

**Parliamentary Joint Committee on  
Native Title and the Aboriginal and  
Torres Strait Islander Land Fund**

**Indigenous Land Corporation Annual  
Report 1999-2000**

**Submission No: 1e**

**14 June 2001**

**Ms Sharon Firebrace  
Chairman**

**Indigenous Land Corporation**

**PO Box 160**

**Benembra VIC 3900**

** 03 5159 9365  03 5159 9365**

**E-mail:**



14 June, 2001

INDIGENOUS LAND CORPORATION

Mr Peter C Grundy  
Committee Secretary  
Parliamentary Joint Committee on Native Title  
and the Aboriginal and Torres Strait Islander Land Fund  
Parliament House  
CANBERRA ACT 2600

Dear Mr Grundy,

**PUBLIC HEARING - 21 MAY, 2001**

Thank you for your letters of 28 May and 7 June 2001 in respect of the proof transcript of the hearing and details of a further hearing of the Committee on 18 June, 2001.

As discussed with you, I am unable to attend this further hearing due to travel commitments associated with a family funeral taking place on the following day (the funeral having been held over to allow family members to return from overseas). However, I am assured that Mr Bob Haebich, acting CEO, will attend and will, I'm sure, be in a position to deal with issues raised by the Committee.

I have proofread the transcript of the 21 May hearing and have no suggested corrections.

Answers to questions taken on notice, with the exception of those already answered by the acting CEO are furnished below:

*NT 52/53 - "... it might be helpful for the Committee if you could table the note that you made at the time ...."*

Copy of the note in question is enclosed. You will note that the comment "*my view was that Fed AFP not be involved as they .... would not do anything*" refers to advice from Bill Miller as cross-referenced by the boxed comment that "*Bill Miller told ILC Board 8 May Board meeting.*"

*NT 53/54/55 - "Can I just say: I think it would be extremely important that we have your file note and your statutory declaration."*

A draft Statutory Declaration is enclosed. A completed Declaration will be faxed later today.

**NT 56/57** - *"So there was a meeting on 24 May, 2000 at which you conferred with the Minister and he asked you to stand down?"* ..... (plus two further references to this matter.)

On 28 March, 2000 the Minister conveyed his concern to me regarding the functionality of the ILC Board. He stated that *"Clearly a situation, where the Chairperson of a Board is in disagreement with the majority of the members of the Board cannot, in the interests of the effective performance of the organisation, be allowed to continue."*

A meeting with the Minister and our respective advisers on 24 May, 2000 addressed these divisions within the ILC Board (amongst other matters) and the Minister asked that in keeping with a resolution of the ILC Board, I consider taking leave for the duration of my appointment as Chairman of the ILC - *effectively* asking me to stand down. I pointed out to the Minister that the grant of such a period of leave would be invalid as there was no provision for such leave in the ATSIC Act. The Minister later concurred with my understanding of this matter.

On 1 June, 2000 the Minister confirmed his interest in my "standing down" on leave when he wrote: *".... If you are not minded to take advantage of the leave provisions of Section 192C of the ATSIC Act ...."*

**NT 57** - In references to the functions of the Chairman I asserted at the last hearing that the (ATSIC) Act empowered the Chairman to call Board meetings every six weeks. In fact the Act does not specify the frequency of meetings - it has been ILC practice to schedule meetings every six weeks or so.

**NT 59/60** - *"It might be helpful if there were a letter of appointment from the previous minister to table that."* (plus two similar references)

I note that the acting CEO of the ILC has provided you with a copy of the Instrument of Appointment. I now enclose a copy of the previous Minister's letter of appointment together with a letter from his Chief of Staff (and attachment - regarding hours of duty), dated 19 August, 1999, and a further letter from the Minister dated 2 March, 2000 dealing with terms and conditions of employment. I possess another letter (which I have yet to locate) from the Minister's office, which makes direct reference to my appointment in an executive capacity. Notwithstanding the mislaid correspondence, the former letters clearly indicate an expectation that the Chairman's role would far exceed the limited statutory obligation of calling and chairing periodical Board meetings.

**NT 65** - *"At that stage, was there an investigation going on into the purchase of Roebuck Plains by the ILC?"*

I note the acting CEO of the ILC has responded to this question. However, I wish to state that upon learning of the media allegations concerning this purchase I undertook to initiate an inquiry into the matter. This ultimately led to the Minister asking the ILC Board to commission an independent inquiry into the Roebuck Plains transaction.

**NT 70** - *"Can you tell the committee who made the decision ..... what the terms of reference were ..... whether we can get a copy of that report."*

The ILC Board will be considering this question and will respond as soon as possible.

NT 78 - *"Have you any indication of when ATSEC is likely to make that decision?"*

I understand the matter in question will be considered at the June meeting of the ATSEC Board of Commissioners.

NT 82 - *"My question was 'How much has this legal advice cost? ..... How much has the ILC spent on all of this?'"*

I note again that the acting CEO of the ILC has responded to this question. I am extremely concerned however that the chronology of events relating to the suspension of Mr Wilson is incomplete and misleading. As such, placing this information on the public record would clearly prejudice any legal proceedings that might involve the Chairman of the ILC. A full and faithful account of my actions in relation to the suspension of Mr Wilson and proposed appointment of Mr Johnstone has been provided to the Skehill Inquiry into the Behaviour of the Directors of the ILC. Given the legal implications arising out of publication of this material I ask that the chronology, as provided by the acting CEO, be kept confidential.

NT 87 - *"I think that perhaps we need some more advice on this, Mr Haebich. .... I would also be interested to know ..... whether there has been any subsequent legal advices....."*

*"I would be interested to know what has happened since and what sort of money is involved ..."*

It would appear that the acting CEO's response to the question highlighted at page NT 82 is relevant to these questions.

NT 95 - *"Can you tell me what it is that the \$6,800 is determined to be used for as part of the Chairman's package? ....."*

I refer to the acting CEO's response regarding this amount of supplementary remuneration. Please note that in respect of comments made at the previous hearing about expense accounts, the Chairman has no entitlement to such an allowance. For some 12 months now I, as Chairman, have been personally meeting the majority of expenses associated with running my office - phone/fax bills, accommodation, heating, lighting, power, office equipment, postage and consumables. The ILC has provided limited amounts of stationery for my use.

NT 99 - *"Mr Haebich, it might be useful if ..... see whether the Board itself would like to make any comment on its decision not to involve the staff of the ILC, .....in the implementation of decisions taken at Board level ....."*

The ILC Board will be considering this question and will respond as soon as possible.

NT 99/100 - *"I just want to go back to the suggestion you made, Mrs Firebrace, when you said you had contacted the Australian Government Solicitor to get some advice ...."*

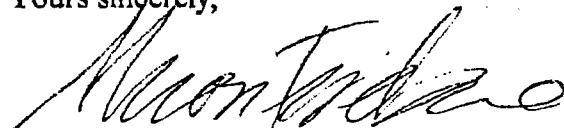
*"I want to know if you did it formally in writing? I would like to know whether you did it as an individual or as the chair ...."*

On 1 June, 2000 I wrote, as Chairman of the ILC, to the Australian Government Solicitor seeking advice on the powers and functions of the Chair. The AGS declined to accept my instructions on the basis that the AGS had previously provided legal advice to the Department of Prime Minister and Cabinet in relation to the powers of the Chair of the ILC, and would therefore have a conflict of interest. I subsequently asked the ILC to fund alternative legal advice but this request was denied by the CEO. On 6 June, 2000 the Board of the ILC removed certain Ministerially-agreed conditions of service and entitlements that I had enjoyed since my appointment as Chairman, and curtailed my executive Chairman functions. These restrictions subsequently led me to take action in the Federal Court to regain these entitlements. Prior to a Directions Hearing on 27 July, 2000 the national indigenous legal service NAILSS, which agreed to assist me in this action, called again on the ILC to provide me with sufficient resources to pay for my legal costs in relation to these issues. This was again refused.

NT 102/103 - I note that questions relating to income from Roebuck Plains and herd numbers have been answered by the acting CEO. My reference at the previous hearing to a shortfall in herd numbers of 2,500 was faithfully given in the knowledge that such a claim was made at the ILC Board meeting of 15 May, 2001. Draft minutes of that meeting now refer to a shortfall of "about 2,200 head", which is contrary to the latest advice from the acting CEO.

I trust the above information will satisfy the Committee's concerns and I apologise for my inability to attend the hearing on 18 June, 2001.

Yours sincerely,



Sharon Firebrace  
Chairman

BILL MILLER → SF 5/3/001 Re What Bill Miller Reported, ILC Board 8/July 2000

Bill Miller  
to address 4 pits for 28 Feb 2000  
4 points  
asked take them  
from the  
Correspondence  
To Address 3  
Issues  
Key issues  
+ conclusion

B.M. asked Reg-ILC Board to take  
them from the letter!  
Both Rockbank Plains +  
Capalbin Station  
were  
Both criticized +  
Both mentioned in  
auditor Gen Report  
media criticism  
auditor escape

Rockbank Plains  
we believed  
ILC position  
could be departed  
only from  
criticism (media)

DM  
started ILC Board  
should consider  
an inquiry  
Commission on  
independent review

+ draft report it needed an  
Needed an independent +  
Review / inquiry

Board  
Role / Responsible  
all First-  
knowledge of report  
Directors should  
have 1st hand

leak of ANAO report

to have  
heard  
the  
Report

at Venlon AFP police  
big view that Fed, not be involved as they  
do would not do anything

Write Auditor Gen  
B.M. requested SG write to  
Auditor General

Bill Miller  
told ILC  
Board  
8th Board  
meeting

leak could have come  
from elsewhere not just  
stated (SG) had already done this!  
ie. write to the auditor Gen.

No discussion  
or advice  
on what action  
or no action?

Take from ~~the letter~~

Result:  
They will consider... 11

# STATUTORY DECLARATION

I, Graeme Robert Sinnott, Director of Palm River Pty Ltd

of "Stringybark" property, Limestone Road, Benambra in the State of Victoria

**declare that:**

I am the husband of Ms Sharon Firebrace, Chairman of the Indigenous Land Corporation. I served in the Australian Public Service for some 25 years, primarily with the Department of Defence and held senior positions within the Victorian Regional Office of that Department. On occasions, I acted as Regional Secretary, Victoria (state head) of the Department. I am presently self employed with business interests in tourism, hospitality, training and development, and primary production.

On or about the 5th day of March, 2001 I was present in the Victorian home office of Ms Sharon Firebrace, when she made a telephone call to a person she stated was a Mr Bill Miller of ATSIIC's Office of Evaluation and Audit. Whilst Ms Firebrace did not ask that I witness the call it was difficult not to overhear her conversation.

Upon commencing the call Ms Firebrace clearly identified the other party as Bill, and from her introductory remarks, it was apparent to me that she was indeed talking to the Mr Bill Miller in question.


Ms Firebrace's purpose in contacting Mr Miller appeared to be to confirm details of Mr Miller's briefing to a meeting of the ILC Board held in early May, 2000 - in particular, Mr Miller's views on whether the Australian Federal Police should have been involved in investigating a leak of confidential information.

In her discussion with Mr Miller, I can clearly recall Ms Firebrace confirming what I could only assume was Mr Miller's position on the matter, using phrases along the lines of "..... so you definitely told the Board it would be futile to refer the matter to the Federal Police ...". From the tone of the following conversation it appeared very clear to me that Mr Miller confirmed that assertion.

After concluding her call Ms Firebrace proceeded to make a note of the discussion in a notebook she kept on her desk.

*I declare that the particulars of this document are true and correct. I make this declaration in the belief that persons making a false declaration are liable to the penalties of perjury.*

Signature of Declarant

  
GRAEME ROBERT SINNOTT

Date

15 June 2001

Declared at

BAIRNSDALE

Date

15 June, 2001

Before me

SARAH NOONAN  
(Name)

  
(Signature)

Authority

Clerk to a  
Current Practitioner under the  
Legal Practice Act 1996  
Address 10 Service Street, Bairnsdale, 3875



***Minister for Aboriginal and Torres Strait Islander Affairs***

PARLIAMENT HOUSE  
CANBERRA, A.C.T. 2600

9 AUG 1999

Ms Sharon Firebrace  
Managing Director  
Palm River Pty Ltd  
207 St Georges Road  
NORTH FITZROY VIC 3068

Dear Ms Firebrace

I am pleased to inform you that I have appointed you as Chair of the Board of Directors of the Indigenous Land Corporation on a part-time basis for the period shown on the attached instrument of appointment.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Herron', written in a cursive style.

**SENATOR JOHN HERRON**





**Office of the  
Minister for Aboriginal and Torres Strait Islander Affairs**

PARLIAMENT HOUSE  
CANBERRA, A.C.T. 2600

Ms Sharon Firebrace  
PO Box 160  
BENAMBRA VIC 3900

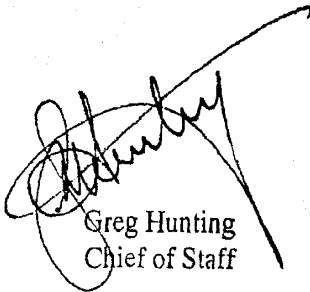
Dear Sharon

I understand you inquired about the process involved in having the position of ILC Chair made a four days out of five position, or eighty percent of a full-time load.

I think the best way to progress this is for you to write to the Minister with a proposal setting out the reasons for the change to the appointment. He will then be able to use that as a basis for a referral to the Remuneration Tribunal. I have attached a draft which you might like to consider - something along these lines would be appropriate for the Minister to use to start the process.

Please call me if you have any further queries.

Yours sincerely



Greg Hunting  
Chief of Staff

19 August 1999

**FAXED**  
20/8

PO Box 160  
BENAMBRA VIC 3900

Senator the Hon John Herron  
Minister for Aboriginal and Torres Strait Islander Affairs  
Parliament House  
CANBERRA ACT 2600

Dear Minister

Thank you for your letter of 9 August 1999 attaching the instrument of appointment for my position of Chair of the Indigenous Land Corporation (ILC).

You will recall that we had some discussion about how much time would be required to fulfill the duties of the position, and that we agreed that I be appointed *part-time* in the first instance. I have now had a chance to familiarise myself with the workings and structure of the ILC. My predecessor as you know was a full-time executive Chair. Now that the ILC has been operational for some years, I think that level of involvement can be reduced somewhat. However, I believe the Corporation will still benefit from close and detailed input from the Chair and the Board.

I therefore propose that I work for the ILC on four days out of five, or four fifths of a fulltime position. I understand that this may require a determination by the Remuneration Tribunal. If you agree with my proposal, I would be grateful if you could make the necessary arrangements, or advise me on what steps I should take to put this in train.

Yours sincerely

Sharon Firebrace

August 1999



**Minister for Aboriginal and Torres Strait Islander Affairs**

PARLIAMENT HOUSE  
CANBERRA, A.C.T. 2600

Ms Sharon Firebrace  
Chairman  
Indigenous Land Corporation  
Level 1, Football House  
3-5 Phipps Close  
DEAKIN ACT 2600

Dear Ms Firebrace

I am writing to clarify your terms and conditions of employment as Chair of the Indigenous Land Corporation (ILC).

You will be aware that the Remuneration Tribunal sets the remuneration for the ILC Chair. The Remuneration Tribunal has determined that a full-time ILC Chair is entitled to a salary of \$115,800pa, and an office holder supplement of \$8,500pa and shall be entitled to the same rates and conditions of travelling allowance as determined for officers of the Senior Executive Service (SES) of the Australian Public Service. Under Remuneration Tribunal Determination 14 of 1999, which allows pro rata payment of fees and allowances for the Chair of the ILC, you are entitled to the salary and allowances of the full-time Chair on an 80% pro rata basis. I have enclosed for your information relevant extracts from the Remuneration Tribunal determinations.

With regard to other allowances, Ministerial Determination Number 1 of 1995 provides that the full-time Chair of the ILC is also entitled to the same allowances as an officer of the Senior Executive Service (SES) of the Australian Public Service.

The above determinations mean that for travel and accommodation expenses associated with official (ILC) travel, travel allowance is paid at the SES rates. Where, for example in your case, the permanent home base is not in the same city as the office base, it is usual to consider the rental of an ongoing residential base in the same city as the office base. This is often more cost efficient to the organisation and avoids potential public and parliamentary criticism of excessive travel costs. The details of any such rental allowance should be negotiated with the ILC Board.

I believe you have also enquired about an expense account for official hospitality purposes. Under SES allowances there is no entitlement to an expense account, however there may be some scope for official hospitality arrangements which should, again, be negotiated with the Board.

I trust that this information is of assistance to you.

Yours sincerely

SENATOR JOHN HERRON

