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GOLDFIELDS LAND AND SEA COUNCIL

Aboriginal Corporation

ABN: 54 489 243 524

67 - 71 Dugan Street (in laneway, at rear)

PO Box 10006, Kalgoorlie WA 6433

Telephone: (08) 9091 1661 Fax: (08) 9091 1662

Website: www.glc.com.au

Owen Walsh
Committee Secretary
Senate Legal & Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600

Facsimile : (02) 6277 5794



Dear Sir

Inquiry Into the Corporations (Aboriginal and Torres Strait Islander) Bill 2005

Thank you for the opportunity to make submissions on this Bill.

The Goldfields Land and Sea Council Aboriginal Corporation takes the view that the basis of the Bill is essentially misconceived.

The attempt to replicate the *Corporations Act* 2001 ("*Corporations Act*") regime for Aboriginal communities is not appropriate. The *Corporations Act* regulates corporations designed essentially for profit-making purposes, in the commercial market place.

Aboriginal Corporations, on the other hand, are bodies created usually at the behest of government, to receive funding to provide services to Aboriginal people, in circumstances where, historically, government has shown itself incapable or unwilling to provide services through main-stream government agencies.

Aboriginal Corporations comprise governing committees of volunteers, to carry out this work. Furthermore, it is a common-place statistic that approximately 60% of all Aboriginal people across Australia have not progressed passed a primary school education.

In these circumstances, to impose a regime of such extreme complexity as the 500 odd page Bill on Aboriginal people, incorporating over 100 penalty provisions of strict liability, and discretionary wide ranging and compulsive bureaucratic investigative powers can only be regarded as punitive and oppressive. This is even more so, when it is realised that the Commonwealth has, in any event, protective powers available to it through the form of its funding agreements, to ensure the integrity of Commonwealth funding.

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We foresee that the result of legislation in the form of the Bill will be a reduction in the willingness of Aboriginal people to assist in service delivery through involvement in Aboriginal Corporations. This will throw responsibility back, directly, to Commonwealth and State agencies to themselves deliver services. Historically governments have shown themselves incapable of doing this in any respectable way.

The Bill is a mallet to crack a very small nut. There are relatively few incidents of Aboriginal members of Aboriginal Corporations themselves violating their Corporation rules or the provisions of the current Act to gain advantage.

We submit that the Bill should be abandoned. In its place more resources should be put into programmes of governance training and assistance. I can say that his organisation, for one, has benefited and greatly appreciates the OIPC programme of training for its Governing Committee membership. That is the way forward, not increased punitive provisions and complexity.

Yours faithfully



Brian Wyatt
Executive Director

30 October 2005