

Chapter 3

Indigenous Land Corporation Annual Report 2002-2003

The Indigenous Land Corporation

3.1 The Indigenous Land Corporation (ILC) is a Commonwealth Authority established under section 191 B of the *Aboriginal and Torres Strait Islander Commission Act 1989* (the ATSIC Act). As an independent statutory authority it is required to provide an annual report under section 9 of the *Commonwealth Authorities and Companies Act 1997*. The report must include:

- (a) a report of operations, prepared by the directors in accordance with the Finance Minister's Orders; and
- (b) financial statements, prepared by the directors under clause 2 of this Schedule; and
- (c) the Auditor-General's report on those financial statements, prepared under Part 2 of this Schedule and addressed to the responsible Minister.

Function of the ILC

3.2 The ILC was established in 1995 to assist Indigenous peoples in Australia to acquire land and to manage Indigenous-held land in a sustainable way to provide cultural, social, economic or environmental benefits for themselves and for future generations.

3.3 The Corporation is funded through the Aboriginal and Torres Strait Islander Land Fund, and the Land Fund Report is included as an annexure to the ILC Annual Report. The Land Fund report is addressed separately in chapter 4 of this report.

Compliance requirements

3.4 The ILC Annual Report was tabled on 14 September 2003, in both the Senate and the House of Representatives.

3.5 The ILC has reported in compliance with the following requirements:

- enabling legislation and responsible Minister;
- statutory functions and objectives;
- directors and meetings; and
- the Audit and Risk Management Committee.

3.6 The ILC is also required to report on:

- organisational and management structure;
- consultants;
- financial statements;
- occupational health and safety (section 74, *Commonwealth Employment Act 1991*);
- freedom of information (section 8, *Freedom of Information Act 1989*); and
- ecologically sustainable development and environmental performance (section 516A *Environment Protection and Biodiversity Conservation Act 1999*).

Reporting against requirements

Organisational and management structure – including subsidiaries

Staffing

3.7 The Committee notes that there have been some minor variations in staffing. The number of Indigenous staff has dropped from 25 to 23. Noting this, the ILC Annual Report sets out some strategies for addressing the change over the coming year,¹ and offered further confirmation in evidence.²

3.8 The Committee noted that the position of Deputy General Manager was re-established in the last financial year, however the staffing document on page 76 of the Report does not mention the position, nor its occupant. In evidence the Committee was advised that the position still exists, but that the incumbent is on leave for 12 months.³

Business Planning Directorate

3.9 The Report notes detailed information about six of the enterprises in which it is involved. Clearly the drought has affected some of the properties severely. However, the Committee considers a more detailed examination of the position of the properties managed would assist the Committee in assessing whether or not the management of the properties is successful.

1 ILC Annual Report 2002-2003, p. 74

2 *Committee Hansard*, 2 March 2004, p. 8

3 *Committee Hansard*, 2 March 2004, p. 23–24

3.10 Note 13A to the Financial Statements⁴ is a list of properties and includes the number of stock carried, the valuation of land and incidentals, as well as capital improvements. The Committee heard evidence regarding a number of these properties, and found that the way the accounts are presented does not give the information the Committee needs to perform its oversight role adequately. Clearer detail is required about:

- how much is paid for each property;
- who is currently operating the property;
- how is the success or otherwise of the enterprise being measured; and
- what is being done to help the non-performing properties.

3.11 From discussions at the hearing, the Committee notes it will be provided with more detailed material on the progress of ILC properties in the next Annual Report.⁵

Financial Statements

3.12 The Committee notes that the financial statements were prepared in accordance with the Finance Minister's Orders made under the *Commonwealth Authorities and Companies Act 1997*. They have been given an unqualified audit opinion.

Outcomes and outputs

3.13 The ILC has one outcome:

To provide economic, environmental, social and cultural benefits for Aboriginal persons and Torres Strait Islanders.⁶

3.14 Associated with this outcome is one output:

Assistance in the acquisition and management of land.⁷

3.15 The Committee notes that during the reporting year, the Corporation implemented its new land acquisition and land management programs. There are four new program streams for land acquisition and the ILC received 67 applications in the 2003 calendar year (compared to 59 applications in 2002).⁸ The Committee was

4 ILC Annual Report, 2002–2003, p. 106

5 *Committee Hansard*, 2 March 2004, p. 32

6 ILC Annual Report, 2002–2003, p. 32

7 ILC Annual Report, 2002–2003, p. 32

8 *Committee Hansard*, 2 March 2004, p. 1

pleased to see that of the seven properties purchased in 2003, six were in urban areas, as the Committee has previously encouraged the ILC to direct greater attention to urban Aboriginal communities.⁹

3.16 The Committee noted last year that the table detailing properties acquired, settled and divested required more information; the Committee is pleased to note that the table is more informative, and distinguishes between the cumulative figures and the figures for the reporting year.¹⁰

3.17 The Committee notes that the amount spent on direct land acquisition in 2002-2003 was \$12,258,824, which compares to \$15,365,592 the previous year. The Committee notes that the new land acquisition strategy was being phased in during the reporting period, which shifted the emphasis from land acquisition to long term sustainable planning. The Committee will continue to monitor this area closely.

Operational Challenges

3.18 The Committee notes that in the last report, it commented on the non-specific nature of this section. In this report, the general operational challenges are not specified: each region has noted its own challenges, and the only one which specifies them in any depth was the Eastern division. There is little information as to how these challenges are being met.

Consultations

3.19 The Report notes the purpose of each consultation. In its report last year, the Committee noted that it would like to receive information not only about the purpose of the consultations, but their outcome in the context of the ILC's core activities. While being mindful of creating too great a reporting burden on the ILC, the Committee considers that this information is important and should be made available to the Committee through the Annual Report.

Judicial decisions and review by outside bodies

3.20 There are no significant judicial decisions reported.

Indemnities and insurance programs for officers

3.21 The ILC report notes a significant (81%) increase this year in insurance premiums. The insurance is taken out through Comcover, the Commonwealth Government's insurable managed fund. The ILC does not have an exemption from insuring through Comcover.

9 Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, *Examination of ILC Annual Report for 2001-2002*, p. 25

10 ILC Annual Report , 2002-2003, p. 36

Other legislative requirements

Freedom of Information

3.22 The Committee notes there were four requests received – compared to none the previous year – with one outstanding as at 30 June 2003.

Occupational Health and Safety

3.23 The Committee notes that the Annual Report contains no specific reporting of occupational health and safety issues, but initiatives in this area were noted in the section on Human Resources.¹¹ The Committee indicated in its last report that this information is required.

Ecologically sustainable development and environmental performance

3.24 The Committee observed the absence of this section in the previous ILC Annual Report, and notes it has been included in this year's report.¹²

Other Issues

The Chairperson's report

3.25 The Chairperson's report notes:

- the progress of the new NILS strategy and the development of a property remediation strategy, resulting from the internal audit undertaken in the 2001–2002 Annual Report;
- the release of the Land Acquisition Strategy, under which the ILC will only acquire land or provide support for land management where there is demonstrated commitment and capacity for the project, and which will fit into one of the ILC's four benefit categories; and
- the outcomes are focussed on the ILC's required outcomes.

Performance

3.26 Last year the Committee expressed concern that combining three outputs (land needs planning process, land acquisition and land management) into one (assistance in

11 ILC Annual Report 2002-2003, p. 75

12 ILC Annual Report 2002-2003, p. 17–23

the acquisition and management of land) may not give a meaningful picture of the progress or otherwise of the organisation.¹³

3.27 This issue remains of some concern. The 2002-2003 Annual Report includes more content on the strategies used in land management, but little or no information of the results obtained using these strategies. The Committee acknowledges that with some of the more recent initiatives, it may be a little early to report results. However, where this is the case, it should be stated.

Financial Management and Corporate Governance

Exposure to HIH and FAI

3.28 The Committee Report last year requested that the ILC Annual Report information on efforts to recover approximately \$5m owed to the ILC as a result of the demise of HIH and FAI.¹⁴

3.29 There was no report included in the Annual Report, however in evidence, the ILC informed the Committee that the matter is commercial-in-confidence, with ongoing discussions with the ILC's legal representatives.

Consultancies

3.30 The 2002-2003 Annual Report notes that:

Over the past two years the ILC has significantly reduced its use of consultants.¹⁵

3.31 The total amount spent on consultants in 01-02 was \$2,287,046; in 2002-2003 it was \$1,399,085. The Committee notes this considerable reduction.

3.32 At last year's hearing into the Annual Report, there was a point of contention around the amount spent on legal fees. The total amount on this item has been reduced from \$650,469 in 2001-2002 to \$448,777 in 2002-2003.

3.33 While the amount spent on legal fees with the Australian Government Solicitor was reduced from \$465,812 (2001-2002) to \$212,720 (2002-2003), the amount spent on other legal contracts rose from \$184,657 in 2001-02 to \$236,057 in 2002-03.

13 Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, *Examination of ILC Annual Report for 2001-2002*, p. 29

14 Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, *Examination of ILC Annual Report for 2001-2002*, p. 31

15 Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, *Examination of ILC Annual Report for 2001-2002*, pp. 70-71

3.34 When the matter was raised at the hearing, the ILC explained that two major litigation matters in which the ILC was involved accounted for a proportion of this expenditure. The Committee's attention was drawn to page 66 of the Annual Report which set out the nature of these matters: one involving a caveatable interest in a property, and another in which the ILC was given legal standing in a dispute involving an ILC-granted property.

3.35 The Committee notes that the ILC is building up its internal expertise, and recognises that from time to time it will be necessary to use external expertise.

Presentation and style

3.36 The Annual Report is easy to follow and well presented. The Committee's reservations about the presentation of last year's report no longer apply, with improvements in the graphics and charts. There is also a marked reduction in typographical errors.

Conclusion

3.37 The Committee notes the ILC's general compliance with its statutory reporting requirements, and commends the ILC for improvements to the content of their Annual Report made over the last two years. However, the Committee would still encourage the Corporation to further broaden the information provided, particularly in relation to its business operations, to enable the Committee to meaningfully evaluate the performance of the properties managed by the Corporation, and thus the Corporation itself.

