

CHAPTER 1

Introduction

The Committee's Duty

1.1 This report is prepared pursuant to s.206(c) of the *Native Title Act 1993* (the Act) as amended by the *Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995* (the ATSIC Amendment Act). Section 206(c) of the Act requires the Committee to report at its discretion to both Houses of Parliament on matters to which Parliament's attention should be directed about annual reports prepared by the President of the National Native Title Tribunal (the Tribunal) or by any person under Part 4A of the *Aboriginal and Torres Strait Islander Commission Act 1989* (the ATSIC Act).

Reports under Consideration

1.2 Pursuant to s.206(c) of the Act, three reports are examined in this inquiry. They are the Tribunal *Annual Report 1999-2000*, the Indigenous Land Corporation (ILC) *Annual Report 1999-2000* and the report regarding the administration of the Aboriginal and Torres Strait Islander Land Fund Account (the Land Fund) for the period 1999-2000. The Land Fund report is not separately documented, but is included in ATSIC's *Annual Report 1999-2000* as Appendix 16. It is also reproduced (in part) as Appendix 1 to the ILC annual report.

The Tribunal

1.3 Pursuant to s.133 of the Act, the Tribunal President is required to prepare an annual report and give it to the Commonwealth Minister as soon as practicable after 30 June each year.

1.4 In its second, fourth, ninth, thirteenth, fourteenth and seventeenth reports, this Committee reported on the Tribunal's first six annual reports. The seventh annual report of the Tribunal, that for 1999-2000, was presented out of session on 2 October 2000; it was tabled in the Senate on 30 October 2000 and in the House of Representatives on 31 October 2000.

ILC and Land Fund

1.5 The 1999-2000 ILC report and the 1999-2000 Land Fund report are the sixth such publications presented. The previous reports prepared pursuant to Part 4A of the ATSI Act were examined by this Committee in its fifth, eighth, thirteenth, fourteenth and seventeenth reports.

1.6 The Land Fund report responds to ATSI's responsibility to keep accounts and prepare financial statements for the Land Fund under s.193H of the ATSI Act. ATSI also has investment powers in relation to the Land Fund. The ATSI annual report for 1999-2000 (containing the Land Fund report) was tabled in the Senate and the House of Representatives on 31 October 2000.

1.7 The 1999-2000 annual report of the ILC (with part of the Land Fund report appended) was presented on 4 September 2000. It was tabled in the Senate and the House of Representatives on 10 October 2000.

1.8 The ILC's first three annual reports were prepared pursuant to s.63H of the *Audit Act 1901* as applied by s.193K of the ATSI Act. The *Commonwealth Authorities and Companies Act 1997* (the CAC Act) replaced the *Audit Act* on 1 January 1998. Accordingly, the ILC's annual reports since the 1997-98 report have been prepared pursuant to s.9 of the CAC Act.

1.9 In its fourteenth and seventeenth reports the Committee advised that, as a result of the substitution of s.193K of the ATSI Act and the operation of the CAC Act, the Committee may not have a statutory duty to examine and report on ILC reports from 1998-99 onwards. This is because the Committee's duty under s.206(c) is to examine each annual report that is prepared by any person *under Part 4A of the ATSI Act*. The Committee remains concerned that s.206(c) of the Act be amended to clarify its specific duty to continue to consider the ILC's annual reports.

1.10 The Chief of Staff to the former Minister for Aboriginal and Torres Strait Islander Affairs, Senator the Hon John Herron, wrote to the Committee on 18 April 2000 advising that an amendment was proposed to s.206(c) of the Act. The amendment would be included in a bill to amend the ATSI Act. The Minister, the Hon Philip Ruddock, has now confirmed that this amendment is expected to be

introduced in the Native Title Amendment Bill 2001 which was expected to be passed during the Spring Sitting 2001 (see Appendix 3 to this report).

1.11 This is a matter which the Committee will continue to review. It now has been the subject of comment in three reports. For this report, the Committee has continued to examine the ILC annual report pursuant to paragraph 1 of its terms of appointment passed by the House of Representatives on 3 December 1998:

That the Committee have power to examine and report on such annual and related reports as may be referred to it by the President of the Senate or the Speaker of the House of Representatives.

Public Hearings

1.12 The Committee considered it desirable to hold public hearings prior to the preparation of this report. A public hearing where evidence was heard from the Tribunal was held on 3 April 2001.

1.13 Given the events that were relevant to the performance of the ILC during the period 1999-2000, the Committee engaged in considerable correspondence with the ILC and others. As an associated outcome, more extensive public hearings were required than has previously been the case. Public hearings were held on 27 March, 21 May and 18 June 2001 where evidence was heard from the ILC.

1.14 The Committee is grateful to the Tribunal and the ILC for their continuing cooperation in regard to the examination of annual reports.

Committee Report

1.15 This report was adopted unanimously by the Committee at a private meeting on 27 August 2001. The Tribunal annual report is considered at Chapter 2, the Land Fund report at Chapter 3 and the ILC annual report at Chapter 4.

