA report examined the performance of those assets acquired by Centrecorp using government funds.<sup>42</sup> The OEA 'did not identify any instances where Australian Government funding was used for purposes other than those specified in the relevant funding agreement'.<sup>43</sup>

40 Centrecorp, *Submission 3*, p. 4.

41 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 6.

42 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, pp 23–28.

43 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 6.

## Benefits to Indigenous Australians and Donations<sup>44</sup>

3.53 Centrecorp's Memorandum of Association states that its purpose is to:

...undertake and implement activities which further the economic and social developments of Aboriginals and which are conducive to the advancement of Aboriginals.<sup>45</sup>

3.54 The main way in which Centrecorp seeks to achieve this aim is through making charitable donations from the income from its investments. The donations of each of the Centrecorp trusts over the past five years are set out in Table 6.

3.55 The OEA established through discussions with Centrecorp management that the priorities for charitable donations included that of education, sport, health and employment initiatives in the form of special projects or one-off initiatives.<sup>46</sup>

**Table 6—Donations by Centrecorp trusts, 2004–08 (\$)**

Year	CAACT donations	CACT donations	Yeperenye Pty Ltd donations	Total
2003–04	22 027	-	-	<b>22 027</b>
2004–05	73 136	-	-	<b>73 136</b>
2005–06	124 105	-	26 077	<b>150 182</b>
2006–07	99 085	135 511	65 870	<b>300 466</b>
2007–08	234 668	105 000	108 353	<b>448 021</b>

Centrecorp, additional information, 21 August 2009 (received 24 August 2009). Note: figures are rounded to nearest dollar.

### *How donation decisions are made*

3.56 Of the management of donations, the OEA noted:

Although Centrecorp has established some basic procedures for the administration of donations, there are no common procedural guidelines in place across the network of organisations to guide those responsible for making donations on the types of activities to be supported (in line with the Charitable Objects of the Charitable Trust), the reporting arrangements to

44 This section covers Terms of Reference (b)(v)(vi) and (viii).

45 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 49.

46 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 50.

be employed and process to be followed where a potential conflict of interest is found to exist.<sup>47</sup>

3.57 Centrecorp informed the committee that its website sets out the process for applying for a donation.<sup>48</sup> The website gives an indication as to the factors that the Board of Directors of the Centrecorp Foundation consider when assessing whether or not to make a donation, and provides helpful advice as to what should be included in a request.

3.58 Requests for donations must be made in writing, and should include:

- details of the application
- contact details
- details of the proposed activity
- benefits to be obtained from the proposed activity
- a budget showing the full cost of the proposed activity
- any proposed contribution by the applicant towards the cost
- any proposed fund raising activity
- any approaches to other sources of funding
- any other material relevant to the request
- the amount requested of the Centrecorp Foundation.<sup>49</sup>

3.59 Centrecorp accepts applications at any time, from individuals or organisations.

3.60 The factors that the Board of Directors considers in making decisions about donations are listed as:

- Is the request aligned with the overarching purpose of the Foundation (as outlined in the vision statement)?
- Are there any alternative funding sources available to the applicant?
- Is the purpose more appropriate to Government responsibility?
- Is there potential for the applicant to raise the funds themselves?
- What are the amounts of previous assistance granted from the Centrecorp Trust, the Foundation or other sources?
- What is the ability of the applicant to administrate the funds donated and the project being undertaken?
- Will the funds demonstrably be used for the purpose granted?<sup>50</sup>

---

47 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 50.

48 Centrecorp, *Submission 3*, p. 10.

49 Centrecorp website, [www.centrecorp.com.au/index-3.html](http://www.centrecorp.com.au/index-3.html) (accessed 12 November 2009).

3.61 While the committee notes that the above information on Centrecorp's website appears to be an improvement from the information that was available at the time of the OEA's report, in the committee's view the publicly available information about Centrecorp's donation process remains insufficient to demonstrate that the process is transparent and accountable. For example, there is no indication of the prioritisation of grants, no appeal mechanism set out, and the details of all successful grants are not published.

3.62 Accordingly, the committee is still inclined to agree with the OEA's assessment that more transparency and/or accountability in the donation process is desirable.

### ***Benefits to Indigenous Australians***

3.63 In terms of how its donations have benefited Indigenous Australians in Central Australia, Centrecorp submitted:

The local Aboriginal Community in particular, is well cognisant of Centrecorp and its philanthropic worth to the community. Over the most recent years, Centrecorp has responded to over 300 requests for support, most coming from organizations with multiple Aboriginal membership.<sup>51</sup>

(...)

The Charitable Trusts received requests from, and make donations to, a broad representation of the Aboriginal Community of Central Australia, including welfare organisations, a renal service, a hospital volunteer group, local schools, interstate schools and colleges, a school mentoring program, sporting groups, an employment taskforce (including local, NT and Australian Government agencies), outstation communities, cultural and arts groups, families and individuals.<sup>52</sup>

3.64 Centrecorp provided the committee with a list of the charitable donations made by each of its trusts since 2002. Those documents, with the names of individuals and Indigenous organisations removed, have been published on the committee's website.<sup>53</sup>

3.65 Centrecorp submitted that its donations have, since 2000, totalled nearly \$1 million, and may be classified as follows:<sup>54</sup>

Education	\$400 183
-----------	-----------

---

50 Centrecorp website, [www.centrecorp.com.au/index-3.html](http://www.centrecorp.com.au/index-3.html) (accessed 12 November 2009).

51 Centrecorp, *Submission 3*, p. 11.

52 Centrecorp, *Submission 3*, p. 8. Note that the order of the quotes at notes 50 and 51 have been reversed from how they appeared in Centrecorp's submission.

53 [www.aph.gov.au/Senate/committee/fapa\\_ctte/central\\_land\\_council/additional\\_info/index.htm](http://www.aph.gov.au/Senate/committee/fapa_ctte/central_land_council/additional_info/index.htm)

54 Centrecorp, *Submission 3*, p. 9.



---

Sport	\$179 957
Health & Welfare	\$135 397
Employment	\$128 087
Cultural & Art	\$111 443

3.66 The committee's analysis of the trusts' donations confirms this broad breakdown.

3.67 Centrecorp's submission sets out a number of examples of the donations it has made. For example Centrecorp stated that it sponsors numerous Aboriginal youth sport teams, donates to 'every secondary and most primary schools [in the region]' and sponsors disadvantaged Aboriginal student excursions. Centrecorp also sponsors over 30 Indigenous students to attend interstate elite private schools. Centrecorp's submission gives a number of other examples of programs that it has supported.<sup>55</sup>

3.68 The CLC submitted that, in addition to donations, Centrecorp's success has other benefits for Aboriginal people:

...by pursuing the objects of the Trust to support Aboriginal people in central Australia in areas of education, health, personal development – particularly through sport, and in other ways consistent with the trust deeds, over time it will assist Aboriginal people to participate more fully in employment and economic activities, and ameliorate disadvantages due to poor health, remoteness and so on.

As an Aboriginal controlled entity, Centrecorp sets a very good example to the Aboriginal people of what can be achieved by long term commitment to clear goals, sound governance and management, and financial probity.

For many Aboriginal people in central Australia 'investment' for the future is a difficult concept. Centrecorp also provides an outstanding example of 'investment' as an instrument for economic and social improvement.<sup>56</sup>

3.69 However, it has been suggested by the media that some of Centrecorp's investments are inappropriate because they 'stray from the objectives of [Centrecorp's] charitable charter and are of little or no benefit to the indigenous people who are meant to benefit from them'.<sup>57</sup> Specifically, Centrecorp's investment in Milner Road Food Town, which operates a liquor outlet has been criticised, as has the fact that '[m]any of its operating companies appear to employ few indigenous people'.<sup>58</sup>

3.70 The OEA's report on Centrecorp sets out the total number of Indigenous staff employed in each of Centrecorp's investments, and Centrecorp's comments thereon.

---

55 Centrecorp, *Submission 3*, p. 11.

56 CLC, *Submission 2*, p. 7.

57 Russel Skelton and Ben Schneiders, 'Charity Comes Under Scrutiny', *The Age*, 20 August 2007.

58 Russel Skelton and Ben Schneiders, 'Charity Comes Under Scrutiny', *The Age*, 20 August 2007.

The OEA's Centrecorp report states that 20 of the total 241 staff employed by Centrecorp related entities are indigenous employees; an indigenous employment rate of 8.3 per cent.<sup>59</sup>

### **Information provided to shareholders and beneficiaries about Centrecorp<sup>60</sup>**

3.71 Centrecorp informed the OEA that it provides copies of annual financial statements of its trusts to each of its directors, who are representatives of its three shareholders. However, OEA was also informed that the directors do not provide these to Centrecorp shareholders and that no other formal report is provided to Centrecorp's shareholders, nor is there any requirement for such a report to be so provided.<sup>61</sup>

3.72 Whilst acknowledging this, the OEA found that as Centrecorp has received substantial financial support from the Australian Government over time, it should 'take steps to significantly improve the transparency of its operations'.<sup>62</sup> In this regard, the OEA stated:

The absence of any form of public reporting by Centrecorp, which was established for the benefit of Central Australian Aboriginal people demonstrates a lack of transparency. It also provides further weight to claims made in the media as the beneficiaries of Centrecorp do not have access to any other information.<sup>63</sup>

3.73 The OEA went on to recommend that:

...Centrecorp should consider how it might increase transparency through the provision of more public and stakeholder information.<sup>64</sup>

3.74 There been some complaints reported in the media regarding the lack of information that Centrecorp gives to the traditional owners whose money it is investing.<sup>65</sup> Mr Chlanda, the Managing Editor of the *Alice Springs News*, submitted that Indigenous people:

...are incensed that they are being kept in the dark by the organisation supposedly acting in their interest, that they don't know the value of the

---

59 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 47. The report states that the employment figures were correct as at the date of filedwork (conducted between 26–28 September 2007 and between 21–24 April 2008).

60 This section covers Term of Reference (b)(vii).

61 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 42.

62 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 8.

63 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 42.

64 OEA, *Performance Audit of Centrecorp Aboriginal Investment Corporation Pty Ltd*, November 2008, p. 43.

65 Russel Skelton and Ben Schneiders, 'Charity Comes Under Scrutiny', *The Age*, 20 August 2007.

---

assets, and that they have no say in the distribution of the dividends – a miniscule amount to date and arranged by unknown people.<sup>66</sup>

3.75 Centrecorp informed the committee that its publication, *Centrecorp, Building for the Future*, 'has been widely distributed to Indigenous organisations',<sup>67</sup> including beneficiaries of the donations program. The publication includes 'details of the shareholding, the year in which it was acquired and a description of each of [the] businesses in which equity is held'.<sup>68</sup>

3.76 In addition Centrecorp advised that 'a detailed set of audited annual financial statements is provided to the Central Land Council'.<sup>69</sup>

3.77 The committee has not received the information provided by Centrecorp to its shareholders and beneficiaries and therefore makes no independent finding as to its adequacy. The committee did not consider it necessary to inquire further into the issue, given the OEA's previous consideration, coupled with the fact that none of Centrecorp's shareholders, or current or potential beneficiaries submitted concerns to the committee.

3.78 However, the committee notes that during the course of this inquiry, Centrecorp was not forthcoming with documents and information requested by the committee. The committee requested various, fairly standard financial documents from Centrecorp on 18 June 2009. It did not receive the requested documents until 24 August 2009, and only after significant prompting. Furthermore, the documents that were provided by Centrecorp were heavily edited, with Centrecorp claiming that the omitted information was 'commercial-in-confidence'.

3.79 The committee notes its disappointment in the fact that Centrecorp was not more transparent and helpful in its dealings with the committee.

---

66 Mr Erwin Chlanda, *Submission 6*, p. 1.

67 Centrecorp, *Submission 3*, p. 10.

68 Centrecorp, *Submission 3*, p. 10.

69 Centrecorp, *Submission 3*, p. 10.

## **Conclusion**

3.80 In conclusion, on a prima facie examination of the heavily edited documents provided to the committee by the CLC, Centrecorp and Yeperenye, the committee found no indication of: the existence of an improper relationship between the entities; any impropriety in Centrecorp's use of, or accounting for, government funds; any improper conduct in Centrecorp's donations; nor anything to suggest that Centrecorp is acting other than in accordance with its charitable charter.

3.81 However, the committee notes its concerns about Centrecorp's transparency, arising from its reluctance to provide the committee with basic financial information about its operations and investments.

3.82 The committee found the CLC to be equally reticent in providing information about its dealings with Centrecorp. The committee requested a range of basic documents from the CLC on 18 June 2009, and did not receive the requested documents until 17 August 2009, again with substantial prompting. The documents that were received by the committee were heavily edited, with many simply being blank pages (as all the information, other than headings, had been removed).

3.83 The committee notes that while both organisations have repeatedly disputed the media's allegations of improper conduct, their evasive attitude towards this committee does nothing to assist their case.

**Senator Cory Bernardi**

**Chair**