



Australian Government

Department of Families, Housing,  
Community Services and Indigenous Affairs



THE SECRETARY

Ms Christine McDonald  
Committee Secretary  
Senate Committee on Finance and Public Administration  
Parliament House  
CANBERRA ACT 2600

Dear Ms McDonald

**Inquiry into the relationship between the Central Land Council and Centrecorp  
Aboriginal Investment Corporation Pty Ltd ('Centrecorp')**

Thank you for your letter of 20 May 2009 where you invited me to provide a written submission to the above inquiry on issues that may be of relevance to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA).

FaHCSIA is responsible for advising our Minister on the operation of the Northern Territory Land Councils, which are statutory authorities and FaHCSIA portfolio agencies. FaHCSIA has a good working relationship with the Land Councils, which operate with a high level of day to day independence from the rest of government. FaHCSIA's view of the relationship between the the Central Land Council (CLC) and Centrecorp is based on the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA), which established the Land Councils, and the opinions of past audits into both organisations.

**Relevant legislation**

The ALRA states:-

**23 Functions of Land Council**

- (1) The functions of a Land Council are:
- (ea) to assist Aboriginals in the area of the Land Council to carry out commercial activities (including resource development, the provision of tourist facilities and agricultural activities), in any manner that will not cause the Land Council to incur financial liability or enable it to receive financial benefit;

Our understanding is that in order to ensure compliance with s23(1)(ea) of the ALRA, each of the four Northern Territory Land Councils has initiated the establishment of a



commercial development body to assist Aborigines in its region. In the case of the Central Land Council, the commercial development body is Centrecorp.

### **Previous examinations of the relationship between Centrecorp and the CLC**

The Australian National Audit Office (ANAO) examined the CLC's relationship with Centrecorp in 2006 as part of the annual CLC audit. In this case the audit was conducted by one of its Directors, Mr Mark Moloney. Following the examination ANAO stated that Centrecorp was not a related entity to the Central Land Council because of the absence of benefit to the Land Council. The ANAO advise that all annual audits of the Central Land Council have confirmed this earlier opinion on the relationship, most recently the 2007/08 audit of the CLC. These audits are tabled documents.

The relationship was also examined in the Audit Report on the Northern Territory Land Councils by the Department of Finance and Deregulation's Office of Evaluation and Audit (Indigenous Programs) (OEA) of November 2007, which describes Centrecorp and its relationship with the CLC. It describes Centrecorp as 'an external economic entity within the Central Land Council region facilitated and part-owned by the CLC' and lists it with other primary commercial entities associated with Land Councils. The full list of external economic entities is provided below.

<b>Land Council</b>	<b>Commercial Entities</b>
NLC	Aboriginal Investment Group (AIG) Pty Ltd Larrakia Development Corporation (LDC) Pty Ltd
CLC	Centrecorp Aboriginal Investment Corporation Pty Ltd
ALC	Groote Eylandt and Bickerton Island Enterprises (GEBIE) Pty Ltd
TLC	Pirntubula Pty Ltd

It also states that "a number of Aboriginal Associations have defined investment strategies with monies held by the Land Council or invested with one of the external economic entities (e.g. Centrecorp)"

The OEA Discussion Paper - Central Land Council of November 2007 has a section devoted to Centrecorp:

"Centrecorp Aboriginal Investment Corporation Pty Ltd (Centrecorp)

All of the Northern Territory Land Councils have established, or facilitated the establishment of, an external entity to assist Aboriginal people with the investment of royalty\* payments and the conduct of commercial activities. These entities are a means by which the Land

Councils are able to fulfill functions related to section 23(1) (ea) of the ALRA without establishing a financial liability or enable it to receive financial benefit in those commercial operations. The impact of these entities on the Land Council's functions is discussed in relation to the performance of the Land Councils.

In the CLC case this company is Centrecorp Aboriginal Investment Corporation Pty Ltd.

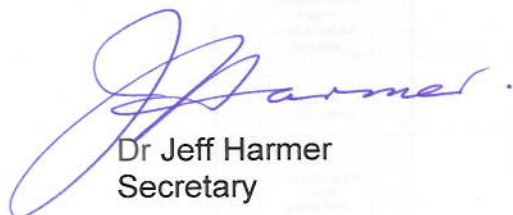
\*The status of royalty payments is clarified by the Australian Government Solicitor's Office of General Counsel which advises the "Land Councils are not FMA Act agencies. They are not agencies which handle 'public money'. As noted they have a separate legal existence. They have the capacity to hold their own real and personal property (including money) (see s 22 of the ALRA). They do not receive money directly from annual appropriations and money received by them ceases to be public money".

Further information from this audit is attached under **Additional Information**.

A FaHCSIA examination of the Centrecorp Trust Deeds identified no breaches of the ALRA arising out of the relationship between Centrecorp and the Central Land Council

Please do not hesitate to contact my Department if we can be of assistance. The relevant officer is Mr Greg Roche, Branch Manager Indigenous Programs on 02 6121 4630 or [greg.roche@fahcsia.gov.au](mailto:greg.roche@fahcsia.gov.au)

Yours sincerely



Dr Jeff Harmer  
Secretary

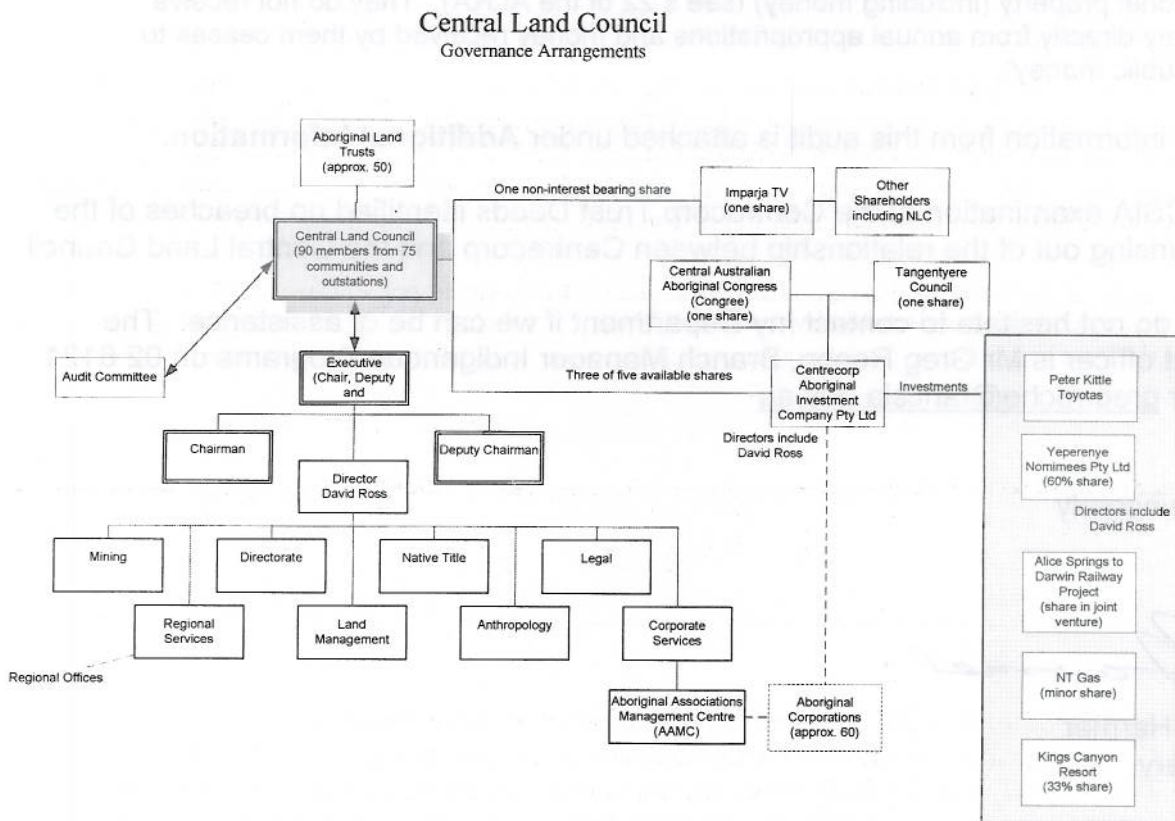
4 August 2009

## Additional Information

Extract from the 'Performance Audit of the Northern Territory Land Councils' by the Department of Finance and Deregulation's Office of Evaluation and Audit (Indigenous Programs) (OEA) at:

[http://www.aph.gov.au/Senate/committee/fapa\\_ctte/estimates/add\\_0809/finance/answers/F56\(attachment\).pdf](http://www.aph.gov.au/Senate/committee/fapa_ctte/estimates/add_0809/finance/answers/F56(attachment).pdf)

The following diagram represents the linkages between the CLC and Centrecorp:



In the OEA 'Discussion Paper – Central Land Council' dated November 2007 there is a section devoted to Centrecorp:

'The CLC is the majority shareholder in Centrecorp, holding three of five available shares. The two remaining shares are held by the Central Australian Aboriginal Congress and the Tangentyere Council.

As determined by the Australian National Audit Office, the CLC receives no material benefit from Centrecorp and thus the operations of Centrecorp are not reflected in the financial statements of the CLC. The CLC and Centrecorp operate as separate entities; however the CLC hold three of five available shares in Centrecorp.

Operationally, Centrecorp provide investment advice and services to Aboriginal Associations within the CLC area. As stated previously, the role of the CLC's AAMC\*\* includes the referral of Aboriginal Associations to private investment firms including Centrecorp. In this way, the CLC is able to assist Aboriginal people to undertake commercial activities without taking a direct role and responsibility in managing Aboriginal Association investment funds.

From the information obtained from the CLC and publicly available registers, the Office, as part of this audit is unable to discuss or make comment on the effectiveness or appropriateness of the Centrecorp model in assisting the CLC to meet its function relating to assisting Aboriginal people in the conduct of commercial activities'.

*\*\*Aboriginal Association Management Centre (AAMC)*

The CLC established and operate the Aboriginal Association Management Centre (AAMC) to provide administration, accounting, consultation and secretarial services to incorporated Aboriginal Associations who receive income from the CLC under section 35 of the ALRA (i.e. royalty payments from mining leases and other land use agreements). Each of these Aboriginal Associations is incorporated under the *Aboriginal Councils & Associations Act 1976*.

Support is provided to Aboriginal Associations on a negotiated percent (usually 5%) of receipts. The key activities undertaken by the AAMC include assisting Aboriginal Associations to achieve legislative compliance; managing core administrative activities (e.g. completion of ATO and BAS returns); facilitating meetings to determine distribution payments; managing the income distribution process; facilitating the external audit of Aboriginal Associations; and identifying traditional owners eligible for distribution payments (using the services of the Anthropology section or in some instances from standing orders for the distribution of payments and investment allocations).

The AAMC facilitates meetings to determine distribution payments and may refer the Aboriginal Association to private investment firms including **Centrecorp** for advice regarding long-term investment strategies.

The AAMC structure and processes provides a model of better practice for Land Councils to assist Aboriginal Associations with the administration of royalty payments. The AAMC is administratively and physically separated from other CLC activities (the offices are located at a separate CLC location). At the same time the structure provides a level of assurance that the Aboriginal Associations are operated in accordance with legislative requirements, control processes are applied to distributions, and Aboriginal Association members maximise the economic benefit from royalty payments.

In the 'Discussion Paper – Tiwi Land Council' by OEA , dated November 2007 it states:

'There has been some discussion within the Land Councils and Commonwealth Government over the years as to whether entities such as Pirntubula Pty Ltd would constitute a related entity for the Land Council. The TLC argues that, using the tests provided in Australian Accounting Standards Board (AASB) publications AASB 127, 128 and 131, Pirntubula Pty Ltd does not constitute a related entity.

This view is reinforced by advice from the Australian National Audit Office to the Central Land Council in August 2006. In this advice they stated that **Centrecorp was not a related entity** for the Central Land Council, because of the absence of benefit for the Land Council. The TLC was also provided with similar advice regarding Pirtubula Pty Ltd. Nonetheless, Directors are required to disclose any material interest in a matter that relates to the affairs of the authority under Subdivision B, s27F of the *Commonwealth Authorities and Companies Act (CAC) 1997*.