

Parliament of the Commonwealth of Australia

**PARLIAMENTARY JOINT COMMITTEE  
ON NATIVE TITLE AND THE  
ABORIGINAL AND TORRES STRAIT  
ISLANDER LAND FUND**

**Report on the**

**Examination of Annual Reports for 2000-2001  
in fulfilment of the Committee's duties  
pursuant to s.206(c) of the *Native Title Act 1993***

December 2002

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Senator J McLucas (**Deputy Chair**)

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# TERMS OF REFERENCE

## PARLIAMENTARY JOINT COMMITTEE ON NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND

### 206. Duties

The Parliamentary Joint Committee's duties are:

...

- (c) to examine each annual report that is prepared by the President of the NNTT or by any person under Part 4A of the *Aboriginal and Torres Strait Islander Commission Act 1989* and of which a copy has been laid before a House, and to report to both Houses on matters:
  - (i) that appear in, or arise out of, that annual report; and
  - (ii) to which, in the Parliamentary Joint Committee's opinion, the Parliament's attention should be directed; and



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# 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 2000-2001*, the Indigenous Land Corporation (ILC) *Annual Report 2000-2001* and the report regarding the administration of the Aboriginal and Torres Strait Islander Land Fund Account (the Land Fund) for the period 2000-2001. The Land Fund report is not separately documented, but is included in ATSIC's *Annual Report 2000-2001* as Appendix 15. It is also reproduced 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, seventeenth and eighteenth reports, this Committee reported on the Tribunal's first seven annual reports. The eighth annual report of the Tribunal, that for 2000-2001, was presented out of session on 5 October 2001; it was tabled in the Senate on 12 February 2002 and in the House of Representatives on 13 February 2002.

### **ILC and Land Fund**

1.5 The 2000-2001 ILC report and the 2000-2001 Land Fund report are the seventh such publications presented. The previous reports prepared pursuant to Part 4A of the ATSIC Act were examined by this Committee in its fifth, eighth, thirteenth, fourteenth, seventeenth and eighteenth reports.

1.6 The Land Fund report responds to ATSIC's responsibility to keep accounts and prepare financial statements for the Land Fund under s.193H of the ATSIC Act.

ATSIC also has investment powers in relation to the Land Fund. The ATSIC annual report for 2000-2001 (containing the Land Fund report) was tabled in the Senate on 12 February 2002 and in the House of Representatives on 13 February 2002.

1.7 The 2000-2001 annual report of the ILC (with the Land Fund report appended) was presented on 27 August 2001. It was tabled in the Senate on 12 February 2002 and in the House of Representatives on 13 February 2002.

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 ATSIC 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, seventeenth and eighteenth reports the Committee advised that, as a result of the substitution of s.193K of the ATSIC 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 ATSIC Act. The Committee was of the view 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 ATSIC Act. On 20 August 2001, the Minister, the Hon Philip Ruddock, advised that this amendment was expected to be introduced in a bill to amend the *Native Title Act* during the Spring sittings of 2001. However, as at 4 December 2002, the bill had not yet been introduced to parliament. The Committee has been advised that the amendment had been drafted but was not introduced into the Parliament.

1.11 The Committee intends to pursue the matter with the Attorney-General and notes that it now has been the subject of comment in four reports. For this report, the Committee has continued to examine the ILC annual report pursuant to paragraph (1) of its resolution of appointment:

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. Public hearings where evidence was heard from the Tribunal and the ILC were held on 25 June and 17 June 2002 respectively.

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

### **Committee Report**

1.14 This report was adopted unanimously by the Committee at a private meeting on 9 December 2002. The Tribunal annual report is considered at Chapter 2, the Land Fund report at Chapter 3 and the ILC annual report at Chapter 4.



# CHAPTER 2

## NATIONAL NATIVE TITLE TRIBUNAL

### ANNUAL REPORT 2000-2001

#### **The National Native Title Tribunal**

2.1 The National Native Title Tribunal (the Tribunal) is established pursuant to s.107 of the *Native Title Act 1993* (the Act). The Tribunal has functions in relation to applications, inquiries and determinations under the Act, mediation of Federal Court proceedings, providing assistance or mediation when requested under the Act, and the carrying out of research for the purpose of performing its functions.<sup>1</sup>

#### **The 2000-2001 Report: Presentation and Style**

##### ***Presentation***

2.2 The Tribunal Annual Report comprises:

- a letter of transmission, (at p.iii)
- a list of figures and a list of tables (at pp.ix-x);
- the President's overview (at pp.1-34);
- a Tribunal overview (at pp.35-40);
- report on performance (at pp.41-94);
- management (at pp.95-114);
- accountability (at pp.115-124);
- 13 appendices containing information regarding the strategic plan for 2000-2002, staffing and occupational health and safety, significant decisions, information products and activities, papers by Tribunal members and staff, background reports, consultants, freedom of information, use of advertising and market research, ecologically sustainable development, audit report and notes to the financial statements, compliance against requirements, and a glossary (at pp 125- 207); and
- an index (at pp.209-212).

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1 *Native Title Act 1993*, s.108.

## ***Style***

2.3 The Committee has commented previously on the style of the Tribunal's reports. The 2000-2001 annual report generally continues the style of the 1999-2000 report with some minor improvements. The larger tables and graphs used in the current report are easier to read than those in previous reports. In addition, the use of 'performance at a glance' tables in the report on performance is more informative than the bar graphs used in the 1999-2000 report.

2.4 There are a number of minor typographical errors in the report including contradictory information regarding the number of agreements negotiated in South Australia provided in Table 6 and in the text on the following page<sup>2</sup>; an incorrect reference to material regarding future act activity in the Northern Territory<sup>3</sup>; a miscalculation of the increase in the number claimants applications notified in 2000-2001 compared to 1999-2000<sup>4</sup>; and incorrect page references to information on workplace diversity<sup>5</sup>. The Tribunal should take care to avoid such errors in the future.

## **Formal Requirements and Compliance**

### ***Requirements***

2.5 The Tribunal is required to prepare and give to the Commonwealth Minister a report of the 'management of the administrative affairs of the Tribunal during the year'.<sup>6</sup> The report must include financial statements required by s.49 of the *Financial Management and Accountability Act 1997* (the FMA Act), and an audit on those statements under s.57 of the FMA Act.<sup>7</sup>

2.6 While being a statutory authority, the Tribunal has observed the annual reporting requirements for government departments. Those requirements, updated in June 2001, apply as a matter of policy to prescribed agencies under s.5 of the FMA Act. The National Native Title Registry is a prescribed agency for the purposes of the FMA Act. The requirements may be itemised as follows:

- review by departmental Secretary (ie: Tribunal President);
- Departmental (ie: Tribunal) overview;
- report on performance (including tables showing resources for outcomes);
- management and accountability (including details of consultancy services);

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2 National Native Title Tribunal (The Tribunal), 2000-2001 Annual Report, pp.67-68.

3 Tribunal Annual Report 2000-2001, p.79.

4 Tribunal Annual Report 2000-2001, p.89.

5 Tribunal Annual Report 2000-2001, pp.106,212.

6 *Native Title Act 1993*, s.133(1).

7 *Native Title Act 1993*, s.133(2).

- financial statements; and
- other mandatory information.

In addition the report must include a letter of transmittal and aids to access.

2.7 Mandatory information which must be included as a result of specific statutory provisions relating to annual reports includes information regarding:

- occupational health and safety;
- freedom of information;
- advertising and market research; and
- ecologically sustainable development and environmental performance.

## ***Compliance***

2.8 In its annual report for 2000-2001 the Tribunal has fulfilled the reporting requirements in the following manner.

### **Letter of Transmission**

2.9 The President's letter to the Attorney-General was dated 5 October 2001. The report was tabled in the Senate on 12 February 2002 and in the House of Representatives on 13 February 2002; this was within 15 sitting days of the day on which the Minister received it, and satisfies the requirement.

### **Aids to Access**

2.10 The Tribunal report provides:

- Table of contents (at pp.v-viii);
- Glossary (Appendix XIII, at pp.202-207);
- An alphabetic index (at pp.209-212);
- Contact officer (at p.ii);
- Tribunal internet homepage address (at p.ii) and
- Annual report internet address (at p.iv).

2.11 The Tribunal has therefore met the requirement to provide aids which allow proper access to the document.

### **Review by President**

2.12 The President's overview provides an account of the year in review, future prospects and a conclusion. The year in review includes an introduction and the following matters:

- trends within the Tribunal (at pp.2-7);
- membership of the Tribunal (at p.8);
- staff and management of the Tribunal (at pp.8-9);
- development of relationships with stakeholders (at p.9);
- external changes affecting the Tribunal (at pp.10-19); and
- re-recognition and roles of representative bodies (at pp.20-21);

2.13 The President's overview on the future prospects of the Tribunal also has an introduction and highlights the following trends:

- the volume of native title work to increase (at p.22);
- agreement-making will become the usual method of resolving native title issues (at p.23);
- the form and content of agreements will vary from place to place (at p.25);
- timeframes for negotiating agreements should, on average, be reduced (at p. 25);
- there will be an increased focus on 'second generation' native title issues (at p.26);
- resource use will directly influence agreements (at p.27);
- the Federal Court will continue to affect, if not drive, native title processes (at p.28);
- there will be increased focus on information management (at p.29);
- land planning, land access and land use laws may need to be revised or refined (at p.32); and
- the resolution of native title issues will not, of itself, resolve other social issues (at p.32);

### **Tribunal Overview**

2.14 The Tribunal overview provides information about the role and function of the Tribunal, its organisational structure and the outcome and output structure adopted by the Tribunal.

### **Report on Performance**

2.15 The report on performance outlines the following matters:

- financial performance (at pp.42-43);
- outcome and output performance (at pp.44-45);
- output group 1.1 - registrations (at pp.46-61);
- output group 1.2 - agreement-making (at pp.62-72);



- output group 1.3 - arbitration (at pp.73-79);
- output group 1.4 - assistance, notification and reporting (at pp.80-94).

2.16 The Tribunal's performance for each of the output groups is assessed by measures of quantity, quality and resource usage<sup>8</sup> and the details of usage of resources by group is provided in the text.<sup>9</sup>

### **Staffing Overview**

2.17 The annual report provides details of Tribunal staffing for the reporting period on page 132. The table lists staff by location and gender. Details about the number of employees who identify themselves as being either Aboriginal or Torres Strait Islander, having a disability or being from a linguistically diverse background are provided elsewhere in the report<sup>10</sup> (at pp.105-106).

2.18 In its eighteenth report the Committee suggested that the Tribunal provide background information about members of the executive in its annual report to improve the reader's understanding of the Tribunal's capacity. The Committee is pleased to note that the current report refers readers to a description of the qualifications and experience of members of the executive on the Tribunal's website.

### **Management and Accountability**

2.19 The annual report provides the required information in relation to management and accountability issues such as corporate governance, management of human resources, purchasing, use of consultants and implementation of the Commonwealth Disability Strategy<sup>11</sup>.

### **Financial Statements**

2.20 Appendix XI sets out the financial statements of the Tribunal and the independent audit report on those statements<sup>12</sup>. The statements received an unqualified audit.

### **Occupational Health and Safety**

2.21 Occupational health and safety issues are reported on in Appendix II.

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8 Tribunal Annual Report 2000-2001, p.44.

9 See for example Tribunal Annual Report 2000-2001, pp.52, 57 and 61.

10 Tribunal Annual Report 2000-2001, pp.105-106.

11 Tribunal Annual Report 2000-2001, pp.95-124.

12 Tribunal Annual Report, pp.166-201.

## **Freedom of Information**

2.22 Freedom of information is discussed at page 120 and in Appendix VIII. Two requests for information were received during the reporting period. Given the small number of requests the Tribunal receives under the *Freedom of Information Act 1982*, it would be practical, and more informative for the reader, for the Tribunal to provide additional information regarding each request.

## **Advertising and Market Research**

2.23 The Tribunal has met the requirement under the *Commonwealth Electoral Act 1918* to report on its expenditure on advertising and market research in Appendix IX. The Tribunal did not conduct any market research. It expended approximately \$600,000 on advertising primarily in relation to the notification of native title applications.

## **Ecologically Sustainable Development and Environmental Performance**

2.24 The Tribunal has reported on ecologically sustainable development and environmental matters in Appendix X.

## ***Summary***

2.25 Together with the President's overview, the Tribunal has covered the subjects its annual report is required to address. The extent to which the report is satisfactory in addressing these matters is addressed in the following section.

## **The 2000-2001 Report: Issues**

### ***Response to the Committee's Eighteenth Report***

2.26 The Tribunal acknowledges the role of the Committee, both in terms of scrutiny and reporting, in its 2000-2001 annual report<sup>13</sup>. The Committee has previously considered issues such as the impartiality of the Tribunal, its workload, its use of consultants, the impact of amendments to the Act on the operation of the Tribunal and the Tribunal's budget and running costs. Several of these issues remain relevant in the current reporting period.

### **Tribunal Workload**

2.27 The Committee has examined the question of the Tribunal's workload and closely monitored this issue in successive reports since its thirteenth report<sup>14</sup>.

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13 Tribunal Annual Report 2000-2001, p.117.

14 Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, *Thirteenth Report*, pp.10-11; *Fourteenth Report*, pp.11-12; *Seventeenth Report*, pp.9-10 ; *Eighteenth Report*, pp.10-11.

2.28 The Tribunal reports that notification of native title applications peaked during the reporting period with notification of 161 claimant applications<sup>15</sup>. This was more than three times the number of applications notified in the previous year. By contrast, there were 153 registration test decisions made by the Tribunal in that time which was approximately half the number made during the 1999-2000 year<sup>16</sup>. The Tribunal anticipates that fewer resources will be required to administer the registration test in the 2001-2002 financial year<sup>17</sup>.

2.29 At 30 June 2001, there were 576 claimant applications requiring resolution. During 2000-2001, 67 claimant applications were discontinued or combined with other applications. The number of new claimant applications lodged was 117<sup>18</sup>. The President of the Tribunal, Mr Graeme Neate, noted that:

... the completion of substantial amounts of registration test work and the increase in notification of applications continued the refocussing of the Tribunal's resources and energies towards the mediation of applications and associated agreement-making ...<sup>19</sup>

2.30 The Tribunal registered 13 consent determinations of native title during the reporting period. A further 5 determinations of native title were registered after trials. In addition the Federal Court had made 2 native title determinations which had not yet been referred to the Registrar for registration<sup>20</sup>. This represents a significant increase on the number of determinations made in the previous reporting period when only 3 determinations were registered<sup>21</sup>.

2.31 The Tribunal reports that 93 agreements relating to claimant, non-claimant and compensation applications were made during the course of mediation with some assistance from the Tribunal. This was below the 110 agreements the Tribunal estimated that it would provide assistance with respect to during the reporting period. The Tribunal explains that this discrepancy was primarily the result of the Northern Territory Government and the two representative bodies in the Territory not seeking assistance from the Tribunal in their native title negotiations<sup>22</sup>.

2.32 The Tribunal assisted with the mediation of 26 future act negotiations during the reporting period. The majority of the 242 agreements made in relation to future

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15 Tribunal Annual Report 2000-2001, p.4.

16 Tribunal Annual Report 2000-2001, p.47.

17 Tribunal Annual Report 2000-2001, p.48.

18 Tribunal Annual Report 2000-2001, p.4.

19 Tribunal Annual Report 2000-2001, p.2.

20 Tribunal Annual Report 2000-2001, p.5.

21 Tribunal Annual Report 2000-2001, p.54.

22 Tribunal Annual Report 2000-2001, pp.66-67.

acts in 2000-2001 were reached without Tribunal assistance. Of these, 225 agreements related to Western Australia<sup>23</sup>.

2.33 During the reporting period, 517 applications objecting to the application of the expedited procedure were resolved<sup>24</sup>. This included 411 objection applications lodged during the previous reporting period<sup>25</sup>. The Tribunal made 43 determinations in relation to future acts during the reporting period including 31 which had been filed in 1998 but not finalised<sup>26</sup>. The Tribunal reports that:

As in past years, applications for future act determinations this financial year were relatively few. ... Future act matters were typically resolved by parties continuing to negotiate rather than opting to initiate arbitral processes.<sup>27</sup>

2.34 The Tribunal notes that the introduction of the Queensland alternative state provisions had an immediate impact in reducing the Tribunal's workload in relation to future acts<sup>28</sup>. In addition the Full Federal Court decision in *Western Australia v Ward*<sup>29</sup> led to the Western Australian Government revising its policies in relation to the granting of mining tenements in light of the Court's broad interpretation of extinguishment in that case. The Tribunal reports that:

This resulted in tenement applications being advertised by the Western Australian Department of Minerals and Energy only where there was no possibility of extinguishment ... Where the Department decided that native title had been extinguished, it proceeded to grant tenements without subjecting them to native title processes. Following the change in government in Western Australia, this policy was suspended.<sup>30</sup>

As a result, during the reporting period, some future act mediations and determination proceedings were terminated and the number of applications to the Tribunal for determinations in relation to future acts and objections to the expedited procedure was fewer than in the previous year.

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23 Tribunal Annual Report 2000-2001, p.71.

24 Tribunal Annual Report 2000-2001, p.77.

25 Tribunal Annual Report 2000-2001, pp.77-78.

26 Tribunal Annual Report 2000-2001, p.74.

27 Tribunal Annual Report 2000-2001, p.74.

28 Tribunal Annual Report 2000-2001, p.70.

29 [2000] FCA 191.

30 Tribunal Annual Report 2000-2001, p.78.

2.35 The Tribunal also indicates that the resource shortage experienced by native title representative bodies contributed to the decline in the number of applications objecting to the expedited procedure being applied to future acts<sup>31</sup>.

2.36 In 2000-2001 the Tribunal recruited additional staff and established new premises for the Tribunal's Northern Territory registry in response to the expected increase in work flowing from the Northern Territory Government's decision to manage its backlog of exploration and mining tenement applications by utilising the Commonwealth's future act regime.

2.37 The Northern Territory Government published 339 section 29 notices from September 2000 to 30 June 2001 and 45 claimant applications were lodged in response to these notices<sup>32</sup>. This generated significant work for the Tribunal's Northern Territory office in relation to the application of the registration test to these claims<sup>33</sup>. However the workload anticipated by the Tribunal in relation to future act mediation and determinations did not eventuate during the reporting period. The Tribunal anticipates that:

[F]ull implementation of the future act scheme ... will proceed at an accelerated rate through the next reporting period<sup>34</sup>.

## Consultants

2.38 The Tribunal advised that during the reporting period, the Tribunal engaged 15 consultants with a total expenditure of \$1,141,000<sup>35</sup>. This represents a significant decrease of 34 consultants and approximately \$700,000 in expenditure compared to the previous reporting period.

2.39 The vast majority of the Tribunal's expenditure on consultancies related to the contracting out of information technology services. The Tribunal notes:

A very simple analysis indicates that the cost of providing information technology services has risen under the outsourcing regime. However, this does not account for the increase in the stability of the information technology environment, the benefit of the contractor's technical expertise, and the fact that the Tribunal does not have to concern itself with the recruitment and retention of information technology staff.<sup>36</sup>

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31 Tribunal Annual Report 2000-2001, p.78.

32 Tribunal Annual Report 2000-2001, p.13.

33 Tribunal Annual Report 2000-2001, p.52.

34 Tribunal Annual Report 2000-2001, p.76.

35 Tribunal Annual Report 2000-2001, p.122.

36 Tribunal Annual Report 2000-2001, p.122.

2.40 The Tribunal reported that 11 consultancies were entered into under s.131A of the Act during the reporting period. The contract cost of these consultancies was approximately \$102,000<sup>37</sup> of which \$31,000<sup>38</sup> was expended during the reporting period. This represents a considerable reduction of the amounts committed and expended under similar contracts in the previous reporting period.<sup>39</sup> In the case of two of the three consultancies over \$10,000, former members of the Tribunal were engaged<sup>40</sup>.

2.41 The Committee has noted on a number of occasions its commitment to the principle that Tribunal members should be engaged to do the work of members, and that where there is a shortage of members to address the Tribunal's workload, that should be the subject of advice from the President to the Commonwealth Government, and an adequate number of members appointed. The Committee is pleased to observe that the Tribunal has considerably reduced the occasions on which it engages consultants to carry out the work of Tribunal members. The Committee will continue to monitor this issue.

2.42 In its eighteenth report the Committee suggested that the Tribunal should revert to including a table in its annual reports listing each member of the Tribunal, the term of the member's appointment and the member's location. This information was included in the 1997-98<sup>41</sup> and 1998-99<sup>42</sup> reports of the Tribunal but omitted from the 1999-2000 report. The Committee is pleased to note that the Tribunal has once again included this more comprehensive description of the Tribunal's membership<sup>43</sup>.

### **Public Information**

2.43 The Tribunal reports that it continued its efforts to inform parties about the nature of native title and its interaction with other rights so that they can participate more constructively in the native title process.

2.44 The Tribunal made a number of important contributions in this public education role during the reporting period including publication of the question and answer booklets published in relation to native title determinations, the *Guide to future act decisions made under the Commonwealth right to negotiate scheme*, a series of 29 fact sheets and a CD-ROM and videotape called *Native title in brief*<sup>44</sup>. In

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37 Tribunal Annual Report 2000-2001, p.123.

38 Tribunal Annual Report 2000-2001, p.156.

39 Tribunal Annual Report 1999-2000, p.54.

40 Tribunal Annual Report 2000-2001, p.156.

41 Tribunal Annual Report, 1997-98, p.147.

42 Tribunal Annual Report, 1998-99, p.169.

43 Tribunal Annual Report 2000-2001, p.137.

44 Tribunal Annual Report 2000-2001, pp.31, 83.

addition, the Tribunal sponsored 70 seminars and workshops, either wholly or with other groups<sup>45</sup>.

2.45 The Committee once again commends the Tribunal for the invaluable role that it plays in relation to public information regarding native title.

### **Budget and Running Costs**

2.46 The initial estimated expenditure for the Tribunal for the reporting period, which appeared in the Attorney-General's portfolio budget statement (PBS) was \$22.18 million. This was increased through the additional estimates process to \$26.91 million in anticipation of an increased workload in the Northern Territory and Queensland. The actual expenditure of the Tribunal for the reporting period was \$25.33 million<sup>46</sup>; an amount of \$1.8 million was underspent<sup>47</sup>.

2.47 The Tribunal's annual report notes at page 42 that the estimated expenditure detailed in additional estimates was not realised due to lower than expected activity levels. In particular the Tribunal had expected an increase in its workload as a result of the decision by the Northern Territory Government to use the Commonwealth future act scheme and the establishment of an alternative body to process the backlog of mining tenement applications in Queensland. This increased workload did not eventuate in part because the Queensland and the Northern Territory Governments did not commence the processing of the backlog of tenement applications as soon as expected<sup>48</sup>.

2.48 The Tribunal identifies the resources available to parties to native title proceedings and the other institutions involved as a major factor influencing the pace at which native title matters can be resolved. In particular the Tribunal points to:

... the demonstrably limited resources of native title representative bodies to perform their functions under the Act, including their functions in relation to claimant applications.<sup>49</sup>

Furthermore the Tribunal notes:

For the native title scheme to deliver outcomes for all people it is necessary that there be reasonable relativity of resources between institutions.<sup>50</sup>

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45 Tribunal Annual Report 2000-2001, pp.143-148.

46 Tribunal Annual Report 2000-2001, p.42.

47 Tribunal Annual Report 2000-2001, p.43. The Tribunal also received revenue of \$236,000 from other sources.

48 Tribunal Annual Report 2000-2001, pp.49-50.

49 Tribunal Annual Report 2000-2001, p.27.

50 Tribunal Annual Report 2000-2001, p.28.

2.49 At the Committee hearing, Mr Neate expanded on the resource issue. He expressed the view that resources are not limited to funding, but include the ready availability of many forms of advice for parties generally. He cited as examples, anthropologists and legal practitioners experienced in the area of Native Title. Further, Mr Neate noted that time is also a resource issue - where deadlines are imposed, there must be adequate funds available to provide the necessary technical expertise to meet such deadlines.<sup>51</sup>

2.50 Mr Neate further indicated that the Tribunal's initiatives in providing client education was one aspect of the Tribunal's response to providing opportunities to enhance the capacity of all parties to do their job better.<sup>52</sup>

2.51 The Tribunal anticipates that it will require increased resources in future in order to deal with an increased number of claimant applications and increased workloads in relation to mediation, ILUAs and future act work.<sup>53</sup>

### **Indigenous Land Agreements (ILUAs)**

2.52 During the reporting period, the Tribunal registered 17 ILUAs<sup>54</sup>. The Tribunal also assisted the negotiation of 20 ILUAs. The Tribunal was assisting with a further 43 ILUA negotiations which had not been finalised at the end of the reporting period<sup>55</sup>.

2.53 The amount of expenditure by the Tribunal on assisting the negotiation of ILUAs during the reporting period was \$2.01 million. The amount spent on registration of ILUA applications was \$1 million<sup>56</sup>. The vast majority of ILUAs registered or under negotiation were in Queensland<sup>57</sup>.

2.54 The Tribunal noted in its previous annual report that a number of ILUAs presented for registration did not comply with the Act.<sup>58</sup> It has taken steps to address this including issuing guidelines on the registration requirements and providing parties with an early compliance-checking service in relation to proposed agreements<sup>59</sup>. The Tribunal reports that these initiatives as well as internal measures to build the

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51 Evidence, 24 June 2002, p.4.

52 Evidence, 24 June 2002, p.4.

53 Tribunal Annual Report 2000-2001, p.28.

54 Tribunal Annual Report 2000-2001, p.61

55 Tribunal Annual Report 2000-2001, p.64.

56 Tribunal Annual Report 2000-2001, p.43.

57 Tribunal Annual Report 2000-2001, pp.61, 64.

58 Tribunal Annual Report 1999-2000, pp.70-71.

59 Tribunal Annual Report 2000-2001, p.61.



Tribunal's capacity to process ILUA registrations contributed to the cost of registering each ILUA being more than three times the target set by the Tribunal<sup>60</sup>.

### ***Impact of Judicial Decisions Upon the Work of the Tribunal***

2.55 The Tribunal has reported on the most significant Federal Court and Tribunal decisions to impact on the Tribunal's operations<sup>61</sup>. In particular the annual report summarises decisions relating to:

- general developments in native title law;
- the registration test; and
- future acts.

### **General Developments in Native Title Law**

2.56 The Tribunal notes that during the reporting period the High Court heard argument on appeals against the Full Federal Court decision in the *Commonwealth and Others v Yarmirr*<sup>62</sup> (the Croker Island case)<sup>63</sup>. The High Court delivered its judgement on 11 October 2001. This decision confirmed that native title may exist below the low water mark. The Court also held that exclusive native title rights to the sea will not be recognised on the basis that those rights are inconsistent with the common law public rights to navigate and fish and the international right to innocent passage.<sup>64</sup>

2.57 In *Bodney v Westralia Airports Corporation Pty Ltd*<sup>65</sup> the Federal Court held that a grant of a fee simple estate to the Crown extinguishes native title. The Tribunal notes that this decision has implications for the application of the registration test and for mediation<sup>66</sup>.

### **Decisions in relation to the Registration Test**

2.58 The Tribunal reports on four Federal Court decisions concerning application of the registration test. In *Martin v Native Title Registrar*<sup>67</sup> the Federal Court upheld the Registrar's decision not to accept a claim. The Court held the Registrar was entitled to look behind an applicant's expressed belief that she was properly authorised to make

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60 Tribunal Annual Report 2000-2001, p.59.

61 Tribunal Annual Report 2000-2001, pp.10-11, 138-142.

62 (1999) 168 ALR 426

63 Tribunal Annual Report 2000-2001, p.11.

64 [2001] HCA 56

65 [2001] FCA 1609

66 Tribunal Annual Report 2000-2001, p.138.

67 [2001] FCA 16

the claim to determine whether the requirements for authorisation spelt out by the Act had been met<sup>68</sup>.

2.59 In the three other decisions the Court set aside the Registrar's decisions and returned the matters to the Registrar to be considered again. Most notably in *Risk v National Native Title Tribunal*<sup>69</sup> the Federal Court held that the Registrar's delegate erred firstly by assuming, without inquiring, that a family group of eight people was a native title claim group and secondly by accepting a claim for registration by a group who were clearly only part of a larger group when there was no evidence of authorisation by the wider group<sup>70</sup>.

### **Future Act Litigation**

2.60 A significant decision in relation to the future act regime made during the reporting period was the Full Federal Court decision in *Lardil, Kaiadilt, Yangkaal and Gangalidda Peoples v State of Queensland*.<sup>71</sup> The Full Federal Court upheld the decision of Cooper J at first instance refusing the applicants a declaration that the granting of a buoy mooring authority was invalid and a final injunction against construction of the mooring.

2.61 The applicants had relied upon their status as registered native title claimants as a basis for a final injunction where the procedure prescribed by the future act provisions of the Act had not been followed. The Full Court held that the applicants had to demonstrate that the grant of the mooring authority was a 'future act' before the procedural requirements of the future act provisions arose. Further a 'future act' means an act which affects native title not an act which might affect native title<sup>72</sup>.

2.62 The decision leaves open the questions of whether the applicants might have been entitled to an interlocutory injunction if they had sought this or whether they might have succeeded if they had produced evidence that the mooring would affect their native title rights<sup>73</sup>.

2.63 The presentation of the 2000-2001 annual report of the National Native Title Tribunal complies with the legislative and other formal requirements. The Tribunal has once again produced an accessible and informative report.

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68 Tribunal Annual Report 2000-2001, p.140.

69 [2000] FCA 1589

70 Tribunal Annual Report 2000-2001, p.141.

71 [2001] FCA 414

72 Tribunal Annual Report 2000-2001, p.139.

73 [2001] FCA 414 at [60-62, 71, 114].

# CHAPTER 3

## LAND FUND REPORT 2000-2001

### Statutory Reporting Requirements

3.1 Statutory requirements in relation to the Land Fund's annual reports are set out in s.193I of the *Aboriginal and Torres Strait Islander Commission Act 1989* (the ATSIC Act). They include the requirement for the Minister to cause to be prepared as soon as practicable after the end of 30 June each year a report about the administration of the Land Fund and the operation of its supporting legislation (s.193I(1)).

3.2 The following specific matters are required by s.193I(2) of the ATSIC Act to be included in each Land Fund report:

- a) particulars of amounts credited to the Land Fund during the financial year;
- b) particulars of amounts paid out of the Land Fund during the financial year;
- c) particulars of investments of the Land Fund;
- d) the realised real return on investments of the Land Fund in respect of the financial year;
- e) such other information (if any) as is specified in the regulations.<sup>1</sup>

3.3 Further, copies of annual reports are to be laid before each House of Parliament within 15 sitting days after the completion of the report (s.193I(3)).

### Compliance

#### *Tabling*

3.4 The 2000-2001 annual report of ATSIC, with the Land Fund report appended (Appendix 15), was provided to the Minister on 15 October 2001 and was tabled in the Senate on 12 February 2002 and in the House of Representatives on 13 February 2002. The Land Fund report satisfied the tabling requirements.

3.5 Part of the Land Fund report is also reproduced as Appendix 1 to the ILC annual report for 2000-2001.

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<sup>1</sup> Regulations made under the ATSIC Act did not prescribe any additional requirements applicable to reporting on the Land Fund in the 2000-2001 year.

## Specific Matters

### *Amounts credited to the Land Fund*

3.6 The 1994-95 Budget committed \$200 million to the Land Fund. On 4 July 1995 \$123,178,000 was appropriated to the Land Fund. This amount represented the first of nine annual allocations of \$121 million (indexed) from 1995-96 through to 2003-04. Each year the amount is to be indexed to maintain value in 1994-95 dollar terms. The sixth special appropriation of \$139,223,000 occurred on 3 July 2000<sup>2</sup>.

3.7 In 2004, Government allocations to the Fund will cease and the ILC will receive the realised real return on investments of the Fund in the previous year. By that time, it was originally envisaged that the capital base of the Fund would be sufficient to guarantee ongoing operational funding for the ILC. However, the last five annual reports of the Fund have suggested that the return on investment may not be sufficient to ensure the target balance.

3.8 The target balance is defined in s.193AA(2) of the ATSIC Act as \$1,106 million (indexed). Should the target balance not be met, s.193AA of the ATSIC Act provides for a one-off top up payment to the Land Fund. As noted in the Committee's fourteenth and eighteenth reports, it would aid clarity if the report on the Land Fund specifically noted that the target amount is assured by the Commonwealth<sup>3</sup>.

### *Amounts paid out of the Land Fund*

3.9 In the reporting period, an amount of \$51,777,000 was drawn down to the ILC from the Land Fund<sup>4</sup>.

### *Investments and realised real returns*

3.10 The value of the Land Fund on 1 July 2000 was \$784,498,585. An amount of \$87,446,000 was appropriated to the Land Fund at the commencement of the reporting period, taking the value of the base investment of the fund to \$871,944,585. The value of the fund at 30 June 2001 was \$940,695,947. This amounts to a realised real return on investments for 2000-01 of 6.19%<sup>5</sup>.

3.11 The most recent report advises that, at 30 June 2001, the required real return to reach the target amount was 2.50% per annum<sup>6</sup>.

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2 Aboriginal and Torres Strait Islander Commission 2000-01 (ATSIC) Annual Report, p.221.

3 Fourteenth Report of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.20. Eighteenth Report, of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.20.

4 ATSIC Annual Report 2000-01, p.221.

5 ATSIC Annual Report 2000-01, p.222.

6 ATSIC Annual Report 2000-01, p.223.

## ***Structure of the Land Fund***

3.12 From 1 January 1998, the Aboriginal and Torres Strait Islander Land Fund became a Reserved Fund known as the Aboriginal and Torres Strait Islander Land Fund Reserve under of the *Financial Management and Accountability Act 1997* (the FMA Act).<sup>7</sup>

3.13 The FMA Act was further amended by the *Financial Management Legislation Amendment Act 1999* to replace the reserved funds with special accounts. As a result, from 1 July 1999 the Land Fund Reserve was converted to a special account under s.21(1) of the FMA Act known as the Aboriginal and Torres Strait Islander Land Fund Account. The Finance Minister or his or her delegate must invest the Land Fund in accordance with ss.39(1) and (10) of the FMA Act.<sup>8</sup>

3.14 This section of the Land Fund report contains statutory references which have not been updated to reflect changes to the legislative framework within which the Fund operates. For example the report refers to the delegation to administer the Land Fund being under ss.193F(1) and (2) of the ATSI Act. Those provisions were repealed on 1 January 1998. The delegation is now made under s.62 of the FMA Act. Similarly the Fund is special account under s.21(1) of the FMA Act not s.20(1).<sup>9</sup>

### *Investment outcome*

3.15 The Land Fund report records that:

The real return achieved on investments for 2000-01 was in excess of the 3.70 per cent per annum that was identified as the requirement at 30 June 2000 to reach the June 2004 target balance. While there was a good performance of the return on the Land Fund's investments for the financial year, which has significantly reduced the on-going required real yield, this must be viewed in light of the strong recent performance of the fixed interest market – and in particular the Inflation-Linked Bond (ILB) market.<sup>10</sup>

3.16 The Land Fund report further notes that:

The duration of the portfolio, while being kept to prudent levels, is nonetheless long enough to make it fairly sensitive to interest rate rises from the currently historically low levels. Therefore, even what would be regarded as quite a modest rise in real yields in some period prior to 30 June 2004 could result in capital losses, and hence a poor enough total portfolio

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7 *Financial Management and Accountability Act 1997* (unamended), s.20.

8 Section 62 of the FMA Act allows the Minister to delegate his or her powers under the Act.

9 ATSI *Annual Report 2000-01*, p.222.

10 ATSI *Annual Report 2000-01*, p.222.

return for the period, to jeopardise achievement of the Fund's 2004 target value.<sup>11</sup>

3.17 The delegate has made a number of submissions to the Department of Finance and Administration regarding the risks of a shortfall in the 2004 target balance and seeking to broaden the investment powers of the Fund. The report notes the delegate's intention to make a further submission to the Minister for Finance and Administration on these issues and in relation to the need to establish a formal reserving policy to ensure the value of the Fund is not eroded after 2004<sup>12</sup>.

## Summary

3.18 The financial statements of the Land Fund annual report for 2000-2001 received an unqualified audit. Further, reporting about the Land Fund for 2000-2001 complies with the legislative requirements.

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11 ATSIC *Annual Report 2000-01*, pp.222-223.

12 ATSIC *Annual Report 2000-01*, p.223.

# CHAPTER 4

## INDIGENOUS LAND CORPORATION ANNUAL REPORT 2000-2001

### **The Indigenous Land Corporation**

4.1 The ILC is an independent statutory authority established pursuant to s.191A of the ATSIC Act. Its role is to assist indigenous Australians to acquire and manage land in a sustainable way to obtain economic, environmental, social or cultural benefits pursuant to s.191B.

4.2 Funding for the operations of the ILC is provided from the Aboriginal and Torres Strait Islander Land Fund Account (the Land Fund) under Part 4A, Division 10 of the ATSIC Act. Responsibility for reporting on the Land Fund resides with ATSIC. ATSIC's report on the Land Fund for 2000-2001 is considered in Chapter 3 of this Committee report.

### **Statutory Reporting Requirements**

4.3 The statutory requirements in relation to the ILC's annual report are found in s.9 of the *Commonwealth Authorities and Companies Act 1997* (the CAC Act). Section 193K of the ATSIC Act modifies the application of some provisions of the CAC Act to the ILC including providing for regulations under the ATSIC Act specifying additional reporting requirements. No additional requirements applicable to the 2000-2001 reporting period were specified.

4.4 Pursuant to s.9 of the CAC Act, the ILC must present a report to the Minister by 15 October each year and the Minister must table the report in both Houses of Parliament as soon as practicable.

4.5 Under s.9 and Schedule 1 of the CAC Act the ILC annual report must include a report of operations and financial statements prepared in accordance with the Finance Minister's Orders. The relevant orders with respect to the report on operations are the *Commonwealth Authorities and Companies Orders 1998*. In summary, those orders require that ILC annual reports include information regarding:

- a) enabling legislation;
- b) responsible Minister;
- c) statutory functions and objectives;
- d) directors;
- e) audit committee;
- f) organisational structure including subsidiaries;
- g) financial statements;
- h) review of operations and future prospects;
- i) judicial decisions and reviews by outside bodies; and
- j) indemnities and insurance premiums for officers.

4.6 In addition, the ILC is subject to specific statutory requirements to report on matters relevant to:

- a) occupational health and safety;<sup>1</sup>
- b) freedom of information;<sup>2</sup> and
- c) ecologically sustainable development and environmental performance.<sup>3</sup>

## **Compliance**

### ***Tabling***

4.7 The ILC 2000-2001 Annual Report was sent to the Minister (by the ILC Deputy Chairperson, Mr Clem Riley) on 27 August 2001. It was tabled in the Senate on 12 February 2002 and in the House of Representatives on 13 February 2002, satisfying the tabling requirements.

### ***Enabling Legislation***

4.8 The requirement to state the legislation under which it operates was complied with by the ILC at page 10 of its (seventh) report. The Committee is pleased to note that the ILC has adopted the suggestion in the Committee's eighteenth report that this information should be provided under a separate heading.<sup>4</sup>

### ***Responsible Minister***

4.9 The ILC complied with the guidelines to identify the responsible Minister at page 10 of its report. As with the information concerning enabling legislation, the ILC has improved the clarity of its report by placing this information under a separate heading.

### ***Statutory Functions and Objectives***

4.10 The ILC report at pages 11 to 13 details the core powers and functions of the ILC. The Committee suggested in its eighteenth report that the ILC return to the format of previous reports by including information about the factors to be accorded priority when the ILC exercises its land acquisition and management functions. In addition, the Committee reminded the ILC of its previous recommendation that the specific constraints on the powers of the ILC to borrow and guarantee funds under ss.193L and 193N of the ATSIC Act be outlined in the reports of the ILC.<sup>5</sup>

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1 Occupational Health and Safety (Commonwealth Employment) Act 1991, s.74.

2 Freedom of Information Act 1982, s.8.

3 Environment Protection and Biodiversity Conservation Act 1999, s.516A.

4 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.24.

5 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.25.



4.11 The Committee is pleased that the ILC has adopted these suggestions. There are however several typographical and formatting errors in this section of the report including incorrect statutory references.<sup>6</sup> The ILC should take care to avoid such errors in the future.

### ***Directors***

4.12 Detailed information regarding ILC Directors is provided at pages 4 to 8 of the report. The requirement to provide details of the number of Board meetings held during the financial year and the attendance of Directors at those meetings is met in Appendix 2 (at pp.129-132). Information regarding Board meetings of ILC subsidiaries is also provided in Appendix 4 (at pp.134-139).

4.13 ILC Director, Mr Geoff Clark, did not attend eight of the seventeen ILC Board meetings held during the reporting period. The ILC Chairperson, Ms Sharon Firebrace, did not attend five Board meetings. ILC Directors, particularly the Chairperson, have an obligation to consistently attend Board meetings as part of their responsibility under s.191W of the ATSIC Act to ensure the proper and efficient performance of the functions of the ILC.<sup>7</sup> The Committee will continue to monitor the attendance of ILC Directors at Board meetings.

### ***Audit Committee***

4.14 The ILC annual report provides information regarding the membership and role of the audit committee (at pp.15-16). Details regarding meetings of the Risk Management and Audit Committee and attendance at each meeting are set out in Appendix 3 (see p.133). The information provided thus complies with the Finance Minister's Orders under the CAC Act as recommended by the Committee in its previous report.<sup>8</sup>

### ***Organisational Structure including Subsidiaries***

4.15 Information regarding ILC staffing is included at pages 61 to 65 of the annual report. The report includes tables on salary range and staffing in head office, divisional offices and Land Enterprise Australia (LEA) (at pp.64-65). Information about the staffing structure of the ILC and LEA is also provided (at pp.62-63). The Committee noted in its eighteenth report that the 1999-2000 annual report of the ILC did not use the terminology provided by s.192K(1) of the ATSIC Act which creates

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6 For example on page 12 s.193L is referred to as s.193 and on page 13 s.191F(1) is referred to as s.191FC1.

7 See also *Aboriginal and Torres Strait Islander Commission Act 1989*, s.192H(4).

8 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.26.

the position of ILC 'General Manager', not 'Chief Executive Officer'.<sup>9</sup> The Committee is pleased to note that the current report uses the appropriate title.

4.16 Staff numbers have increased since the previous reporting period from 58 to 76.<sup>10</sup> As in its previous report, the ILC attributes this to an increased need for ILC services during the reporting period.<sup>11</sup>

4.17 The ILC is once again commended for including a section on consultants. Appendix 5 of the ILC report individually itemises the amount spent on consultants.

4.18 Section 191G of the ATSI Act provides that the ILC may enter into an arrangement with a subsidiary regarding the performance of ILC functions by the subsidiary. The ILC report provides a chart showing the relationship between the ILC and its subsidiaries at page 9. Detailed information regarding the operations of ILC subsidiaries is provided at pages 42 to 46. A list of the directors and meeting dates of the ILC subsidiaries is set out in Appendix 4 of the ILC report.

4.19 LEA has responsibility for the management of the ILC enterprises through three ILC subsidiaries: Mogila Merino Stud Pty Ltd,<sup>12</sup> Mt Clarence Pastoral Company Pty Ltd,<sup>13</sup> and Cardabia Pastoral Company Pty Ltd.<sup>14</sup> In addition the ILC incorporated two new subsidiaries during the reporting period: Roebuck Plains Pastoral Company Pty Ltd<sup>15</sup> and Myroodah and Luluigui Pastoral Company Pty Ltd.<sup>16</sup> The ILC reports that these companies were established as vehicles to employ station workers on Roebuck Plains<sup>17</sup> and Myroodah/ Luluigui stations respectively<sup>18</sup>.

4.20 The report details the other functions and activities of LEA (at pp.47-50). These include development and implementation of a national extension, education and training strategy and special projects such as a review of ILC purchased properties, the Kimberley Aboriginal beef strategy, the dairy enterprise on Boona (a property near Warrnambool in Victoria), the Central Australian Aboriginal horticultural development strategy and the Point Pearce abalone project on the Yorke Peninsula.

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9 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.27.

10 Indigenous Land Corporation Annual Report 1999-2000, p.62; and Annual Report 2000-2001, p.61.

11 Indigenous Land Corporation Annual Report 1999-2000, p.62; and Annual Report 2000-2001, p.61.

12 ABN 47 078 466 761.

13 ABN 32 079 814 976.

14 ABN 78 080 766 463.

15 ABN 90 093 740 660

16 ABN 88 093 740 651

17 Indigenous Land Corporation Annual Report 1999-2000, p.62; and Annual Report 2000-2001, p.45.

18 Indigenous Land Corporation Annual Report 1999-2000, p.62; and Annual Report 2000-2001, p.46.

## ***Financial Statements***

4.21 Under s.9 and Schedule 1 of the CAC Act the ILC is required to prepare financial statements in accordance with the Finance Minister's Orders. The financial statements must therefore give a true and fair view of matters that the *Commonwealth Authorities and Companies (Financial Statements 2000-2001) Orders* require to be included in the statements.

4.22 The Australian National Audit Office audited the ILC's financial statements and issued an independent audit report on 10 September 2001 (reproduced at pp.72-73 of the ILC report). The ILC received an unqualified audit opinion from the Audit Office. It confirmed that the consolidated financial statements give a true and fair view of the ILC and the economic entity comprising the ILC and entities it controlled. The audit opinion also states that the financial statements are in accordance with applicable Accounting Standards, other mandatory professional reporting requirements and Schedule 1 of the *Commonwealth Authorities and Companies (Financial Statements 2000-2001) Orders*<sup>19</sup>.

## ***Review of Operations and Future Prospects***

4.23 The primary functions of the ILC relate to land acquisition and land management pursuant to ss.191D and 191E respectively of the ATSIC Act. When performing its land management and acquisition functions, the ATSIC Act requires the ILC to:

- a) give priority to ensuring indigenous peoples derive social or cultural benefits (s.191F(2)(aa));
- b) act in accordance with sound business principles when performing its functions on a commercial basis (s.191F(1));
- c) maximise the employment of indigenous people and the use of goods and services provided by indigenous owned or controlled businesses (ss.191F(2)(b) and (c)); and
- d) give priority to pursuing sound land and environmental management practices when performing its land management functions (s.191E(3)(a)).

4.24 The ATSIC Act (ss.191N and 191P) also requires the ILC Board to develop a national indigenous land strategy (the national strategy) and regional indigenous land strategies (the regional strategies). In performing its functions, the ILC must have regard to the national strategy and the relevant regional strategy (s.191Q).

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<sup>19</sup> Indigenous Land Corporation Annual Report 1999-2000, p62; and Annual Report 2000-2001, p.73.

## Land Needs Planning Process

4.25 During the reporting period, the ILC revised the national strategy and seven regional strategies on the basis of consultation carried out through the land needs planning process and the results of the national indigenous land management research project<sup>20</sup>. The ILC Board reports that:

After six years of existence, the ILC conducted the first major strategic review of its land acquisition and land management activities. The review included an inaugural joint workshop of ILC Board members and ATSIC Commissioners, as well as extensive consultations with a range of stakeholders including ATSIC Regional Councils, Native Title Representative Bodies and Indigenous communities.<sup>21</sup>

## Land Acquisition

4.26 The ILC has provided a detailed account of its land purchases and divestments for 2000-2001. A map details ILC land purchases and divestments to 30 June 2001 (at p.20) and maps for each ILC divisional office indicate purchases and divestments to the end of the reporting period<sup>22</sup>.

4.27 The Committee noted in its eighteenth report that the ILC annual report 1998-99 provided a table showing a state by state breakdown of properties approved for purchase, settled properties and divested properties. The table compared numbers of properties in each category at the commencement and conclusion of the reporting period.<sup>23</sup> The annual reports for 1999-2000 and 2000-2001 include a table showing only the total numbers of properties approved, purchased and divested in each state at the conclusion of the financial year.<sup>24</sup> The Committee reiterates its view that the table provided in the 1998-99 annual report was more informative and on that basis should be included in future annual reports.

4.28 The Committee suggested in its eighteenth report that the ILC should revert to including a pie chart showing the total cost of properties settled by ATSIC zone as was done in its 1998-1999 report.<sup>25</sup> While the Committee welcomes the inclusion of this chart in the 2000-2001 report, the chart segments do not total the \$12.8 million reported by the ILC as expended on land purchases<sup>26</sup>. In addition, it is difficult to

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20 Indigenous Land Corporation Annual Report 2000-2001, p.18.

21 Indigenous Land Corporation Annual Report 2000-2001, p.1.

22 Indigenous Land Corporation Annual Report 2000-2001, Northern Territory/South Australia/Victoria and Tasmania p.25, Queensland/New South Wales, p.30 and Western Australia, p.35.

23 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, pp.29-30.

24 Indigenous Land Corporation Annual Report 1999-2000, p.19; Annual Report 2000-2001, p.21.

25 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.30.

26 Indigenous Land Corporation Annual Report 2000-2001, pp.21, 60 and 77.

distinguish between the segments of the chart. The Committee suggests the ILC should ensure in future reports that segments of the chart are readily distinguishable and that any discrepancy between the total of the chart and the total expenditure on land acquisition is explained.

4.29 The ILC Board approved the purchase of 12 properties during the reporting period. This was a decline on the 18 proposals approved during the previous year<sup>27</sup> and a substantial decline from the 69 proposals approved during the 1998-1999 financial year.

4.30 During 2000-2001 the ILC acquired 18 properties. This also represents a significant decline from the 30 properties purchased in the previous financial year<sup>28</sup>. The ILC spent \$12.8 million on direct land acquisition during the reporting period<sup>29</sup>. This was approximately half the amount spent in the previous reporting period. The total number of properties acquired by the ILC at 30 June 2001 was 143<sup>30</sup>.

4.31 Also in this reporting period, the ILC divested 16 properties to incorporated indigenous groups. This was a significant reduction on the 30 properties divested during 1999-2000.<sup>31</sup> A total of 92 properties purchased by the ILC had been divested to indigenous corporations by 30 June 2001<sup>32</sup>.

4.32 The following table shows land acquisition and land management expenditure by the ILC during the past four financial years<sup>33</sup>:

<b>Financial Year</b>	<b>1997-1998</b>	<b>1998-1999</b>	<b>1999-2000</b>	<b>2000-2001</b>
<b>Land Acquisition</b>	\$26.4 million	\$51.6 million	\$25 million	\$12.8 million
<b>Land Management</b>	\$1.1 million	\$2.9 million	\$7.5 million	\$6.7 million

As the above table illustrates, ILC expenditure on land acquisition again declined significantly in 2000-2001.

4.33 The ILC reports that the decline in the number of properties approved for purchase, purchased and divested is a result of the ILC's emphasis on the land needs

27 Indigenous Land Corporation Annual Report 2000-2001, p.19.

28 Indigenous Land Corporation Annual Report 2000-2001, p.19.

29 Indigenous Land Corporation Annual Report 2000-2001, p.77.

30 Indigenous Land Corporation Annual Report 2000-2001, p.21.

31 There is a discrepancy between the figure of 16 provided on page 19 and the list of divested properties in Appendix 8 which includes 18 properties (pp.173-174).

32 Indigenous Land Corporation Annual Report 2000-2001, p.21.

33 Indigenous Land Corporation Annual Report 1998-1999, pp.99,101; Annual Report 1999-2000, pp.75,78; Annual Report 2000-2001, pp.75,77.

planning process and the revision of its major policy documents during the reporting period<sup>34</sup>.

4.34 The Committee noted in its eighteenth report its concern about the consequences of the significant decline in properties approved and purchased by the ILC for indigenous peoples in the period 1999-2000.<sup>35</sup> The further decline in ILC land acquisition activity during the 2000-2001 is of great concern to the Committee. It notes that the revised National Indigenous Land Strategy and the Land Acquisition and Land Management Programs Guide were launched on 4 December 2002 and would therefore expect the ILC to be able to devote more resources to these responsibilities in the future. The Committee will continue to monitor this issue closely.

### **Land Management**

4.35 The ILC reports that it spent \$6.67 million on land management activities during the reporting period<sup>36</sup>. Details of this expenditure are provided in Appendix 8. The report also provides details of the properties held by the ILC during the reporting period including the land holding costs associated with those properties and the income derived from that land<sup>37</sup>.

4.36 The revised national strategy issued by the ILC during the reporting period incorporates a new land management policy. The ILC reports that the new policy is to be implemented through a number of initiatives namely:

- group based planning to assist indigenous groups to identify and define their land use goals;
- enterprise development;
- the ILC contributing to regional development processes and relevant research initiatives to ensure these benefit indigenous people;
- assisting indigenous groups to access services and programs operated by other agencies; and
- conducting research to ensure that indigenous landholders and managers benefit.

In addition, the new policy precludes the ILC from acquiring or granting properties unless the future maintenance and management of the property is assured<sup>38</sup>.

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34 Indigenous Land Corporation Annual Report 2000-2001, p.19.

35 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.31.

36 Indigenous Land Corporation Annual Report 2000-2001, p.23.

37 Indigenous Land Corporation Annual Report 2000-2001, pp.171-174.

38 Indigenous Land Corporation Annual Report 2000-2001, p.22.

## Operational Challenges

4.37 The ILC report identifies five operational challenges confronting the ILC including:

- the number, range and persistence of disputes over traditional and historical relationships to land;
- the difference between the statutory land management functions of the ILC and those discharged under previous programs;
- the continuing need for land needs planning work and for the revision of existing plans;
- implementation of the revised national strategy; and
- addressing urban and rural land needs<sup>39</sup>.

4.38 The information provided in relation to the operational challenges is not as detailed or informative as that provided in the previous report.<sup>40</sup> The Committee encourages the ILC to return to more comprehensive reporting on the challenges it confronts.

## Consultation

4.39 A comprehensive list of community consultations is reported in Appendix 7.

## Publications

4.40 A list of the ILC's publications is contained at Appendix 6 of the report.

## *Judicial Decisions and Reviews by Outside Bodies*

4.41 The ILC report provides details of litigation against the ILC during the reporting period (at pp.68-69). The decisions of the Federal Court and the Full Federal Court in *Bidjara Aboriginal Housing and Land Company Ltd v Indigenous Land Corporation* were handed down during the reporting period.<sup>41</sup> Those decisions were discussed in the Committee's eighteenth report.<sup>42</sup>

4.42 In its previous report, the Committee also discussed at length the judgement in *Firebrace v Indigenous Land Corporation*.<sup>43</sup> In that matter, the ILC Chairperson, Ms Sharon Firebrace, had sought an interlocutory injunction from the Federal Court to

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39 Indigenous Land Corporation Annual Report 2000-2001, pp.41-42.

40 Indigenous Land Corporation Annual Report 1999-2000, pp.38-39.

41 [2000] FCA 1501 and [2001] FCA 138.

42 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.32.

43 [2000] FCA 1257; Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, pp.33-35.

restrain Mr Stephen Skehill from proceeding with his inquiry into the behaviour of ILC Directors. Ms Firebrace alleged bias and breaches of the rules of natural justice.

4.43 During the reporting period, this interlocutory application was dismissed and costs were awarded to the ILC. Ms Firebrace subsequently discontinued the action<sup>44</sup>. The ILC expended \$46,428 defending this matter<sup>45</sup>. The Committee is satisfied that this matter has been concluded.

4.44 Two inquiries related to the ILC were completed during the 2000-2001 financial year. Mr Andrew Rogers QC carried out an inquiry commissioned by the ILC regarding the purchase of Roebuck Plains and Cardabia Stations. Mr Stephen Skehill conducted an inquiry into the behaviour of ILC Directors for the Minister for Aboriginal and Torres Strait Islander Affairs<sup>46</sup>. The Committee discussed these inquiries in detail in its eighteenth report.<sup>47</sup>

### **The Rogers Inquiry**

4.45 Mr Rogers delivered his report to the ILC in June 2001. In evidence to the Committee, Mr David Galvin, General Manager of the ILC said that Mr Rogers had indicated to the ILC Board in mid-2001 that the report should not be released unless there were an indemnity given either by the Commonwealth or the ILC. This was because of the possibility of legal action against himself or the ILC. The Minister declined the ILC's request for a blanket indemnity. The ILC granted the individual members of the Board indemnity to consider the report<sup>48</sup>.

4.46 Mr Rogers found no evidence to support the allegations of criminality or serious misconduct he was asked to investigate.<sup>49</sup> The ILC reports the cost of the Rogers inquiry at \$281,156<sup>50</sup>. The Committee hopes that in future such considerable expenditure on matters which do not contribute directly to the fulfilment of the ILC's statutory responsibilities will not be required.

### **The Skehill Inquiry**

4.47 Mr Skehill delivered his report on the behaviour of ILC Directors to the Minister for Aboriginal and Torres Strait Islander Affairs on 1 December 2000. The

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44 Indigenous Land Corporation Annual Report 1999-2000, p.69.

45 Indigenous Land Corporation Annual Report 1999-2000, p.142.

46 Indigenous Land Corporation Annual Report 1999-2000, p.2.

47 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, pp.33-37,46-47.

48 Evidence, 17 June 2002, p.5.

49 Indigenous Land Corporation Annual Report 2000-2001, p.2; 'Boardroom Battles' Insight, SBS, 19 July 2001.

50 Indigenous Land Corporation Annual Report 1999-2000, p.140.



Department of Reconciliation and Aboriginal and Torres Strait Islander Affairs reports that it expended \$200,867 in relation to the inquiry in 2000-2001.<sup>51</sup>

4.48 The Skehill inquiry involved a number of serious allegations regarding the behaviour of ILC Directors. Many of those allegations were placed on the public record. For example the judgement in *Firebrace v Indigenous Land Corporation* records a number of allegations made against Ms Firebrace, the then ILC Chairperson, by other members of the ILC Board and the terms of reference of the Skehill inquiry.<sup>52</sup> Similarly allegations made by Ms Firebrace regarding ILC Directors and staff were made in evidence before this Committee<sup>53</sup> and in the media.<sup>54</sup>

4.49 More than 12 months have passed since the delivery of the Skehill report to the Minister. The Minister has not released the report publicly or to the ILC<sup>55</sup> or announced the report's findings. The Committee received evidence that this has not changed.<sup>56</sup> There may well be sound reasons for the Minister not to release the report itself. Nevertheless the conduct of the inquiry and the information already in the public domain is clearly prejudicial to the reputations of a number of current and former ILC Directors and officers.

4.50 If the inquiry revealed misconduct upon the part of any ILC Director or officer those findings should be referred to the ILC and, if they involve matters of a criminal nature, to the Australian Federal Police. Conversely, if the inquiry concluded there was insufficient evidence to sustain the various allegations which have been publicly aired then the subjects of those allegations are entitled to a public statement to that effect.

4.51 The Committee suggests that to complete the public record that the Minister make a statement to the Parliament concerning the findings of the Skehill report and any action that it has taken as a result of the inquiry.

### ***Indemnities and Insurance Premiums for Officers***

4.52 Details of insurance coverage the ILC took out during the financial year including the total cost for insurance premiums is provided at page 56 of the report. The Committee is pleased to note that the ILC has separately reported the cost of directors and officers insurance as suggested in the Committee's eighteenth report.<sup>57</sup>

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51 Department of Reconciliation and Aboriginal and Torres Strait Islander Affairs Annual Report 2000-2001, p.71.

52 [2001] FCA 1257 at [9],[13].

53 Evidence 21 May 2001, pp.61-62 and 68.

54 See for example 'Boardroom Battles' *Insight*, SBS, 19 July 2001; 'Police probe land council' *Herald Sun*, 12 February 2001, p.25.

55 Indigenous Land Corporation Annual Report 1999-2000, p.2.

56 Evidence 17 June 2002, p.4.

57 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.38.

## ***Occupational Health and Safety***

4.53 The ILC met the requirement to provide information regarding occupational health and safety issues at page 64 of the report.

## ***Freedom of Information***

4.54 Section 8 of the *Freedom of Information Act 1982* in general terms requires that the annual report of a Commonwealth agency include information regarding:

- the functions and powers of the agency;
- the arrangements that exist for people to participate in the formulation of the policy by the agency;
- the categories of documents maintained by the agency; and
- the facilities provided to enable members of the public to obtain access to the agency's documents, including contact details.

The ILC report provides this information and information regarding freedom of information requests received during the reporting period. However the required information is dispersed throughout the report.<sup>58</sup> Given that the purpose of this statutory reporting requirement is to improve public access to official information, it would be preferable for the required information to be provided in a consolidated fashion, as far as possible, with references to relevant material located elsewhere in the report.

## ***Ecologically Sustainable Development and Environmental Performance***

4.55 The ILC's report does not contain information regarding its environmental performance and implementation of the principles of ecologically sustainable development where they are relevant to its operations. Commonwealth authorities are required to report on these issues under s.516A of the *Environment Protection and Biodiversity Conservation Act 1999*. The Committee recommends that the ILC rectify this omission in future reports.

## ***Style***

4.56 There are a number of typographical and formatting errors in the report including: a reference to section 919N(6) instead of section 191N(6) (at p.10); the errors discussed in paragraph 4.11 above; incorrect dates in the headings of Table 2; variance in the information provided on the properties known as Kywong and Waterview between Figure 5 and Appendix 8 (see pp.30,173); and an error in the heading for Appendix 3. The ILC should seek to ensure such errors do not occur in future.

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58 Indigenous Land Corporation Annual Report 2000-2001, pp.11-13, 18, 54, 69,144-145.

4.57 The style and formatting of the 2000-2001 annual report is generally consistent with the ILC's previous annual reports. The style of the previous report has been improved upon by increasing the size of the margins and locating page numbers at the foot rather than the middle of the page. While the style of the report is generally clear and accessible, the ILC should avoid overuse of acronyms particularly where these are peculiar to the organisation such as LNPP, SROLN, and KABS.

## **Presentation Summary**

4.58 The presentation of the 2000-2001 annual report of the Indigenous Land Corporation complies with the legislative and other formal requirements.

## **The 2000-2001 Report: Issues**

### ***Response to the Committee's Eighteenth Report***

4.59 In its eighteenth report, the Committee drew attention to specific matters about the ILC's 1999-2000 annual report. These matters included the number of hearings required to complete the inquiry into the ILC's annual report; the evidence of the former ILC Chairperson; land management issues; Roebuck Plains station; and land acquisition in urban areas.

### **Hearings**

4.60 In conducting its inquiry into the ILC's 1999-2000 annual report the Committee held three public hearings in order to obtain from the ILC the evidence required for the Committee to fulfil its statutory functions. The Committee considered that the need for three hearings indicated a significant level of disorganisation within the ILC.<sup>59</sup> The Committee is pleased that only one hearing was required to properly perform its examination of the ILC's current report.

### **Evidence of the Former ILC Chairperson**

4.61 The Committee noted in its eighteenth report that it may have been misled by Ms Firebrace in relation to two matters referred to in her evidence and submissions to the Committee.<sup>60</sup> On 29 September 2001, the Senate resolved to refer to the Committee of Privileges the question of whether any false or misleading evidence was given to this Committee, and whether any contempt was committed in that regard.<sup>61</sup>

4.62 The Committee of Privileges reported on the matter on 26 June 2002. It found that no contempt had been committed, although "misleading evidence was given to the Joint Committee on Native Title and the Aboriginal and Torres Strait Islander

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59 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.39.

60 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, pp.40-43,44-46,48-49.

61 Senate Hansard, 19 September 2001, p.27415.

Land Fund”<sup>62</sup>. The Committee of Privileges found that it was “unlikely that Ms Firebrace’s evidence ... was deliberately or intentionally misleading”<sup>63</sup> but rather arose from “misunderstanding and misperceptions”<sup>64</sup>.

## Land Management

4.63 In its eighteenth report, the Committee noted that it would continue to monitor the land management activities of the ILC.<sup>65</sup> The ILC's land management functions relate to indigenous-held land which it is estimated comprises over 15 per cent of the Australian land mass.<sup>66</sup> The ILC thus has extensive and important responsibilities in relation to land management. The Committee notes that despite this ILC expenditure on land management declined from \$7.5 million in 1999-2000 to \$6.7 million in 2000-2001<sup>67</sup>.

4.64 During 2000-2001, the ILC carried out trials of the various training courses which will form its extension, education and training strategy for indigenous land owners. After evaluation of the trials, the ILC commenced negotiations with a joint venture partner who will deliver the courses. In addition the ILC signed an agreement with a number of agencies and local communities to provide accredited training and employment to approximately 70 indigenous people from five land trust communities in the Northern Territory<sup>68</sup>. In evidence, Mr Galvin indicated that there would be a focus on capacity building, ensuring those on the boards of organisations which run properties, know their responsibilities. Younger people will also be targeted on property management and operation, and other relevant State and Federal agencies will also be drawn into the process.<sup>69</sup> The Committee welcomes the progress the ILC has made in implementing an education and training strategy to support indigenous land holders.

## Roebuck Plains

4.65 Roebuck Plains Station is a 290,000 hectare pastoral property located near Broome in Western Australia. It was purchased by the ILC in 1999<sup>70</sup> for \$8.2 million

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62 One hundred and fourth Report of the Senate Committee of Privileges, p.20.

63 One hundred and fourth Report of the Senate Committee of Privileges, p.19.

64 One hundred and fourth Report of the Senate Committee of Privileges, p.19.

65 Eighteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.40.

66 Altman JC and Pollack DP 'The Indigenous Land Corporation::An Analysis of its Performance Five Years On' Australian Journal of Public Administration, Vol 60 No 4, December 2001, pp.72,75.

67 Indigenous Land Corporation Annual Report 2000-2001, p.75.

68 Indigenous Land Corporation Annual Report 2000-2001, pp.27-28.

69 Evidence, 17 June 2002, p.7.

70 Indigenous Land Corporation Annual Report 2000-2001, p.174.

including stock.<sup>71</sup> As the property represents a major expenditure of ILC funds, the Committee considers it important to monitor the management of the property.

4.66 In the 2000-2001 financial year Roebuck Plains recorded a net profit of \$1.392 million. This profit includes the change in the market value of the livestock on the property<sup>72</sup>. In addition, the ILC notes that marketing of two boatloads of cattle from several indigenous properties in the Kimberley was proposed for late 2001 as a trial of the proposed Kimberley Aboriginal Beef Cooperative. It was intended to pasture these cattle on Roebuck Plains prior to export<sup>73</sup>. The Committee was advised in evidence that this did not eventuate.<sup>74</sup> As the Committee had regarded this as a promising development, it was disappointed to receive this advice. It is also disappointing that the ILC is yet to resolve issues concerning the composition of the future title holding body of the property<sup>75</sup>.

### **Land acquisition in urban areas**

4.67 The Committee's two previous reports monitored ILC activity in urban areas and in particular ILC policies designed to meet the land needs of urban indigenous people.<sup>76</sup> The ILC report notes that:

... there was a strong perception, particularly among urban Indigenous people, that the previous NILS [national indigenous land strategy] did not adequately address their land needs and some groups believed it actively militated against them. The revised NILS aims to address all types of Indigenous land needs, whether rural or urban.<sup>77</sup>

4.68 The Committee is pleased to note that the revised national strategy seeks to articulate more clearly how the needs of urban indigenous people can be met and hopes this will result in the delivery of further land acquisition and management assistance to urban indigenous groups.<sup>78</sup>

### ***Other Matters***

4.69 At 30 June 2001, the ILC held \$123 million in investments<sup>79</sup>. The bulk of the ILC's funds are invested through three fund managers<sup>80</sup> (pp.56-57). The ILC wrote

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71 Evidence, 27 March 2001, p.8.

72 Indigenous Land Corporation Annual Report 2000-2001, p.46.

73 Indigenous Land Corporation Annual Report 2000-2001, pp.39,48.

74 Evidence, 17 June 2002, p.15.

75 Indigenous Land Corporation Annual Report 2000-2001, p.46.

76 Seventeenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, p.37; Eighteenth Report, pp.43-44.

77 Indigenous Land Corporation Annual Report 2000-2001, pp.41-42.

78 Indigenous Land Corporation, National Indigenous Land Strategy 2001-2006, p.1.

79 Indigenous Land Corporation Annual Report 2000-2001, p.60.

80 Indigenous Land Corporation Annual Report 2000-2001, pp.56-57.

down the value of its investments by \$1.9 million during 2000-2001. The ILC reports that it:

... held an investment in Wisdom (FAI) No 2 Trust that is affected by the provisional liquidation of HIH.<sup>81</sup>

4.70 It is unclear to what extent this investment may be recoverable. The ILC has written this investment down to zero and is seeking legal advice in relation to whether it has any action against any external advisor in relation to the investment<sup>82</sup>. The ILC is not subject to the restrictions in s.18(3) of the CAC Act in relation to investments.<sup>83</sup> The Committee supports the approach taken by the ILC Board that the ILC's investment of the public funds it administers ought to be conservative<sup>84</sup>.

4.71 The Committee has also noted that the chairperson indicated a clear perception of her role, and that of the CEO.<sup>85</sup> The Committee notes that the previous difficulties experienced by the ILC have been addressed, and considers that this augurs well for the ILC's future effectiveness.

## Issues Summary

4.72 The Committee noted in its eighteenth report its concerns regarding the performance of the ILC. The 2000-2001 annual report confirms the Committee's view that the ILC's performance over the previous two financial years has affected the delivery of benefits to Indigenous people by way of land ownership. This is most regrettable. The Committee hopes that the appointment of the new Chairperson on 9 August 2001 will reverse this trend and that the 2001-2002 annual report of the ILC will demonstrate that the ILC has performed more competently than in the previous two financial years.

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81 Indigenous Land Corporation Annual Report 2000-2001, p.99.

82 Indigenous Land Corporation Annual Report 2000-2001, p.99.

83 Aboriginal and Torres Strait Islander Commission Act 1989 s.193K (1).

84 Indigenous Land Corporation Annual Report 2000-2001, p.58.

85 Evidence, 17 June 2002, p.6.

## **CHAPTER 5**

### **CONCLUSION**

5.1 The Committee has examined the annual reports for 2000-2001 prepared pursuant to Part 4A of the *Aboriginal and Torres Strait Islander Commission Act 1989* and s.133 of the *Native Title Act 1993*. On its examination, the Committee finds their presentation to be satisfactory.

Senator David Johnston  
Chair

