

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

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

**Submission No: 3**

**10 May, 2001**

**Mr R G Haebich**

**Acting Chief Executive Officer**

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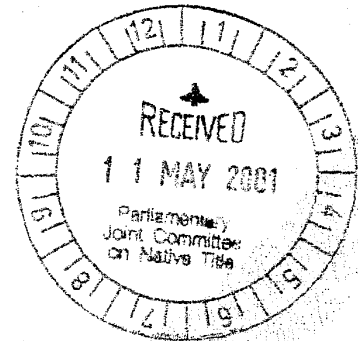
INDIGENOUS LAND CORPORATION  
ABN 59 912 679 254



LAND ENTERPRISE AUSTRALIA PTY LTD  
ABN 32 084 704 423

10 May 2001

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



Dear Mr Grundy

**ANNUAL REPORT 1999/2000 - INDIGENOUS LAND CORPORATION**

A number of questions were taken on notice during the Indigenous Land Corporation's last appearance before the Committee.

I have prepared answers on the majority of the questions and these are attached. Questions 30, 31 and 32 can only be answered by the Chairman and/or the full Board. I understand the Chairman is providing material directly to you. The Board will be considering the questions at its meeting on 15 May and the results will be sent to you as soon as possible.

I should also note that the approximate number of proposals I gave on page 4 of the transcript is somewhat far from the mark, the actual number of proposals on that date was 778. The Committee may also be interested to know that while on page 33 I said that I understood that the LEA Director's fee was \$21,000, it was actually \$21,200 and that it was increased in April to \$22,000.

I would also like to clarify statements appearing at the bottom of page 5 of the transcript, where I request that a question relating to Bidjara Housing Corporation taking the ILC to Court be taken on notice. The transcript is as follows:

*Mr Haebich- I would be happy to take that question on notice. I might add—and perhaps Mr Snowden is aware of this fact—that the Bidjara Housing Corporation has taken us to court. We are required to divest within a reasonable time a property where there is conflict of native title*

*claims. The court said that the policy adopted by the ILC—it thought that the problem was intractable—of awaiting the outcome of native title was not appropriate and the proper course.*

Whilst it does not appear that the statement above came within the scope of the correction of the proof of transcript, for the reasons outlined below the transcript more correctly read that the court said the policy adopted by the ILC '... was appropriate and the proper course' and accordingly I would be grateful if the Committee could take the following information under consideration.

### **Background Facts**

On 23 July 1997 the ILC acquired for the purpose of grant a substantial pastoral lease over land called "Mount Tabor" near Augathella in Queensland. Mount Tabor was acquired because it contained sacred, cultural and historical sites and was of cultural significance to the Bidjara people. At the time of acquisition, the ILC was aware it had uncertain Native Title opportunities. It was recommended to the Board of the ILC that the land be purchased for grant to an Aboriginal or Torres Strait Islander corporation ("ATSI corporation") as defined in the *Aboriginal and Torres Strait Islander Commission Act 1989* ("the ATSIC Act").

It was a condition of acquisition that a body, other than the Bidjara Aboriginal Housing & Land Company Limited ('Bidjara'), should be the new owner. The condition was imposed because it was thought Bidjara did not in fact represent the Bidjara people or the particular country and was therefore not an appropriate grantee for Mt Tabor Station.

Two native title claims were filed shortly before and then after the ILC acquired Mt Tabor. Finally, a native title application, described as being on behalf of the Bidjara People, with respect to the lease area and over country overlapping the two previous claims was filed in December 1997. The groups of applicants in all three native title applications have been involved in extensive negotiations in an attempt to resolve the intra-indigenous overlap of their claims. However, all attempts at mediation by the NNTT have failed. The issue of native title over the Mt Tabor pastoral lease has accordingly been substantively allocated to the Federal Court for determination, and is currently proceeding through various preliminary stages before being fixed for hearing.

The response of the ILC to the native title claims was to defer its decision to make a grant of the pastoral lease to an Aboriginal corporation. The ILC contends that the conflict between the various claimants precludes the identification of any Aboriginal corporation to which it might make a valid grant in accordance with its own guidelines and conditions adopted pursuant to the ATSIC Act. The ILC further contends that the native title proceedings afford the most appropriate mechanism for the resolving of the conflict.

## **Relevant Provisions of the ATSIC Act**

Section 191D(1)(a) of the ATSIC Act confers on the ILC the function of granting interests in land to 'Aboriginal or Torres Strait Islander corporations' as defined in s.4 (1) of the ATSIC Act. Subsection 191I(1) provides for the ILC to make written guidelines about the performance of its function set out in paragraph 191D(1)(a). Subsection 191N(1) requires the ILC to "prepare ... a strategy to be known as the national indigenous land strategy and, similarly, by s.191P(1) requires the ILC to 'prepare regional indigenous land strategies'. Section 191Q requires the ILC to have regard to the national strategy and the regional strategies in the performance of its functions.

## **Policy of the ILC**

The Guidelines state the ILC 'will give priority to land proposals where the members of the organisation or the group will comprise the traditional owners (or those with traditional attachment to the land as prior owners) or the traditional owners otherwise endorse the land acquisition'. Likewise in the national indigenous land strategy, it is stated, that 'wherever possible, the ILC will aim to ensure that traditional owners (or people with traditional links to the land) become the title-holders under a corporation.'

## **Court Proceedings**

On 25 October 2000 Justice Kiefel of the Federal Court [2000 FCA 1501] dismissed the application by Bidjara that the ILC had acted contrary to ss.191D(3)(b) of the ATSIC Act in not transferring the Mt Tabor pastoral lease to an Aboriginal and Torres Strait Islander corporation within the meaning of the Act. In delivering her decision Justice Kiefel, relevantly, made the following statements:

- (a) The ILC had maintained a preference to divest the subject land to a corporation that represented persons with a traditional connection to the land and in so doing was acting in a manner that is consistent with the ILC's policy documents (ie, the National and Regional Strategies and the Guidelines).
- (b) The ILC was justified in taking the approach of awaiting the outcome of relevant native title proceedings to achieve its policy objectives, namely the identification of traditional owners or persons with traditional links with the land.

The full Federal Court delivered its decision [2001 FCA 138] in *Bidjara Aboriginal Housing & Land Company Limited v Indigenous Land Corporation* on 27 February 2001.

The Full Court dismissed the appeal by Bidjara. The Full Court supported the action taken by the ILC to defer any grant of the land until after the determination of the native title claim and expressed the view (at paragraph 27) that circumstances may arise after acquisition and before a grant of land which, in the opinion of the ILC, make a grant no longer appropriate; and that certain features of the Act militate against a construction of s.191D(3) which requires a grant to be made as soon as reasonably practicable after acquisition or 'within the same basic time frame'.

The Full Court stated at paragraph 21:

"We are not to be taken as holding that any grant made after the determination of a native title claim will have been made within a reasonable time as required by s.191D(3)(b). The reasonableness of any deferral of a grant will have to be assessed in the light of all the relevant circumstances."

and:

"These will include the likely time to elapse before resolution of the native title claims and the availability to the ILC of other means of identifying traditional owners and others with traditional links to the land, for the purpose of seeking a suitable grantee corporation."

Bidjara has sought special leave to appeal to the High Court (court number B16 of 2001). The ILC has responded that the question of law said to be involved in the proposed appeal is not of sufficient public importance to warrant the grant of special leave and the judgment of the full Federal Court was clearly correct.

### **Summary**

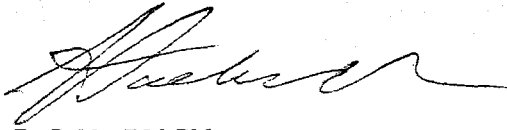
The approach by the ILC to await the outcome of native title proceedings before making a decision on granting its interest in the Mount Tabor pastoral lease has been fully supported by the Federal Court.

The Federal Court also supported the contention that the native title proceedings afford the most appropriate mechanism for the resolving of the conflict.

The Full Federal Court appears to be saying that, where native title claim processes result in the identification of the traditional owners with a reasonable degree of certainty, it may be appropriate for the ILC to determine at that point, rather than waiting the ultimate outcome of the native title proceedings, which corporation would be an appropriate body to be the recipient of the grant of land. Similarly the Federal Court appears to be of the view that, where possible, the ILC should bear in mind other means of identifying traditional owners (rather than simply awaiting identification through the native title process) especially where the resolution of native title claims may take some time.

I look forward to discussing these matters with the Committee on 21 May.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R G Haebich', written in a cursive style.

**R G HAEBICH**  
Acting Chief Executive Officer

**1 p 1,2 On page 2 of your annual report you state:**

**To 30 June 2000, the ILC has purchased a total of 127 properties, of which 73 have been divested to indigenous Corporations. How many of these properties have been purchased in urban areas for urban indigenous people?**

The ILC has purchased a total of 32 properties in urban locations across Australia (of a total of 139 purchases) for the benefit of urban Indigenous people. Six are in NSW, two in the Northern Territory, five in Queensland, sixteen in Victoria and three in Western Australia. Urban locations are taken to be those that fall within town boundaries. The House of Representatives Standing Committee

on Aboriginal and Torres Strait Islander Affairs Inquiry into the Needs of Country and Metropolitan Urban Dwelling Aboriginal and Torres Strait Islander Peoples has defined “urban” as being centres with populations of greater than 1,000.

**2 p 3 I am interested to know what type of properties you are buying. Are they dairy properties? Are they grain properties? Are they grazing properties? Is there some background to the reasoning behind their purchase in this area, or do they add on to other existing properties?**

Land acquired by the ILC has been used for a wide variety of purposes, including grain production and grazing.

The following table lists 169 uses to which 139 properties were being put at the time of acquisition by the ILC. Grazing was a major land use on 73 (52.5%) of the total.

Table 1: Previous land use of ILC acquired properties

Previous land use of acquired property	Count
Aquaculture	1
Commercial offices	1
Cultural heritage	9
Cropping -dryland	22
Cropping - irrigated	2
Dairy	4
Factory – fish processing	1
Farm forestry	1
Feedlot	1
Grazing (cattle, sheep, goats)	73
Horticulture (including citrus and grapes)	3
Industrial Estate	4
Mixed farm	1
Quarry	1
Residential (rural and other)	13
Store	3
Social programs	2
Timber harvesting	1
Tourism	5
Training and education	5
Various enterprises (eg. Transport depot, former fuel depot, former school)	3
No historical use	3

Not stated	10
Total land uses	169
Total number of properties acquired by the ILC	139

The background reasoning for a purchase is its cultural significance to Indigenous people. The fact that a significant proportion of its acquisitions have been grazing properties is probably a function of the fact that such properties lie in rural and remote areas where attachment to land has remained stronger than in more developed areas. It might be noted that while many proposals relate to rural and remote areas it is frequently the case that many who have attachment to those areas live in urban areas. The ILC has no policy or other priority on the acquisition of grazing properties. Generally, acquisitions are not designed to add on to other properties but to respond to a submission by a proponent that will contribute to the development of a representative Indigenous land base.

**3 p 3 I note that the number of new acquisition proposals has declined substantially from the previous year—from 208 to 132. What is the explanation for the lack of approval for proposals?**

Page 17 of the Annual Report states that the “... decline in the number of land acquisition proposals is a result of the ILC’s emphasis on the LNPP<sup>1</sup> through the ILC Board’s directive of April 1999”. This directive was that the Board would not acquire properties unless they had been identified as a priority in Sub-regional Overviews of Land Needs prepared as part of its national Land Needs Planning Process. This decision was made as a result of the Board’s concern to take a more strategic approach to land acquisition.

**4 p 4 I would be interested to know what proposals you have for northern Australia, how long you have had them, and when you will expedite them.**

It is understood that the question relates only to the Northern Territory. A total of 63 proposals have been registered by the ILC for acquisitions.

- Proposals received by financial year:**
  - 96/97 (17)
  - 97/98 (7)
  - 98/99 (20)
  - 99/00 (13)
  - 00/01 (6)
- Submitted to Board:** 23 (approved – 21, declined – 2)
- Acquisition successful:** 11
- Currently under assessment:** 15
- Proposals submitted by Land Councils:** 18 (NLC – 9, CLC – 9)

When a proposal is registered by the ILC, it does not automatically follow that it will be acquired by the ILC. In cases where the owner does not wish to sell, the ILC will normally retain the registration for possible acquisition in the future which may give the impression that it is failing to

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<sup>1</sup> Land Needs Planning Process



progress proposals. In fact, the ILC must compete on the open market as any other buyer and its power to acquire land is subject to the same market forces as that of other buyers. In some cases we are simply not successful in our bids.

If a land need is registered by the ILC but is found not to be consistent with either the National or the Regional Indigenous Land Strategy, it will not be pursued.

The ILC makes considerable efforts to work through the reasons why a proposed acquisition might not be acquired with proponents. In some cases, alternative properties are acquired where those properties might be available on the market, within the ILC's resources to acquire and consistent with its policies and legislative brief.

**5 p 5 Does the board have a policy? If it does, what is it in relation to the issue of purchasing land over which there are native title claims?**

The Board's policy in relation to native title is stated in the 1996 National Indigenous Land Strategy.

The ILC aims to complement other land rights and land acquisition laws, including the Native Title Act and State-based legislation related, for example, to land rights and sacred sites. As a general principle, the ILC will give priority to meeting identified land needs where other mechanisms for indigenous groups to gain access to rights over land cannot or have not met the land needs of indigenous peoples.

The ILC will prioritise the acquisition of land for groups who are unlikely to have land needs met because their native title has been extinguished, or a native title claim has not been successful. The ILC is also required to inform itself of any native title claims to land which is being considered for acquisition. In considering the acquisition of land the ILC will have regard to whether other legislative mechanisms for claim, acquisition, or protection have proven unsuccessful, or are unavailable. (p13-14)

To date, the recognition given to surviving native title interests on pastoral leases falls far short of an interest commensurate with full beneficial ownership. As a consequence, as reported in the 1998-1999 annual report, the Board has decided that it would continue to consider, and where appropriate, approve, proposals for the purchase of land held under pastoral leasehold. The new National Indigenous Land Strategy continues this policy.

**6 p 12 How many Aboriginal people are in the situation that I referred to as opposed to the clapped out properties?**

In the ILC's Central Division, the total number of Indigenous people benefiting from acquisitions of good properties acquired bare is estimated to be 3,325 which includes the entire Indigenous population of Tasmania as land acquired in that State is to be vested in a State Land Council for the benefit of all Indigenous inhabitants.

In the Western and Eastern Divisions it is estimated that approximately 1,500 and 11,515 people respectively may be in this situation.

**7 p 12 How many good properties are there where you have purchased land only and no capital or stock?**

Central Division – 9  
Western Division – 12  
Eastern Division - 23

It should be noted that while the historical use of a property may not be supported, the ILC's land management function can come into play to provide packages of assistance to enable landholders to derive benefits through sustainable land uses. These may result in the acquisition of both capital and stock as the case study outlined below (question 9) indicates.

**8 p 12 How many of those have actually applied for a loan to you and they have been either accepted or rejected?**

The ILC has accepted two loan applications and rejected one (on the basis that the applicant had inadequate management skills and the high risk nature of the project). There are two further applications currently being considered.

It should be noted that the ATSIC Act (subsection 191F(1)) requires the ILC to act in accordance with sound business principles whenever it performs its functions of a commercial basis.

**9 p 12 I would be interested in a case study. I do not want you to identify the community or the property, but you could say, for example, 'Property was identified, and these are the steps and this is the process that we went through.'**

The following is an example of a property purchased bare of stock but in which the ILC and the proponents worked together to design an appropriate package of land management assistance to meet their needs within the capability of the land and the proponent's skill base.

A dairy property in Victoria was acquired bare by the ILC in late 1996/early 1997, and divested in November 1997. Independent expert advice at the time recommended that the existing dairy herd not be purchased as it was aged, of poor quality and there were some indications of possible disease. The proponent group wanted the cattle included in the acquisition but reluctantly accepted the ILC's position. The group undertook considerable business planning over a period of time convened a series of meetings with a range of relevant agencies, including ILC and ATSIC. After rigorous assessment a grant/loan funding package was approved by both agencies and approximately \$1m was provided for the purchase of a quality herd, the construction of a new dairy and a range of initial operating costs.

**10 p13 I ask you also to provide examples of where you provide training—directors' training and management training? Perhaps you could provide some of the material? I am aware, for example, that you have had successive management training exercises in the Kimberley?**

Directors' training has been conducted for Mogila Merino Stud in November 1999. In this financial year Directors' training has been conducted at Bilaluna Station in and Managers' training was conducted at Port Hedland both in Western Australia and at Tingah and Glen Innes in New South Wales.

Descriptions of these training exercises can be found on pages 23-27 of the "ILC/LEA Extension, Education and Training Strategy" and throughout "Towards an Extension, Education and Training Program" both of which papers are provided as attachments (1 and 2).

The ILC also conducted a National Indigenous Land Managers Conference in August 1999 as an opportunity to get managers together to start identifying issues for Indigenous managers of land based enterprises.

**11p13 I note you are due for a review of your strategy. What sorts of policies are you looking at? What sorts of changes are you considering?**

Some of the issues that the Board is considering are those relating to accommodating the range of varying Indigenous interests in land, the focus and content of its land management function, the question of equity and its relationship with other Indigenous bodies. The Board approved a revision of the National Indigenous Land Strategy at its meeting on 4 May 2001. A copy of the revised National Indigenous Land Strategy is required to be tabled in both Houses of Parliament pursuant to subsection 191N(6) of the ATSIC Act.

**12 pp16,17 can you tell us where you are currently at with Roebuck Plains? How is it being managed? Can you tell us a little about the stocking of the property? Mr Snowdon mentioned its valuation as being closer to \$10 million than \$8 million. We would be interested to know the way in which the property has been managed and, in particular, what has happened to the cattle at that station. Is it up for sale?**

Mr Ned McCord who is employed by Roebuck Plains Pastoral Company, an ILC subsidiary, is currently managing the property. Mr McCord reports to the Operations Manager, LEA, Dr Stuart Phillipot who reports to the ILC CEO.

The station mustered a total of 19,652 and following sales it currently has 15,621 head or 12,148 livestock equivalents that is 3,000 under its maximum stocking rate of 14,950.

The ILC recently received an offer of \$9 million for Roebuck Plains. Westfarmers made the offer on behalf of an unnamed buyer. The ILC Board declined the sale.

**13 p18 Which board member moved for the purchase of Roebuck Plains?**

D. G. (Gatjil) Djerrkura

**14 p18 I assume, therefore, that it is roughly a couple of years. There has been a cattle muster since then and some capacity, therefore, to assess how many cattle are there, whether the number that were alleged to be there really are there, and what sort of condition they are in.**

In July 2001, the ILC settled on the purchase of 17,828 head. In October 2001, the ILC management mustered 18,332 adult cattle and all these cattle were branded, cross branded and tagged with a year colour coded tag.

At present the cattle are in forward store to fat condition.

**15p22 in the last two years what has actually happened on Roebuck Plains? Is it profitable? Have you got managers in there who are part of any indigenous group? Have you leased it out to third party managers? Is the property making a profit? If it is, where does that profit go? How is it being dispersed while you are trying to work out who are the traditional owners?**

In the last two years, the ILC has terminated the original management agreement with Great Northern Pastoral and has worked at improving the property's infrastructure.

The current profit and loss indicates that the property is profitable. It has not been leased out to a third party. Whilst the present manager is non-Indigenous, the Board has directed that a program to facilitate Indigenous employment be implemented.

The profit is retained by ILC and has been reinvested in the property.

**16p23 The other thing that would be interesting in that context is not only whether the principal property is profitable but whether the annual report refers to it. No doubt it has an opportunity to add value to other holdings. So even if it is not profitable, and there is any capacity to make an assessment, to some extent it is what Mr Haase was referring to. The theory is—and your annual report suggests—that it is adding value to the other holdings. So it might be indirectly profitable even if it is not directly profitable. That is much harder. You will not be able to give a ledger entry that gives you the answer to that question because it is not so straightforward. But I would be interested in the best assessment you can make about that.**

Roebuck Plains has the potential to add value to the other Indigenous properties in the Kimberley. At present, the Kimberley Aboriginal Pastoralists Association (KAPA) has conducted a feasibility study to assess if Roebuck Plains can be used as a depot facility in order to ship Indigenous owned cattle all year round. This study is to be considered by KAPA early in May and submitted to the ILC Board in June. A draft of the feasibility study provided to the ILC indicates that it is expected that Roebuck Plains can add value to the other properties.

**17p27 Re money that the ILC has spent on education and training strategies –Could you tell me a little about how that is working? How do you go about preparing those skilled training courses? Are you using any existing government departments or TAFEs, or do you have a contract arrangement to bring in people to carry out this training? How is it actually done?**

The ILC Board allocated \$196,000 to trial an integrated rural extension education and training system. Several parts of the initial stage have been completed successfully.

Generally, the process for preparation is to scope the market for training packages appropriate for Indigenous people. When these are not found, mainstream packages are adapted.

Training providers were selected on the basis of a competitive tender and engaged by contract. The contractors used are Outdoor Experience (Victoria), Murrumbidgee College of Agriculture (New South Wales), Kadina TAFE (South Australia) and Management Services Unit Aboriginal Corporation (Western Australia).

All training is competency based.

**18p27 Do you contract out training programs? Do you work with TAFEs? Do you work with the Department of Industrial Relations, for example? How do you go about structuring your training programs? How much are you spending on that sort of activity?**

Training is contracted out.

During the pilots LEA worked with the Department of Employment, Workplace Relations and Small Business and with Agriculture, Forestry and Fisheries Australia. Other agencies involved are listed on page 48 of the Annual Report.

The structure is outlined on pages 11 to 29 of the attached Strategy (attachment 1).

Total amount spent was \$214,786.

**19p27 Are the people who do the day-to-day training in-house people, or is it contracted out? If it is contracted out, how are those contracts let, by how many people, and where are they held?**

Training is contracted out by open tender/expression of interest.

There have been four contractors (see question 17).

Training has been held at Goodooga, Tingah and Glen Innes (New South Wales), Mabel Creek (South Australia), Port Hedland and Bilaluna Station in Western Australia.

**20p27 Why are you still running pilot projects?**

The pilot phase remains necessary because this is the first time such a program has been coordinated on a national basis. The pilot phase enables consideration of local and regional variation within the Indigenous populations (including the variations in educational standards) and allows the curriculum to be trialled and adapted as required.

**21p28 How many people have taken part in it?**

Sixty people have taken part to date.

**22p28 I would like to know how much is spent, how many people have gone in, for how long they go, how many have graduated, and how it is operating on the ground.**

The total cost has been \$214, 786. Of the sixty people who have undertaken training all but twelve have successfully completed the courses. These twelve will be graduating shortly. The courses vary in length from twelve month traineeships to day and half workshops.

Operation on the ground involves the selection of appropriate packages and service providers together with a location convenient to those to be trained. Outcomes from the initial evaluation are indicated in the following table.

Please see Attachment 2 for further details.

**23p28 Breakdown of costs of legal difficulties of the Board**

The Roebuck Plains enquiry has to date cost the ILC \$235,000 but further bills are expected. The ILC has also been asked to pay \$200,000 in costs for the Minister's inquiry into the behaviour of the ILC Board. A further \$44,000 in legal costs was incurred in respect of the unsuccessful action against the ILC brought by Mrs Firebrace in the Federal Court. Costs were awarded to the ILC and are currently being pursued.

**24 p30 I am interested to know your explanation for the amount of funds that have been spent on the Kimberley beef strategy so far. I see that the Kimberley Aboriginal Pastoralists Association has received an amount of \$273,739.99. I am wondering whether either of you are aware of the make up of or justification for that figure? Can you at the time of answering**

**give me some indication if at this stage any cattle have been moved off the Kimberley stations up through Roebuck Plains to market?**

***Kimberley Beef Strategy expenditure.***

Planning Costs: Research into cooperative models, establishment of the steering group/ working group, pre-feasibility study, general planning meeting costs. \$96,800

Immediate Needs Funding: Essential infrastructure development (fences, water, yards), purchase of improved bulls, training and education. \$589,054

TOTAL KABS COSTS to 31 March 2001      \$685,854

***Justification of Kimberley Aboriginal Pastoralists Association (KAPA) Expenditure.***

Total ILC funding for financial year ending 30 June 2000 = \$273,739

Services provided to ILC by KAPA under the agreement:

- Secretariat services to the Kimberley Aboriginal Beef Strategy project including coordinating communication and liaison with lessees/managers, assisting in the development, planning and endorsement of the co-operative.
- Advice on development of support packages
- Assisting properties implement support packages
- Assisting the ILC administer its support
- Monitoring and reporting on support packages
- Provision of the services of the KAPA's staff and the KAPA office facilities, equipment and vehicles to assist the ILC as required by the demands of the Kimberley Aboriginal Beef Strategy project.

The ILC's commitment to KAPA is significant and consequently the Board considers it prudent to review its involvement from time to time.

**Cattle moved through Roebuck Plains**

1000 head of cattle were sold through Roebuck Plains station last year as a trial.

**25 p32 How much of this legal advice, if any, is not to do with land purchases? Could you find out for us and let us know what the issues are for which you receive legal advice, apart from land purchases?**

The following table shows the purposes for which legal advice was sought by the ILC in matters not related to land purchases.

<b>DATE OF ADVICE</b>	<b>SOURCE OF ADVICE</b>	<b>CONTENT OF ADVICE</b>
22/07/99	AGS Sydney	Whether the <i>C'th Places (Application of Laws) Act</i> makes an ILC property subject to the <i>Land Acquisition (Just Terms</i>

		<i>Compensation) Act NSW.</i> Relating to construction of a power line by a State authority across an ILC property
23/07/99	AGS Canberra, Office of General Counsel	Whether it is within the land management function of the ILC to purchase an oyster Aquaculture licence.
9/08/99	AGS, Office of General Counsel	Application of GST to the purchase of rural property
19/08/99	AGS, Barton, ACT	Amending the ILC standard form agistment agreement to allow the ILC to place a lien on unpaid fees.
31/08/99	AGS Canberra, Office of General Counsel	Aquaculture licence
12/11/99	AGS Perth	Whether a lessee of ILC leased land in WA is liable to pay rates ('Gibbagunya Farm').
24/11/99	AGS Canberra, Office of General Counsel	Whether ILC land leased to an Aboriginal corporation is 'indigenous-held land' as defined in the ATSIC Act.
Nov 99	AGS Canberra, Office of General Counsel	Whether a grant of monies for purchase of a fishing boat under s.191E ATSIC Act is within the land management function. Relates to Far West Scallop Factory, Carnarvon, WA
10/01/00	AGS Barton, ACT	Advice relating to Standard form ILC Management Agreement.
22/02/00	AGS Canberra, Office of General Counsel	Relationship between the Parliamentary Joint Committee on Native Title and the Land Fund and the ILC
25/02/00	AGS Canberra, Office of General Counsel	Application of ILC funds for land management purposes to ILC land.
13/03/00	AGS, Office of General Counsel	Appointment of Acting GM of the ILC
16/03/00	AGS Office of General Counsel	Authority of suspension order (power of the Chair of the ILC to suspend a

		GM)
4/04/00	AGS, Office of Litigation	Claim by W Johnstone for compensation, liability of the ILC
17/04/00	AGS Office of General Counsel	Ex gratia payment, power of the ILC to make such payments
18/04/00	AGS Office of General Counsel	ILC - Ex gratia payment re claim by person invalidly appointed by the Chair as GM
9/05/00	AGS, Office of General Counsel	Whether a trust under the Aboriginal Land Act 1991 (Qld) is an 'Aboriginal Corporation' for the purposes of the <i>ATSIC Act 1989</i> .
12/05/00	AGS Adelaide	Liability of ILC to pay SA Emergency services Levy
18/05/00	AGS Brisbane	Issues relating to Bidjara Aboriginal Housing and Land Company Limited v ILC - Federal Court No. 209 of 1999.

**26 p32 Are you using KFPW agency on a regular basis? Is that the subject of a tender to supply that service? Was KPFW involved in negotiations on behalf of the ILC for the purchase of Roebuck Plains?**

KFPW is used by the ILC on a regular, though not exclusive basis. KFPW is the former Australian Property Group and was the Commonwealth's purchasing agent at the time the ILC was established. The firm continued to provide this service after the ILC called for expressions of interest. It was not involved in negotiating the purchase of Roebuck Plains.

**27 p33 Do the lists of salaries, directors fees and consultants fees on pp 62,107, 127 cover both ILC and LEA**

The salaries indicated in Table 5 on page 62 of the Annual Report for 1999/2000 are those for the staff of the ILC only.

The Directors fees indicated on page 107 show remuneration received by Directors of both the ILC and LEA.

The consultants listed on page 127 are those engaged by the ILC only.

**28 p34 Can the chair direct someone within the ILC to do something, apart from the chief executive officer**

The functions of the ILC Chairperson are described in subsections 192J(1) and (4) of the Act as being to convene such meetings as he or she deems necessary for the efficient performance of the Board's responsibilities and to preside over these meetings. There is nothing in the *ATSIC Act* that



would empower the Chair to direct someone within the ILC. No ILC employee, including the Chief Executive Officer, currently has terms and conditions of employment determined under subsection 192S(1) that include the taking of direction from the Chair. Subsection 192K(3) requires the ILC General Manager to act in accordance with any policies determined by, and any directions given by the ILC Board. The General Manager must also manage the day-to-day administration of the ILC under subsection 192K(2).

**29 p34 Does the chair have the capacity to determine policy independent of the board?**

No legal capacity. The Chair has the functions outline above (question 28). Policy determination is a responsibility of the full Board under Section 191W.

**33 p41 How much was costing each day to have Mr Phillipot at Roebuck for nine months?**

The average daily cost (salary and allowances) of having Mr Phillipot in Broome was \$540.13.

**34 p44 The \$14,800 to Dodson Lane on the Kimberley beef strategy, is that part of the corporate plan and the business plan for Roebuck Plains, or is that for a general beef strategy for the Kimberley?**

The \$14,800 was paid to Dodson Lane for assistance in the community consultation with Kimberly Aboriginal Beef Strategy. The Company also attended the muster on Roebuck Plains to make an independent count.

**35 p44 I would be interested in getting a brief from you on properties which have been sought for purchase by land councils, individual families or groups of people in the Northern Territory over the last 12 months and why they have not proceeded.**

Six properties have been proposed for acquisition by Northern Territory groups in the last twelve months. One property was sold to another party, two have been scheduled for consideration at the 15 May meeting of the Board and contract on the sale of another is currently being prepared. Two others, while having been registered, were not identified in the Land Acquisition and Access Strategies prepared by groups in the respective areas.

The groups having registered these needs are a language group, two associations, a community government council and traditional owner groups.



**R.G HAEBICH**  
Acting Chief Executive Officer

10 May 2001

ATTACHMENT 1: ILC/LEA Extension, Education & Training Strategy

ATTACHMENT 2: Towards An Extension, Education And Training Program