

The Auditor-General
Audit Report No.48 2002–03
Performance Audit

Indigenous Land Corporation— Operations and Performance Follow-up Audit

**Department of Immigration and Multicultural
and Indigenous Affairs**

Australian National Audit Office

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of Australia 2003

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Canberra ACT
16 June 2003

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Department of Immigration and Multicultural and Indigenous Affairs in accordance with the authority contained in the *Auditor-General Act 1997*. I present the report of this audit, and the accompanying brochure, to the Parliament. The report is titled *Indigenous Land Corporation—Operations and Performance Follow-up Audit*.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. J. Barrett', is positioned above the printed name.

P. J. Barrett
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Abbreviations/Glossary

ANAO	Australian National Audit Office
ATSIC	Aboriginal and Torres Strait Islander Commission
ILC	Indigenous Land Corporation
PBS	Portfolio Budget Statements

Summary and Recommendations

Summary

Overview

1. In 2000, the Australian National Audit Office (ANAO) tabled Audit Report No.49 1999–2000, *Indigenous Land Corporation—operations and performance* (the 2000 audit). The 2000 audit made nine recommendations for improvement. This follow-up audit examined the Indigenous Land Corporation’s implementation of the recommendations in the 2000 audit.

Background

2. The Indigenous Land Corporation (ILC) is an independent statutory authority, established on 1 June 1995 by the *Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995*. The statutory purpose of the ILC is to ‘assist Aboriginal people and Torres Strait Islanders acquire land and manage Indigenous-held land so as to provide economic, environmental, social or cultural benefits.’ The legislation also established a Land Fund as a perpetual public trust account to provide funds for the ILC to carry out its land acquisition and land management functions.

3. The creation of the ILC and the Land Fund formed part of the then government’s response to the High Court’s 1992 Mabo decision.¹ The *Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995* (the ILC ACT) complements the *Native Title Act 1993*, by providing a mechanism for the acquisition of land for Indigenous people who could not benefit from recognition of Native Title (because having been dispossessed, they would be unable to demonstrate a continuing connection with the land). The primary aim of the ILC Act was to redress the dispossession of Aboriginal people and Torres Strait Islanders; rebuild an Indigenous land base; and maintain it for future generations.

4. The policy mechanisms enshrined in the legislation and implemented by the establishment of the ILC were, at the time, considered a fundamentally new approach because the statutorily guaranteed income stream for a Commonwealth statutory authority was unprecedented in Indigenous land acquisition and land management.²

5. The ILC is now in its eighth year of operation. On 18 September 2002, the

¹ The High Court’s decision in 1992 in *Mabo vs Queensland* first recognised native title as a unique form of Indigenous property right at common law, and acknowledged prior Indigenous ownership of land in Australia.

² Centre for Aboriginal Economic Policy Research, Discussion Paper, *The Indigenous Land Corporation: a new approach to land acquisition and land management?* No.169/1998, ANU, Canberra.

ILC Chairperson wrote to the Minister for Immigration and Multicultural and Indigenous Affairs advising changes to ILC objectives in its National Indigenous Land Strategy. In particular, the ILC advised that cultural significance was no longer the prime objective of the ILC Board, but one of four objectives, along with providing economic, environmental or social benefits. The ILC also advised that the concept of a representative land base had been removed. The ILC officially launched its new approach on 4 December 2002.

6. The objective of the 2000 audit was to form an opinion on the adequacy of the ILC's operations and performance in:

- assisting Aboriginal persons and Torres Strait Islanders to acquire land; and
- assisting Aboriginal persons and Torres Strait Islanders to manage Indigenous-held land;

so as to provide economic, environmental, social or cultural benefits for Aboriginal persons and Torres Strait Islanders.³

7. The 2000 audit found ILC procedures for land acquisition were more effective than for land management. Also, for both land acquisition and land management, inconsistencies in practices between ILC's three divisions provided less than adequate assurance that approved procedures were followed in all instances. The ILC had made significant progress in assisting Aboriginal persons and Torres Strait Islanders to acquire land. The ILC was also assisting Indigenous persons to manage Indigenous-held land. The ILC did not assess the benefits provided to Aboriginal persons and Torres Strait Islanders as a result of its activities, as required by the ILC Act.

8. A major unresolved issue at that time was determining responsibility for training Indigenous persons as directors of corporations established to manage the land, and in land management itself. In particular, the ANAO considered the ILC should establish a policy in respect of such training and the boundaries thereto. The ANAO found that operations and performance could be enhanced and made nine recommendations for improvement.

Follow-up audit approach

9. This audit focused on the ILC's implementation of the recommendations of the 2000 audit. The objective of this follow-up audit is to evaluate the action taken by the ILC in addressing the recommendations of the 2000 audit, taking account of any changed circumstances or new administrative issues identified as impacting on the implementation of these recommendations.

³ s.191B of the ILC Act.

Conclusion

10. The ILC has made progress in implementing the nine recommendations of the 2000 audit, with four recommendations implemented and five recommendations partially implemented. A more detailed summary of ILC progress in implementing the recommendations of the 2000 audit is provided below in Key Findings. The ANAO has made four recommendations in this audit to further enhance the ILC's operations and performance.

Key Findings

Performance Measures to Assess Statutory Compliance

2000 Audit Report Recommendation 1

11. The ANAO recommended that, to be able to ensure compliance with its statutory purposes, the ILC identifies a range of useful and reliable performance measures to assess its performance in providing economic, environmental, social or cultural benefits to Aboriginal people and Torres Strait Islanders by assisting them to acquire land and manage Indigenous-held land.

Status

12. The ILC has partially implemented this recommendation.

13. In this respect, the ILC has made progress towards identifying the benefits derived from its land acquisition and land management programs. The ANAO would consider this recommendation to be fully implemented when the ILC's:

- final operational plan performance measures take into account its new four stream approach; and
- these operational performance measures are relevant, accurate, timely, accessible, interpretable, coherent, clear and specific, and closely aligned with the ILC's outcome and outputs framework performance measures.

Planning Framework

2000 Audit Report Recommendation 2

14. The ANAO recommended that, to ensure the ILC Board had adequate information on which to formulate its policies and priorities, as well as to review and report on its performance, the Board determine its information requirements. This includes the need for accurate and up-to-date information from its databases, especially the land management database.

Status

15. The ILC has partially implemented this recommendation.

16. The ANAO found that progress has been made towards providing the ILC Board with adequate and accurate information on which to base its policies and priorities.

17. The ANAO considers that the ILC's new National Indigenous Land Strategy and Regional Indigenous Land Strategies, together with the new performance measures being developed, provide a trigger for the Board to re-evaluate its information needs.

18. The ANAO would consider this recommendation to be fully implemented when the ILC Board is receiving performance information based on the ILC's new performance management framework.

2000 Audit Report Recommendation 3

19. The ANAO recommended that, to ensure that its planning framework was clear to all stakeholders, the ILC review and revise its current plans to reflect those elements of sound planning relevant to it, including developing a risk management plan that identifies clearly the risks to the ILC performing its role, ranks them and identifies the way in which they can be effectively managed, including reducing their likely impact.

Status

20. The ILC implemented this recommendation.

21. Subsequent to ANAO fieldwork, the ILC provided the ANAO with a copy of its corporate risk management plan, which was endorsed by the ILC Board's Audit and Risk Management Committee on 7 May 2003.

22. The ILC publicly launched its revised 2001–2006 *National Indigenous Land Strategy*⁴ and a *Land Acquisition and Land Management Programs guide 2002–2006* at Parliament House on 4 December 2002.

23. The ANAO found these plans could be improved with the addition of an evaluation regime. This would assist the ILC to determine the extent to which it is achieving its legislative responsibility to provide economic, environmental, social or cultural benefits to Indigenous people.

Land Acquisition Procedures

2000 Audit Report Recommendation 4

24. The ANAO recommended that, to improve overall accountability, including transparency, the ILC ensure that it has sufficient documentation to show clearly that its land acquisition procedures have been followed.

Status

25. The ILC has partially implemented this recommendation.

⁴ 2001–2006 *National Indigenous Land Strategy*, revised October 2002, ILC December 2002.

26. An ILC internal audit undertaken in December 2000, to monitor compliance of its procedures with the ATSIC Act, demonstrated that in most instances the files examined did not contain the required National Native Title Tribunal register extract. This meant that it was not always possible to ascertain that a search had been conducted. The ILC subsequently issued as part of its *Policy and Practice* manual, a *Policy and Practice Note* to staff to address this requirement.

27. However, the ANAO found no evidence of a systematic quality assurance program to check that system components designed to achieve compliance were sufficient and were being used correctly. The ANAO considers the introduction of such a program to ascertain deficiencies and provide feedback on shortcomings and systematic failures would complement work already undertaken by the ILC to improve its procedures and processes. The ANAO also considers the ILC guidelines, combined with a systematic quality assurance program, would enable it to more completely address the original recommendation of ensuring that key documentation is on file, as well as broader quality management issues.

28. The ANAO would consider this recommendation to be fully implemented when the ILC complements its new guidelines relating to land acquisition and management programs, by introducing a systematic quality assurance program to ensure compliance with its land acquisition and land management procedures. This should be in accordance with relevant provisions of the *Aboriginal and Torres Strait Islander Commission Act 1989*.

2000 Audit Report Recommendation 5

29. The ANAO recommended that, as a matter of priority, the ILC complete the development of the *Policy and Practice* manual, and implement this across all divisions so that staff are informed of procedures to be followed.

Status

30. The ILC has implemented this recommendation.

Land Management Procedures

2000 Audit Report Recommendation 6

31. The ANAO recommended that, in order to have an up-to-date and clear policy which reflected the ILC's program objectives for land management, the ILC complete the review of its *First Land Management Policy 1997–99* and, subsequently, determine procedures for land management for the period from 1 January 2000, disseminating this information to stakeholders.

Status

32. The ILC has implemented this recommendation.

2000 Audit Report Recommendation 7

33. The ANAO recommended that the ILC work with other Commonwealth and state agencies to resolve the issue of responsibility for training Indigenous people as directors of corporations and land managers.

Status

34. The ILC has implemented this recommendation.

Performance Management Framework**2000 Audit Report Recommendation 8**

35. The ANAO recommended that the ILC provide the Board with adequate performance information to assist the Board to comply with its statutory responsibility to ensure the 'proper and efficient performance' of the Corporation, and to enable it to monitor its performance properly.

Status

36. The ILC has partially implemented this recommendation.

37. The ANAO would consider this recommendation to be fully implemented when the ILC has implemented its new performance measures and is reporting on them regularly to the Board.

2000 Audit Report Recommendation 9

38. The ANAO recommended that, as part of its performance management framework and accountability to stakeholders, the ILC develop a practical strategy to obtain the views of stakeholders on their level of satisfaction with the procedures for, and benefits resulting from, land acquisition and land management, and with the ILC's performance of its functions.

Status

39. The ILC has partially implemented this recommendation.

40. Although the ILC has gathered considerable feedback from its stakeholders, the ANAO found that the ILC has not developed a systematic approach to analysing and reporting publicly, for example in its Annual Report,

stakeholder views on the ILC's performance of its functions. The implementation of such a system would support transparency in the reporting of stakeholder feedback and allow for analysis of trends in ILC performance over time.

41. The ANAO would consider this recommendation to be fully implemented when the ILC establishes a systematic approach to analyse, and publicly report stakeholder feedback including trend analysis of stakeholder views of ILC performance over time.

Recommendations

The ANAO's recommendations arising from this report, with report paragraph references and the ILC's abbreviated responses, are set out below. More detailed responses are shown in the body of the report.

Recommendation No.1 The ANAO recommends that, to enhance performance measurement and reporting, the ILC:

Para 2.45

- ensure its final operational plan performance measures take into account its new four stream approach; are relevant, accurate, timely, accessible, interpretable, coherent, clear and specific; and are closely aligned with its outcome and outputs framework performance measures; and
- develop a structured approach to implementing the new performance measurement framework.

ILC response: Agreed.

Recommendation No.2 The ANAO recommends that the ILC develop an appropriate evaluation regime including stakeholder feedback to:

Para 3.43

- evaluate its assistance to Indigenous people in acquiring and managing Indigenous-held land so as to provide economic, environmental, social or cultural benefits; and
- use periodic evaluation to inform the ILC Board, the Parliament and other stakeholders about ILC programs and outcomes achieved.

ILC response: Agreed.

Recommendation No.3 The ANAO recommends that the ILC complements its new guidelines relating to land acquisition and management programs, by introducing a systematic quality assurance program to ensure compliance with its land acquisition and land management procedures and relevant provisions of the *Aboriginal and Torres Strait Islander Commission Act 1989*.

Para 4.17

ILC response: Agreed.

Recommendation No.4
Para 6.31 The ANAO recommends that to enhance transparency to stakeholders, the ILC systematically analyse and publicly report its stakeholder feedback, including trend analysis of stakeholder views of ILC performance over time.

ILC response: Agreed.

Audit Findings and Conclusions

1. Introduction

This chapter provides an overview of the Indigenous Land Corporation, overall findings and conclusions of the 2000 audit, the follow-up audit's objective and focus and the report structure.

Overview of the Indigenous Land Corporation

Establishment of the ILC

1.1 The Indigenous Land Corporation (ILC) is an independent statutory authority, established on 1 June 1995 by the *Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995* (The ILC Act).⁵ The statutory purpose of the ILC is to 'assist Aboriginal persons and Torres Strait Islanders acquire and manage Indigenous-held land so as to provide economic, environmental, social or cultural benefits.' The legislation also established a Land Fund as a perpetual public trust account to provide funds for the ILC to carry out its land acquisition and land management functions.

1.2 The creation of the ILC and the Land Fund (discussed below) formed part of the then government's response to the High Court's 1992 Mabo decision.⁶ The ILC Act complements the *Native Title Act 1993*, by providing a mechanism for the acquisition of land for Indigenous people who could not benefit from recognition of Native Title (because having been dispossessed, they would be unable to demonstrate a continuing connection with the land). The primary aim of the ILC Act was to redress the dispossession of Aboriginal people and Torres Strait Islanders; rebuild an Indigenous land base; and maintain it for future generations.

1.3 The policy mechanisms enshrined in the legislation and implemented by the establishment of the ILC were, at the time, considered a fundamentally new approach because the statutorily guaranteed income stream for a Commonwealth statutory authority was unprecedented in Indigenous land acquisition and land management.⁷

⁵ The *Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995* is part of the *Aboriginal and Torres Strait Islander Commission Act 1989* (the ATSIC Act).

⁶ The High Court's decision in 1992 in *Mabo vs Queensland* first recognised native title as a unique form of Indigenous property right at common law, and acknowledged prior Indigenous ownership of land in Australia.

⁷ Centre for Aboriginal Economic Policy Research, Discussion Paper, *The Indigenous Land Corporation: a new approach to land acquisition and land management?* No.169/1998, ANU, Canberra.

Commonwealth, state and other bodies, and legislative regimes

1.4 The ANAO notes that the ILC operates in a complex environment in which there are numerous Commonwealth, state, territory and other bodies that also have responsibilities for either acquiring or managing Indigenous land, or for related matters.

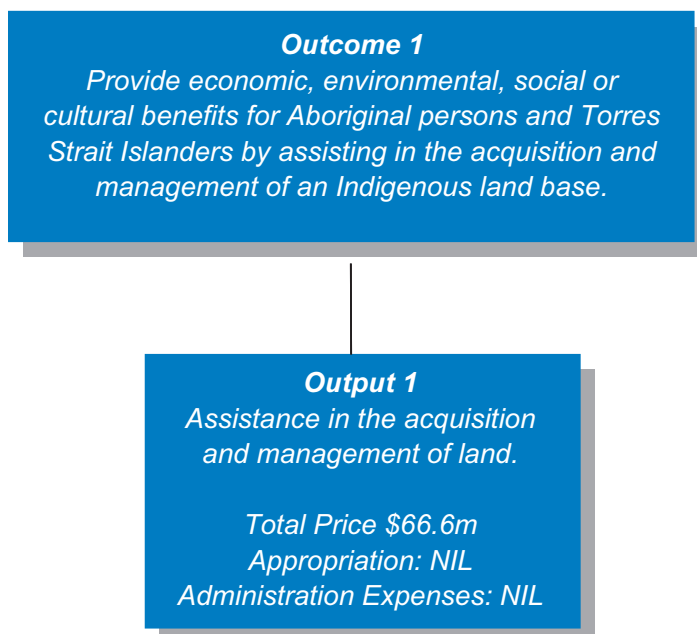
1.5 In addition to the ILC legislation, there are many other Commonwealth, state and territory Acts covering such broad areas as native title; sacred sites; national parks; leasehold, freehold and trusts; the environment; and mining and exploration. Different state legislative requirements also affect ILC land acquisition and divestment processes. This issue is addressed further in Appendix 1.

ILC outcome and output structure

1.6 Department of Finance and Administration (Finance) guidelines require agencies to state outcomes in terms of the impact sought or expected by government in a given policy arena. Outcome statements should reflect the Government's objectives and priorities. Outputs are the actual deliverables—goods and services—agencies produce to generate the desired outcomes specified by government.

1.7 Agencies need to ensure that outputs are aligned with outcomes in order to ensure that the production of specified goods and services will result in the achievement of desired outcomes.⁸ The ILC has a single outcome and output structure as shown in Figure 1.1: ILC outcome and output structure.

⁸ Australian National Audit Office Audit Report No.46 2000–01, *ATO Performance under the Outcomes and Outputs Framework*, pp. 29–30, Canberra.

Figure 1.1**ILC outcome and output structure**

Source: Portfolio Budget Statements, Immigration and Multicultural and Indigenous Affairs Portfolio, Indigenous Land Corporation, 2002–03, p. 215.

- Notes: (1) The total budgeted output price of \$66.6 million in the ILC Portfolio Budget Statements for 2002–03 comprises revenue from the Land Fund of \$53.6 million, grants of \$0.3 million, interest of \$1.9 million, change in market value of investments \$6.9 million and 'other' of \$3.9 million.
- (2) The ILC output price is dependent on the annual allocation from the Indigenous Land Fund and other revenue from independent sources.

Funding for the ILC

1.8 The ILC is funded from the Aboriginal and Torres Strait Islander Land Fund Reserve (the Land Fund).⁹ The Aboriginal and Torres Strait Islander Commission (ATSIC), under delegation from the Minister for Finance and Administration, administers the Fund. Since 1995, the Commonwealth has appropriated \$121 million annually (indexed to 1994 values) to the Land Fund.

1.9 The legislative scheme set out in the ATSIC Act requires approximately 66 per cent of the annual appropriation to be invested in building the capital base of the fund. The ILC can use the remaining 34 per cent of the annual appropriation for expenses including land acquisition, land management, administrative expenses or running costs.¹⁰ ILC actual income from the Land Fund in 2001–02 was \$52.6 million.

⁹ Formerly the Aboriginal and Torres Strait Islander Land Fund.

¹⁰ s. 193A to S. 193D of the ATSIC Act.

1.10 The ILC has considerable autonomy and flexibility in allocating income between administration, land purchase, land management and investment. It invests that part of its annual income from the Fund not spent on land acquisition and land management. Although the Land Fund is the major source of ILC funding, the ILC receives income from other sources including its investments.

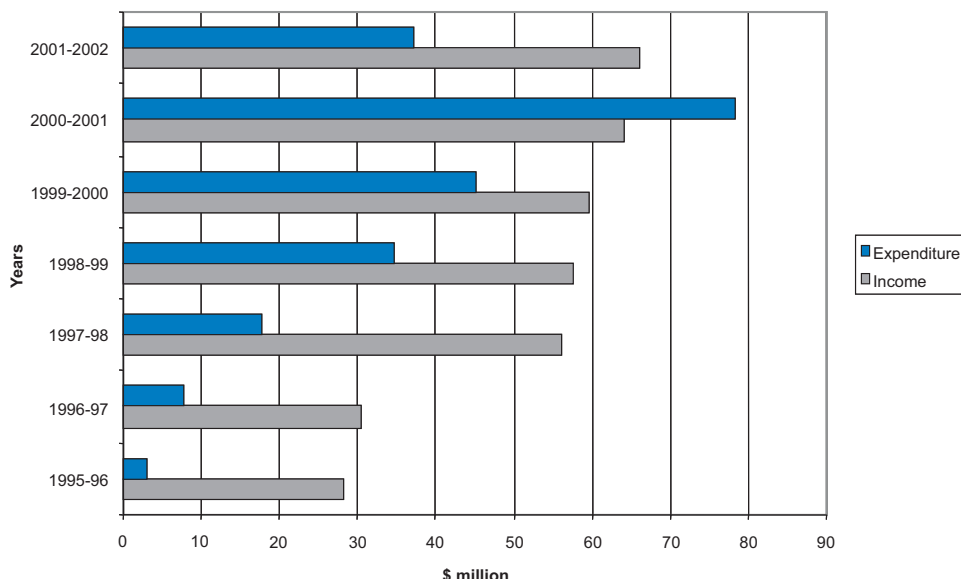
1.11 Total equity in the Land Fund at 30 June 2002 was \$1.095 billion, comprising financial assets of cash (\$64.040 million), receivables (\$7.175 million) and investments (\$1024 million).¹¹ The Government's objective is to reach a target of \$1106 million by 2004.¹²

1.12 It is intended that the Land Fund will always remain the property of the Commonwealth. Each year, from 2004, when government appropriations to the fund cease, the ILC will receive the realised real return on investments of the Fund in the previous year, making it a perpetual fund. This will be its only source of recurrent annual earning to comply with its statutory obligations.

1.13 Details of ILC income and expenditure for 1995–96 to 2001–02 (including on land) are shown below in Figure 1.2: ILC income and expenditure, 1995–96 to 2001–02. Although ILC expenditure (primarily relating to increased expenses associated with land transfer and a provision for land transfer) exceeded income for financial year 2000–01, it should be noted the Land Fund operates as a perpetual fund, as previously described.

¹¹ Indigenous Land Corporation, *Annual report 2001–02*, p. 114.

¹² *ibid.*, p. 14.

Figure 1.2**ILC income and expenditure, 1995–96 to 2001–02**

Source: Compiled by the ANAO from ILC data.

ILC management and organisation

1.14 A Board of Directors, appointed by the Minister for Immigration and Multicultural and Indigenous Affairs, governs the ILC.¹³ The ILC Board is responsible for ensuring the proper and efficient performance of the ILC and to determine the policy of the ILC.¹⁴ The *Commonwealth Authorities and Companies Act 1997*, requires the Board to report through the Minister for Immigration and Multicultural and Indigenous Affairs to the Commonwealth Parliament.

1.15 The ILC's head office is in Adelaide, with three divisional offices in:

- Adelaide, where the Central Divisional Office is responsible for operations in the Northern Territory, South Australia, Victoria and Tasmania;
- Perth, where the Western Divisional Office is responsible for operations in Western Australia; and
- Brisbane, where the Eastern Divisional Office is responsible for operations in Queensland (including the Torres Strait Islands) and New South Wales (including the ACT).

¹³ *Aboriginal and Torres Strait Islander Commission Act 1989*, s. 191X(1).

¹⁴ *Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995*, s. 191(W).

1.16 Since the 2000 audit, the ILC has undertaken a restructure, establishing the following three directorates:

- Land Policy and Capacity Building (primarily based in Adelaide) provides policy advice and support for divisional land acquisition and land management activities, coordination of service delivery with other agencies, and legal services to the ILC;
- Business Planning (located in Canberra) manages seven enterprises on behalf of the ILC, supports enterprise assessments and associated activities of the divisions, and assists divisions in delivering commercial land acquisitions and land management projects; and
- Special Projects (also based in Canberra) is responsible for an extension, education and training program that delivers management, operational and technical training to Indigenous landowners. This directorate also managed a stock-take and evaluation that assessed the outcomes achieved for almost all the properties purchased by the ILC to date. The stock-take and evaluation is discussed in Chapter 2: Performance Measures to Assess Statutory Compliance.

1.17 The ILC Board has appointed a General Manager to look after day-to-day administration. Operational and some financial responsibilities have been devolved, where deemed appropriate, to divisional offices and ILC subsidiaries. A divisional manager is responsible for managing each of the divisional offices. The offices were created to respond more readily to regional needs by drawing on regional experience and developing a cooperative relationship with regional organisations. At 30 June 2002, the ILC (not including subsidiaries) had 85 staff. Appendix 2 shows the ILC organisational structure.¹⁵

1.18 The ILC has the power to form subsidiaries to perform functions corresponding to ILC functions. Appendix 3 outlines the eight subsidiary companies established by the ILC.¹⁶

1.19 Once the ILC purchases land, it divests title to the land to Indigenous corporations, usually within three years. These corporations are not ILC subsidiaries. During the period in which the ILC holds the land, it generally enters into a lease agreement with the proposed title-holding body to facilitate the transition to effective Indigenous ownership. At 30 June 2002, the ILC had divested title in land to over 109 such corporations.¹⁷ ILC performance issues are discussed in Chapter 2: Performance Measures to Assess Statutory Compliance.

¹⁵ Indigenous Land Corporation, *Annual report 2001–02*, p. 62.

¹⁶ *ibid.*, p. 9. Commercial pastoral operations shown at Appendix 3 of this audit report are not ILC subsidiaries.

¹⁷ *ibid.*, p. 1.

Land acquisition and land management framework

1.20 The ILC Act provides a framework and associated powers for the ILC to conduct its land acquisition and land management functions.¹⁸ The ILC Act requires the ILC to prepare national and regional Indigenous land strategies—the National Indigenous Land Strategy and Regional Indigenous Land Strategies.¹⁹ These documents constitute the ILC’s primary policy documents and provide a framework for its operational activity. To support the policy documents, the ILC has developed guidelines containing more detailed information on its policies, operations and procedures. The ILC’s land acquisition and management framework is discussed in Chapter 4: Land Acquisition Procedures.

1.21 In relation to land acquisition, the ILC indicated in its first annual report that it would adopt a policy of giving priority to buying land of cultural significance; address specifically the land needs of historically displaced people; and give strong emphasis to obtaining the consent of traditional owners in all land-related matters in each region.

1.22 The ILC is now in its eighth year of operation. On 18 September 2002, the ILC Chairperson wrote to the Minister for Immigration and Multicultural and Indigenous Affairs advising of changes to ILC objectives in its National Indigenous Land Strategy. In particular, the ILC advised that cultural significance was no longer the prime objective of the ILC Board, but was one of four objectives, along with providing economic, environmental or social benefits. The ILC also advised that the concept of a representative land base had been removed. The ILC officially launched its new approach on 4 December 2002.

Governance environment

1.23 During this follow-up audit, the ILC General Manager advised the ANAO of circumstances at management and Board level it considered as having considerable bearing on its progress in implementing the recommendations contained in the 2000 audit report.²⁰

1.24 Specifically, the ILC General Manager referred to issues that existed between the ILC Chairperson and the ILC Board and administration over an extended period that were considered by the Parliamentary Committee on Native

¹⁸ The *Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995*, viewed 28 March 2003, < <http://scaleplus.law.gov.au/cgi-bin/download.pl?/scale/data/comact/8/4492>>, 1995.

¹⁹ The ILC Board has defined seven regions that follow state and territory borders (with the ACT being included in the New South Wales region).

²⁰ ILC, General Manager letter: ‘Background to the 1999/2000 Performance Audit’ of 31 October 2002.

Title and Aboriginal and Torres Strait Islander Land Fund.²¹ The ILC General Manager also made reference to the Skehill inquiry into the behaviour of ILC directors and to the former Chairperson's litigation.²²

1.25 The ANAO notes that a settled governance environment would have been more conducive to the successful implementation of corporate governance recommendations contained in the 2000 audit.

Overall findings and conclusions of the 2000 audit

1.26 Overall, the ANAO found that:

The ILC has developed appropriate procedures to implement the national and regional planning framework for land acquisition and management. However, the procedures for land acquisition are more effective than for land management. For both land acquisition and land management, inconsistencies in practices between ILC's three divisions provided less than adequate assurance that approved procedures were followed in all instances.

As regards performance—taking into account the complex legislative and operational environment in which the ILC is working—the ANAO considers that the ILC has made significant progress in assisting Aboriginal persons and Torres Strait Islanders to acquire land. The ILC is assisting indigenous persons to manage indigenous-held land, although progress has been slower in this latter task. The ILC does not assess the benefits provided to Aboriginal persons and Torres Strait Islanders as a result of its activities, as required by the ILC Act. The ANAO recognises the difficulty of determining adequate performance information, but suggests that this task might be made more manageable if the ILC were able to identify credible intermediate outcomes over the next year or so that might be more readily measurable.

A major unresolved issue is determining responsibility for training indigenous persons as directors of corporations established to manage the land, and in land management itself. In particular, the ILC should establish a policy in respect of such training and the boundaries thereto. Resolving this issue is likely to involve such other government agencies as the Department of Employment, Workplace Relations and Small Business, the Department of Education, Training and Youth Affairs, the Aboriginal and Torres Strait Islander Commission and the Australian National Training Authority.²³

²¹ Commonwealth of Australia, Official Committee Hansard, Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, Reference: Indigenous Land Corporation, *Annual report 1999–2000*, Monday, 21 May 2001, Canberra.

²² Mr Skehill prepared a report for the Minister in 2000, however it has not been released to the ILC.

²³ Australian National Audit Office Audit Report No.49 1999–2000, *Indigenous Land Corporation—operations and performance*, Canberra, p. 16.

Follow-up audit objective and focus

1.27 The ILC's governance framework remains integral to the success of the corporation's performance and operations, and sufficient time has passed to allow the ANAO to assess the ILC's implementation of the recommendations from the 2000 audit.

1.28 This current audit focussed on the ILC's implementation of the recommendations of the 2000 audit. The objective of this follow-up audit is to evaluate the action taken by the ILC in addressing the recommendations of the 2000 audit, taking account of any changed circumstances or new administrative issues identified as impacting on the implementation of these recommendations.

Audit methodology

1.29 The ILC provided a written brief updating the ANAO on progress made towards implementing the recommendations contained in the 2000 audit.

1.30 The ANAO also conducted fieldwork at the ILC's head office in Adelaide and the Brisbane and Canberra divisional offices from September-November 2002. This included:

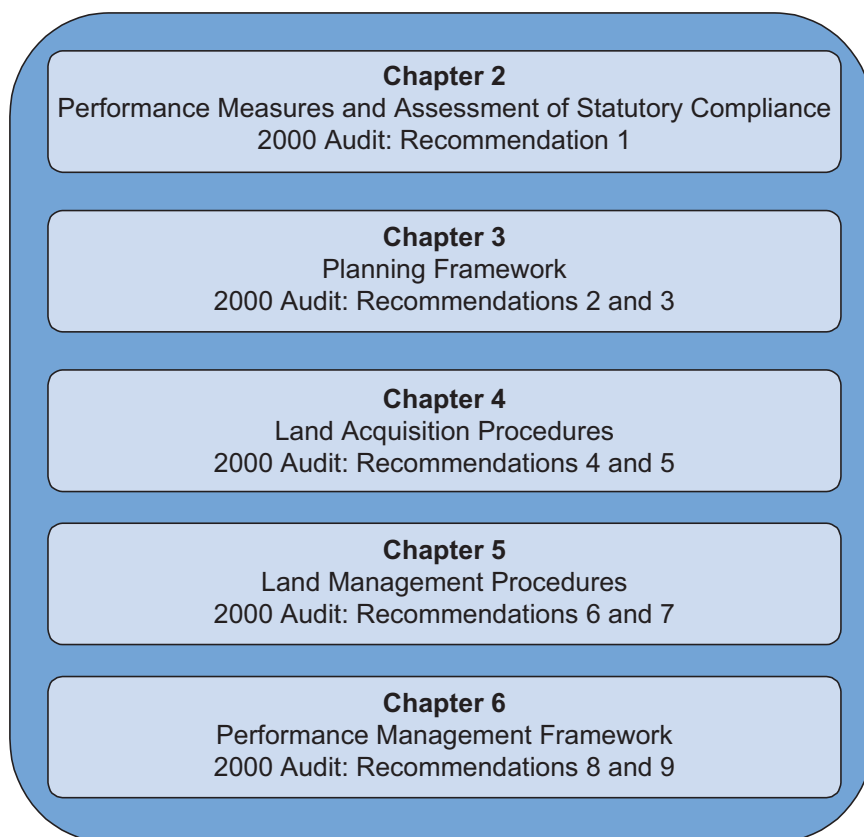
- an examination of key ILC documents, databases and files; and
- interviews with key ILC personnel.

1.31 The ANAO engaged the firm WalterTurnbull to provide assistance to the audit team. The follow-up audit was conducted in conformance with ANAO auditing standards and cost approximately \$196 000.

Report structure

1.32 The report is organised into six chapters. Chapter 1 provides an overview plus the audit report's summary and recommendations. The remaining chapters are structured as illustrated in Figure 1.3.

Figure 1.3
Report structure



2. Performance Measures to Assess Statutory Compliance

This chapter considers the implementation of the recommendations from the 2000 audit that focused on statutory compliance. The ANAO concluded that Recommendation 1 has been partially implemented.

Compliance with statutory obligations (Recommendation 1)

Findings of the 2000 audit

2.1 Although the ILC did not have targets for its land acquisition and land management activities, the ILC could demonstrate adequately that it was complying with its statutory requirement to assist Aboriginal people and Torres Strait Islanders acquire land and manage Indigenous-held land. Between November 1996, the time of its first purchase, and 31 December 1999, the ILC acquired 112 properties (about 4.5 million hectares) on behalf of Indigenous people for a total purchase price of about \$103 million. Title to 54 properties had been transferred to Aboriginal corporations, meeting the needs of some 15 600 beneficiaries. In the same period, in addition to indirect assistance and advice, the ILC had also funded some 51 land management activities.

2.2 Despite this, the ILC had not yet established measures to assess its performance against its statutory purposes, namely, to assist Aboriginal people and Torres Strait Islanders to acquire land so as to provide economic, environmental, social or cultural benefits for them. The ANAO recognised the difficulty of measuring these benefits, and made a number of suggestions to the ILC in this regard.

2.3 The ILC was making significant efforts to comply with the other key aspects of its enabling legislation examined during the audit. It had complied fully with its statutory obligation to develop national and regional Indigenous land strategies and to make available any guidelines produced.

2000 Audit Report Recommendation 1

2.4 The ANAO recommended that, to be able to ensure compliance with its statutory purposes, the ILC identifies a range of useful and reliable performance measures to assess its performance in providing economic, environmental, social or cultural benefits to Aboriginal people and Torres Strait Islanders by assisting them to acquire land and manage Indigenous-held land.

ILC response

2.5 Agreed. The ILC accepted the need to develop useful and reliable performance measures to demonstrate compliance with its statutory purposes. To develop these and other mechanisms, the ILC was devoting resources to establishing a work cell specifically charged with instituting monitoring, evaluation and reporting regimes for ILC functions and activities. The ILC Board had also asked for a review of one particular project, Coranderrk, specifically to assess benefits.

Findings of this audit

Introduction

2.6 Details of the ILC's land acquisitions and divestments functions to 30 June 2002 are shown below in Table 2.1.

Table 2.1

ILC land approvals, purchases and divestments to 30 June 2002

ILC region	Total properties approved for purchase	Total properties settled	Total hectares	Total properties divested
NSW	47	38	188 084	29
NT	21	10	1 308 330	7
QLD	41	29	3 445	22
SA	47	23	55 081	17
TAS	8	4	838 998	0
VIC	34	22	621 593	18
WA	49	26	2 301 586	14
Total	247	152	5 317 117	107

Source: Indigenous Land Corporation, *Annual Report 2001–2002*, p. 24.

2.7 During the audit, the ILC provided an example of a property previously acquired by it and subsequently divested to an Indigenous community, the applicable financial arrangements, ILC monitoring of business performance and benefits to Indigenous people. The case study provided by the ILC, is shown at Appendix 4: Boona Pastoral Company.

ILC progress in measuring performance

2.8 The ILC has made progress towards identifying the benefits derived from its land acquisition and land management programs. This has been achieved largely through ILC activities in three key areas, namely:

- conducting a stock-take and evaluation of ILC acquired properties to assist in determining benefits derived by Indigenous people;

- the ILC refocus to a four program structure to improve alignment with and measurement of benefits described in its legislation; and
- developing an operational plan (including performance measures) to support performance reporting against the ILC outcome and output framework.

These key areas are discussed in detail below.

Stock-take and evaluation of ILC properties

2.9 The use of land for social and cultural benefits is consistent with the statutory purpose of the ILC to 'assist Aboriginal persons and Torres Strait Islanders acquire and manage Indigenous-held land so as to provide economic, environmental, social or cultural benefits.'

2.10 Over the past two years the ILC conducted a stock-take and evaluation of 146 properties it had acquired. The aim of the stock-take and evaluation was to obtain evidence and a clearer understanding of the direct (social and cultural) benefits delivered to Indigenous people through ILC programs. The stock-take and evaluation focused on social and cultural benefits delivered to Indigenous people because, until recently, the ILC has primarily focused on purchasing land for social or cultural purposes.

2.11 The ILC considers social and cultural use may often only be recreational, for example, for fishing, hunting or camping. Social programs established include employment, youth and environmental programs. The stock-take and evaluation identified the level of actual social and cultural use of properties surveyed, although in some cases only anecdotal evidence was available to the ILC. Results of ILC efforts to determine the direct (social and cultural) benefits delivered to Indigenous people through ILC programs are shown in Table 2.2.

Table 2.2**Social and cultural use of surveyed ILC-acquired properties**

State ¹	Evidence of social use ²	Evidence of social programs ³	Evidence of cultural use ⁴	Evidence of cultural sites ⁵
NSW	26	16	19	25
NT	5	2	4	5
QLD	12	10	17	17
SA	13	9	8	13
TAS	2	1	2	2
VIC	16	8	11	16
WA	17	6	18	9
National total	91 (62%)	52 (36%)	79 (54%)	87 (60%)

Source: ILC

- Notes:
1. States included in stock-take survey.
 2. Indicates number of properties where social use occurred, for example, recreational use, hunting.
 3. Indicates number of properties where social programs existed, for example, employment or youth programs.
 4. Indicates number of properties where evidence of cultural use existed, for example, where the land has significance for Indigenous customs, laws or traditions.
 5. Indicates number of properties where evidence of cultural sites existed.
 6. Columns are not mutually exclusive so the percentages are a proportion of the total number of properties.

2.12 ILC evaluation of the stock-take is that the level of social and cultural use is quite high. One of the difficulties the ILC noted in measuring social and cultural benefits was that a group's aspirations may change over time. As shown in Table 2.3, the stock-take and evaluation found that 52 per cent of the groups surveyed had changed their aspirations since their initial application for acquiring land had been assessed.

Table 2.3**Changes in aspirations¹ for properties**

State ²	Total properties ³	Same aspiration ⁴	Changed aspiration ⁵
NSW	36	16	20
NT	10	6	4
QLD	26	13	13
SA	23	12	11
TAS	3	2	1
VIC	22	10	12
WA	26	11	15
National total	146	70 (48%)	76 (52%)

Source: ILC

- Notes:
1. 'Aspirations' refers to the reason for the land acquisition. This table outlines the portion of land acquisitions where the reason for the acquisition (intended benefit) changed after the acquisition.
 2. States included in stock-take survey.
 3. Indicates total number of properties surveyed.
 4. Indicates number of properties where the original aspiration for property purchase remained the same.
 5. Indicates number of properties where the original aspiration for property purchase changed.
 6. Indicates different aspirations (from column (5)), expressed as a percentage of total properties surveyed.

2.13 The ILC concluded that, based on land acquisition applications received leading up to the stock-take and on stock-take and evaluation results, some Indigenous communities perceived that land acquisition proposals for social and cultural purposes would be more likely to succeed than proposals associated with other legitimate benefits, for example, environmental and economic benefits. The ILC considered that this perception probably contributed to the high number of land acquisition applications for social and cultural reasons.

ILC refocus to a four program structure

2.14 Since the 2000 audit, to assist in managing the transparency and accountability of reasons for property acquisition, the ILC has changed its original program focus from a primary emphasis on socially and culturally important acquisitions to a four program approach. This provides a more equal emphasis on economic, environmental, social and cultural benefits, although priority must be given to social and cultural benefits.²⁴

²⁴ *Aboriginal and Torres Strait Islander Commission Act 1989*, subsection 191F (2) (aa).

2.15 The operation of the four program approach requires applicants to identify the benefits they are attempting to achieve at the outset, so that the ILC can examine the feasibility of addressing them through one of the four identified program streams. The stock-take was a key step in the ILC revising its approach.

2.16 The ANAO considers the ILC refocus to a new four program approach is pivotal to the development of its operational plan and, consequently, the associated performance measures.

2.17 In establishing the suitability of ILC performance measures, the ANAO examined the performance measures in the ILC outcomes and outputs framework and its draft operational plan. The ANAO considers that establishing appropriate performance measures contributes to more effective internal accountability and good management. Such measures support an agency by augmenting its ability to plan, adjust strategies, and deal with problems in a timely manner.

2.18 The ANAO has previously identified better practice in developing performance measures based on a methodology developed with the Australian Bureau of Statistics using the work of Statistics Canada. Performance measures can be assessed against the following quality framework:²⁵

- relevance (ensuring measurement of what users are interested in);
- accuracy (measuring accurately what the agency sets out to measure);
- timeliness (ensuring information is available within acceptable time periods);
- accessibility (ensuring information is available to users through delivery mechanisms they can use and in formats that suit them);
- interpretability (ensuring that users can understand the information provided and use it appropriately);
- coherence (ensuring that the information can be validly used in combination with other sources of information). Performance measures should be consistent in the concepts and definitions they refer to. This can be achieved by using data dictionaries, classifications and standards;
- clarity (ensuring that simple language is used to assist users to understand what is being measured); and
- specificity (identifying agency stakeholders or groups of stakeholders that receive the product or service being measured or assessed).

²⁵ Australian National Audit Office Audit Report No.46, 2000–01, *ATO Performance Reporting under the Outcomes and Outputs Framework*, pp. 63–64.

2.19 Performance measures need to be regularly reviewed and updated to ensure optimum performance reporting. The ANAO assessed ILC performance measures against elements of the aforementioned quality framework.

ILC outcome and output framework and operational planning

ILC outcome performance measures

2.20 The two current outcome measures stated in the ILC's Portfolio Budget Statements (PBS) for 2002–03 are:

- effectively utilise ILC resources and legislative powers to maximise land outcomes for Indigenous people; and
- encourage and facilitate use of external resources by Indigenous people to satisfy land acquisition and management needs.

2.21 The ANAO considers that these two measures provide insufficient performance information about the impact of ILC activities on its stated outcome to: 'Provide economic, environmental, social or cultural benefits for Aboriginal persons and Torres Strait Islanders by assisting in the acquisition and management of an Indigenous land base.' For example, effectively utilising resources (internal and external) and legislative powers gives no dimension to the outcome in terms of the benefits target groups receive.

2.22 The ANAO considers that the ILC could improve its outcome reporting by developing effectiveness performance measures that report on quantitative and qualitative analysis of the benefits achieved through agreements with Indigenous people. Reporting on the aforementioned analysis, combined with structured stakeholder feedback, would provide for more informed decision-making about program operations and the achievement of targets. It would also provide accountability to Parliament and other stakeholders for outcomes achieved. Reporting feedback and analysis of benefits along the lines of the new four program approach would further enhance the value of the available information. In this context, the ANAO also notes the 2000 audit recommended the ILC develop a practical strategy for seeking stakeholder feedback.

2.23 The ILC advised the ANAO that it would consider the value of developing and using structured client surveys as an aid to assessing benefits delivered by ILC programs. The ILC also advised that it considers the advantages of systematically gathering information on client perceptions of benefits obtained through ILC programs may be less useful than objective in-house or third-party assessments. That is, given that most ILC stakeholders have come from a position of dispossession, there is often considerable continuing dissatisfaction with access to government services and programs that the provision of a block of land alone will not address.

2.24 The ILC indicated some concerns about obtaining client feedback. This included that, as secure tenure over land is a prerequisite for many Indigenous funding programs, there is usually a time lag (sometimes of several years) from ILC acquisition of land to the point where stakeholders can obtain desired access to the funding programs of other agencies. Consequently, the ILC considers that many stakeholders could quite justifiably continue to be dissatisfied with what they see as the limited range of services provided in the early years of land ownership and may attribute this to the ILC's failure to provide an all-encompassing package of assistance. The ILC considers the provision of an all-encompassing package of assistance is simply not possible in terms of the provisions of the ATSIC Act.²⁶

2.25 The ANAO notes the issues raised by the ILC relating to stakeholder feedback and considers there is merit in objective in-house or third-party assessments. The ANAO also considers the ILC would most effectively garner useful stakeholder feedback by making it clear that it was seeking feedback on benefits obtained through the provision of ILC services only. To assist in ensuring the integrity of the data collected, the ILC could confirm with stakeholders the services the ILC provides, prior to seeking stakeholder feedback.

ILC output performance measures

2.26 The ANAO found that a weakness in the ILC performance framework was a general lack of performance targets set for the delivery of outputs. Targets for performance would assist the ILC to monitor its progress towards meeting output commitments set out in the PBS.

2.27 The ANAO found that some of the ILC output performance measures would be improved with further refinement, for example:

- ILC quantity measure: *Progressive acquisition of land to redress dispossession over time*, does not indicate any quantum of land to be purchased by the ILC within any timeframe. Rather, the measure is open ended in terms of quantity and time. The measure does not give any indication or target of what constitutes strong performance; and
- ILC quality measure: *Measurable improvements in income environment and community well being*, reflects that measurable improvement is sought. However, it does not specify how this will be measured or the degree of improvement sought.

²⁶ ATSIC Act, section 191F(3) provides that the functions conferred on the ILC by the Act are in addition to, and not instead of, any functions conferred on a person or body under any other law of the Commonwealth; or a law of a State or Territory.

Operational planning

2.28 The ANAO recognises that ILC performance measures at the operational level are ‘work in progress’, compared with the current outcome and output framework measures. The ANAO considers it is important that performance measures used to assess the success of operational plans are clearly linked to PBS performance information contained in an agency’s annual report. Without such a link it is difficult for an agency to measure its performance at the operational level and aggregate this information upwards to report its performance against delivery of its departmental outputs.

2.29 Since mid-2000, the ILC has conducted a series of workshops involving ILC staff at various levels to develop its 2001–2006 *National Indigenous Land Strategy* operational plan. The ILC has adopted a downward cascading approach to developing this operational plan including linkage of its vision, purpose, core values, and critical success factors, including critical success factor ‘owners’.

2.30 During this follow-up audit, the ILC provided evidence to the ANAO that ILC divisions, directorates and units were preparing operational plans to be cascaded to the work group level by the end of October 2002. Subsequent to ANAO fieldwork, the ILC advised that:

- draft ILC divisional, directorate and unit operational plans had been reviewed;
- it had engaged a consultant to assist with the development and review of these operational plans to determine gaps, cascading structure, overlapping of plans and gaps between plans; and
- it had held a workshop for all divisional, directorate and unit managers to discuss the review, identify outstanding issues and ensure national consistency between the plans.

2.31 The ANAO found that the ILC is developing performance measures for its operational plan. However, the lack of a clear link to the ILC’s outcome and outputs framework is limiting the clear alignment of the framework and, therefore, potentially the quality of the measures.

2.32 The ANAO also identified the following improvements could be made to the draft performance measures provided by the ILC during the audit, relating to its operational plan:

- the language used in the draft operational plan against some critical success factor performance measures could be improved. The method of measuring and the measure of success need to be separated to ensure clarity for users of the information. For example, the performance measure: ‘A staff satisfaction survey is designed and implemented annually’ has more to do with a method of measuring than being an actual measure of success;

- the performance measure of delivering sustainable benefits is incomplete, as it does not explicitly include the view of the key recipients of the benefits (as recommended in the 2000 audit);
- the draft performance measures do not enable the ILC to ascertain the success of implementing its new four program approach; and
- the absence of service level performance and efficiency measures.

2.33 The ILC advised the ANAO that, as a final phase in its operational planning, the ILC will review its draft performance measures to ensure they are aligned with the PBS outcome measures. The ILC also provided assurance its performance measures will be reviewed to ensure they are clearly measurable.

2.34 The ANAO understands that the ILC intends to commence reporting performance information to the ILC Board once the operational plans are finalised by June 2003. The performance information reported to the ILC Board would provide a basis for aggregation and subsequent reporting to Parliament.

Administration of the Aboriginal and Torres Strait Islander Commission Act 1989—ILC statutory compliance

2.35 The ILC Act is part of the ATSIC Act . To effectively administer parts of the ATSIC Act, it is imperative the ILC has a clear understanding of the requirements of the Act.

2.36 During audit fieldwork, the ILC advised of a number of areas of the ATSIC Act it has found difficult to interpret for administrative purposes. ILC examples of such instances are provided below:

- The ILC does not have express power to apply conditions to a grant of land, only 'implicit power'. There is uncertainty over what conditions may apply to a grant of land and whether they will be enforceable in the event of a breach.
- There is no definition of 'controlling interest' in the ATSIC Act. It is left uncertain as to whether the ILC may make a grant of land to certain corporations that have non Indigenous members.
- There is an absence of express power permitting the ILC to grant chattels in relation to land acquired for the purpose of grant. The ILC considers it preferable to have such a power and be able to impose conditions on a grant of chattels both under the land acquisition and land management functions.

2.37 The ILC has sought advice from the Australian Government Solicitor on a number of occasions over recent years relating to the clarity of various sections of the ATSIC Act. For instance, advice provided by the Attorney-General's Department relating to the issue of the granting of chattels in relation to land acquired for the purpose of grant included, among other things:

On balance, I think the arguments in favour of the ILC having the power to grant chattels in relation to land acquired for the purpose of grant to Aboriginal persons and Torres Strait Islanders, outweigh those against. However, there are sufficient doubts to justify attention to this issue in any future amendments to the Act.²⁷

2.38 The ANAO concluded that the ILC might need to develop legislative options for government consideration regarding sections of the ATSIC Act the ILC considers to lack clarity for administrative purposes.

Conclusion

2.39 The ILC has undertaken significant work in seeking to identify the benefits derived from its land acquisition and land management programs by conducting a stock-take and by undertaking work to develop an operational plan.

2.40 The two outcome measures stated in the ILC's PBS provide insufficient information about the impact of ILC activities on its stated outcome. The quality of performance information could be improved by reporting quantitative and qualitative analysis of benefits achieved along the lines of the ILC's new four program approach and also stakeholder feedback.

2.41 ILC output measures could be improved, for example, in relation to their relevance and completeness. The ILC would benefit by clearly linking its national operational plan (and their supporting performance measures) to its PBS performance information.

2.42 The ANAO considers the ILC's new four program approach is pivotal to the development of the operational plan. In developing its operational plan and associated performance measures, the ILC needs to focus on clarity, specificity, completeness and the issue of targets.

2.43 The ILC has sought advice from the Attorney-General's Department relating to the interpretation and administration of certain areas of the ATSIC Act. The ANAO suggests the ILC may need to develop legislative options for Government consideration regarding sections of the ATSIC Act the ILC considers to lack clarity.

2.44 The ILC has partially implemented Recommendation 1.

²⁷ Attorney-General's Department, Office of General Counsel letter: 'Purchase and grant of chattels by Indigenous Land Corporation' of 1 March 1996.

Recommendation No.1

2.45 The ANAO recommends that, to enhance performance measurement and reporting, the ILC:

- ensure its final operational plan performance measures take into account its new four stream approach; are relevant, accurate, timely, accessible, interpretable, coherent, clear and specific; and are closely aligned with its outcome and outputs framework performance measures; and
- develop a structured approach to implementing the new performance measurement framework.

ILC response

2.46 The ILC agrees with this recommendation. The ILC has adapted its outcome measures in the 2003–2004 Portfolio Budget Statement (PBS) to include quantitative and qualitative benchmarks. The ILC's draft corporate plan has been framed around an extensive set of performance measures that reflect the PBS benchmarks. All ILC business units have prepared performance-linked operational plans. The ILC corporate and operational plans are in the final stages of revision and will take effect at the commencement of the 2003–2004 financial year. The implementation of the corporate plan will be reviewed annually to determine progress against performance measures. Operational plans will be reviewed biannually.

3. Planning Framework

This chapter considers the ILC's implementation of the recommendations in the 2000 audit relating to ILC Board information requirements and ILC internal planning. It also reports on the launch of the ILC's recently revised National Indigenous Land Strategy and Regional Indigenous Land Strategies. The ANAO concluded that Recommendation 2 has been implemented and that Recommendation 3 has been partially implemented.

ILC Board information requirements (Recommendation 2)

Findings of the 2000 audit

3.1 The databases the ILC used were key management tools that should provide a useful basis for planning, decision-making and monitoring and reporting performance. All ILC databases had some data accuracy and report generating limitations that reduced their effectiveness in monitoring performance.

2000 Audit Report Recommendation 2

3.2 The ANAO recommended that, to ensure the ILC Board had adequate information on which to formulate its policies and priorities, as well as to review and report on its performance, the Board determined its information requirements, including the need for accurate and up-to-date information from its databases, especially the land management database.

ILC response

3.3 Agreed.

Findings of this audit

Adequacy of information

3.4 The ILC is in the process of developing a new performance management framework. The ANAO found that the ILC has made progress towards providing the ILC Board with adequate and accurate information on which to base its policies and priorities. Reports are tailored to meet the requirements of the Board and information is provided in response to ad hoc requests.

3.5 In addition, the General Manager receives comprehensive monthly reports on each divisional office and business unit. The ANAO found the monthly reports

to be consistent in approach and format, thereby facilitating comparison where appropriate.

3.6 Reports from business units include information on any significant issues arising during the month and an update on current projects. Board members can receive these reports upon request, with only two Board members requesting this additional information to date. The ANAO considers the new National Indigenous Land Strategy and the seven Regional Indigenous Land Strategies together with the new performance measures being developed, provide a trigger for the Board to re evaluate its information needs.

Accuracy of information provided to the Board

3.7 The databases the ILC uses are key management tools. Such tools should provide a useful basis for planning, decision-making and monitoring and reporting of performance. Accurate and up-to-date information enhances the governance framework, better placing the ILC to make informed decisions.

3.8 The ILC has employed the following strategies to improve data integrity:

- scrutiny of ILC data by ILC committees prior to submission for Board consideration;
- integration of the ILC land needs database, the land management database and the mail list database into a new ILC property information system known as the Property Acquisition and Management System; and
- a proposal to undertake an annual data integrity testing routine on data input into the Property Acquisition and Management System from non-ILC sources, by randomly verifying a small percentage of the data.

These strategies are discussed in more detail below.

Scrutiny of ILC data by ILC committees

3.9 During fieldwork, interviews with ILC staff revealed that the accuracy of the information provided to the ILC Board is partly regulated by committees supporting the Board, for example, the Audit and Risk Management Committee's scrutiny of the finance report.

3.10 By adopting this approach, the ANAO considers the ILC is reducing the risk of the Board receiving poor quality data in reports submitted through ILC committees. The usage of poor data by the Board would have an adverse impact on its decision making capability.

Integration of ILC databases and data integrity testing

3.11 The 2000 audit raised concerns over the accuracy of ILC databases. Since the audit, the ILC has been improving database accuracy by integrating key databases into a single business system. The ILC anticipates that this will provide a seamless approach to financial, physical and other data capture relating to each property the ILC acquires.

3.12 The new ILC Property Acquisition and Management System provides information about properties in general, land acquisition projects, land management projects, project financial information, organisations and a mapping interface. At the time of this follow-up audit, the ILC had finished integrating the databases and had deployed the new property information system.

3.13 The ILC advised the ANAO that land acquisition and land management reports, including those to the Board, will be prepared using standard word processing methods, but information included in the reports will be recorded by the new Property Acquisition and Management System and will be easily retrieved. At the time of this audit the Board had not yet been provided with reports from the new system. As previously mentioned, this may be an opportune time for the Board to consider its information needs.

Data integrity

3.14 During fieldwork, the ILC advised that the data quality in the Property Acquisition and Management System is an improvement on its previous geographic information. However, ILC research on Indigenous land tenure indicates it is impossible to reach 100 per cent data completeness. This occurs for many reasons, such as the wide definition of Indigenous land in the ATSIC Act and a tendency for some stakeholders to withhold information.

3.15 Also, much of the data in the Property Acquisition and Management System has been purchased from the 'data custodians' who have methodologies for verifying the data integrity. For example, land title search data is obtained from various state government bodies responsible for land title information and the ILC must rely on these bodies to supply accurate data. The ANAO found that the externally sourced data for the ILC's new system is in 'maintenance mode'. That is, it will generally not be renewed frequently because of the high costs involved, but will be improved when the ILC becomes aware of more accurate information. The ILC considers this maintenance plan will meet ILC requirements for external data for several years. The ANAO considers the ILC approach to renewal of externally sourced data to be a cost effective approach, adequately dealing with the data integrity risks involved.

3.16 The ILC also advised that it is proposing to undertake an annual data integrity testing routine on data input to the Property Acquisition and Management System by randomly verifying a small percentage of the data. The first test is planned for six months after the launch of system and will involve examining files to verify ILC data in the system.

3.17 The ANAO notes that, although the ILC is taking action to improve its systems data integrity, this is only one component in providing the ILC Board with useful information for decision-making purposes.

Conclusion

3.18 The ILC has made progress towards providing the ILC Board with adequate and accurate information on which to base its policies and priorities. Reports are tailored to meet the requirements of the Board and information is provided in response to ad hoc requests. In addition, the General Manager receives comprehensive monthly reports on each divisional office and business unit. The monthly reports are consistent in approach and format, thereby facilitating comparison where appropriate. However, the ILC is in the process of developing a new performance management framework designed to improve performance information reported to the Board. The ANAO considers that the ILC's new National Indigenous Land Strategy and Regional Indigenous Land Strategies, together with the new performance measures being developed, provide a trigger for the Board to re evaluate its information needs.

3.19 The ILC has partially implemented Recommendation 2. The ANAO would consider this recommendation to be fully implemented when the ILC Board is receiving performance information based on the ILC's new performance management framework.

Internal planning framework (Recommendation 3)

Findings of the 2000 audit

Although the ILC is not required to develop a corporate plan, it had done so.²⁸ Two of its three divisions had operational plans; the third did not.²⁹ Nor was there a consolidated and strategic risk management plan. There were limitations, therefore, in the ILC internal planning framework, which potentially limit its effectiveness.

²⁸ *The Commonwealth Authorities and Companies Act 1997*—No.153 of 1997 requires a Government Business Enterprise to have a Corporate Plan but is silent relating to an Authority.

²⁹ The central and eastern divisional offices had operational plans in place, the western divisional office did not.

2000 Audit Report Recommendation 3

3.20 The ANAO recommended that, to ensure that its planning framework was clear to all stakeholders, the ILC review and revise its current plans to reflect those elements of sound planning relevant to it, including developing a risk management plan that identifies clearly the risks to the ILC performing its role, ranks them and identifies the way in which they can be effectively managed, including reducing their likely impact.

ILC response

3.21 Agreed.

Findings of this audit

Introduction

3.22 The 2000 audit examined the internal planning framework to establish whether the ILC had an effective planning framework for its land acquisition and land management functions. Internal planning examined by the ANAO below includes the ILC's:

- Risk management;
- Corporate plan; and
- Operational planning.

ILC Risk management

3.23 The ILC wrote to the ANAO in June 2001³⁰ advising that it was working towards developing and implementing a corporate risk management plan. It also advised that the ILC Board had adopted a risk management policy detailing the aims and objectives of its risk management program and the responsibilities of management and staff. However, at the time of the audit, the risk management plan had not been developed.

3.24 Subsequent to audit fieldwork, the ILC provided the ANAO with a copy of its corporate risk management plan, which was endorsed by the ILC Board's Audit and Risk Management Committee on 7 May 2003.

³⁰ ILC letter from RG Haebich, 22 June 2001.

3.25 Also, subsequent to audit fieldwork, the ILC advised the ANAO that the ILC:

- risk management plan is supported by a detailed action plan;
- has established an internal risk management steering committee to oversee implementation of the plan;
- has also engaged an internal audit consultant and a three-year Internal Audit Plan, based on a global risk assessment, is being implemented;
- intends to prepare subsidiary risk management plans for the four new program streams; and
- has an ILC Commercial Business Risk Management Plan for ILC commercial pastoral operations is at an advanced stage of drafting. The subsidiary risk management plans will also be underpinned by action plans.

ILC corporate plan

3.26 An effective corporate plan outlines the vision and values of an agency and describes the strategies against which it will measure its performance. An organisation needs to constantly review not only its achievements in relation to the corporate plan challenges, but also the ongoing relevance of the plan's various elements. In these ways the corporate plan is a living document directly related to the circumstances and demands of the time.

3.27 The ANAO found the ILC had a corporate plan for 1997–2001. However, the ILC advised that the plan had not been formally reviewed or evaluated since its inception and had now expired. The ILC also explained that it intended to develop a new corporate plan as a distillation of the most significant national elements of its current operational planning process. A workshop conducted in early December 2002, which looked at national consistency issues, was a move towards this end.

3.28 The ANAO suggests that the corporation agree with the ILC Board on clear deliverables, timeframes and processes for revising the corporate plan.

ILC Operational planning

3.29 Operational plans (developed at the work group level) should identify the products and/or services to be delivered, the resources required and performance measures against which the work group can assess the level of its performance in delivering its products and/or services.

3.30 At the time of the audit, the ILC was developing a 2001–2006 *National Indigenous Land Strategy* operational plan that details critical success factors,

performance measures and resources responsible for implementation and ongoing monitoring. The ANAO recognises that ILC performance measures are 'work in progress' and considers the ILC's new four program approach is pivotal to the development of the operational plan. The ILC intends to finalise and implement this plan by June 2003.

3.31 As part of the operational planning process, the ILC is also developing divisional office and business unit operational plans. The purpose of these plans is to identify critical success factors and performance measures at the work group level. The ILC advised that these plans would also be finalised and implemented by June 2003. The ANAO notes that the finalisation of the risk management plan would improve the robustness of the operational plan.

Conclusion

3.32 The ANAO found the ILC has completed a corporate risk management plan. The completion of a corporate risk management plan will assist the ILC in developing robust corporate and operational plans. The ILC has implemented Recommendation 3.

Launch of the revised National Indigenous Land Strategy and Regional Indigenous Land Strategies

Background

3.33 The 2000 audit found the ILC had made substantial efforts to identify Indigenous held land in Australia. A map of Indigenous held land in Australia is provided at Appendix 5: Indigenous-held land in Australia identified by ILC as at 5 February 2003.

3.34 The ILC is required by the ATSIC Act to develop a National Indigenous Land Strategy and Regional Indigenous Land Strategies.³¹ As noted in the 2000 audit, a structured process to review the strategies was under way, with the ILC anticipating that this would be completed in early 2001. The National Indigenous Land Strategy was reviewed by the ILC Board in May 2001, and a copy provided to the then Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs in June 2001, in accordance with legislative requirements.³²

3.35 Owing to the identified need for significant program changes arising from the previously discussed stock-take and the National Indigenous Land

³¹ *Aboriginal and Torres Strait Islander Commission Act 1989*, section 191(N)(6).

³² *Aboriginal and Torres Strait Islander Commission Act 1989*, section 191(N)(6) requires the ILC Board to provide a copy of the National Indigenous Land Strategy to the Minister within two months of the Board making any such change.

Management Research Project (discussed in Chapter 5), the ILC Board decided to modify the strategy. During fieldwork, the ILC provided the ANAO with copies of revised national and regional strategies for 2001–2006. The ILC publicly launched its revised *2001–2006 National Indigenous Land Strategy*³³ and a *Land Acquisition and Land Management Programs guide 2002–2006* at Parliament House on 4 December 2002.

Purpose of the strategies

3.36 The National Indigenous Land Strategy is the ILC’s key strategic plan and outlines the corporation’s national policies and priorities. The document addresses the following key areas:

- ILC key principles and policies;
- structure of the ILC;
- ILC legislative framework;
- land acquisition strategy;
- land management and environment strategies; and
- review and revision of the strategy.

3.37 The regional Indigenous land strategies are the major building blocks of the national strategy and are prepared for seven regional areas. The regional strategies were reviewed by the ILC in conjunction with the national strategy and were also re issued for 2001–2006. For consistency, each regional strategy follows the same format, providing information on:

- relationship to the national strategy;
- regional area overview (including population characteristics, existing Indigenous held land, by ATSIC region);
- Commonwealth and state laws (including native title issues, other Commonwealth legislation and regional legislation);
- regional consultations (including the Land Needs Survey, the Land Needs Planning process, National Round of Land Management Workshops, the National Indigenous Land Management Research Project and the Regional Council Survey);
- land acquisition (including information relating to each region’s operating environment); and
- land management and environmental issues (describing physical characteristics, land-based industry status, key natural resource

³³ 2001–2006 National Indigenous Land Strategy, revised October 2002, ILC December 2002.

management issues and ILC support strategies—including group-based planning, enterprise development, regional development, and coordination and research).

3.38 During the audit, the ANAO examined the new national and regional strategies for 2001–2006. It found that, overall, the documents contained sound strategic information to guide the ILC in its land acquisition and management functions for 2001–2006. However, the ANAO also found that the evaluation of the national strategy³⁴ could be enhanced.

Evaluation of the national strategy

3.39 The ANAO found the national strategy contained the following reference to a comprehensive evaluation system:

A comprehensive evaluation regime has been designed to ensure that performance is being monitored and that objectives are being reached. This regime is specifically designed to determine the extent to which the ILC is achieving its legislative responsibility to provide social, economic, environmental or cultural benefits to Indigenous people. The regime provides for routine monitoring and evaluation by ILC staff and for periodic independent review.³⁵

3.40 The ANAO found no evidence of this comprehensive evaluation regime. Rather, the ANAO found that review of the ILC's progress in assessing economic, environmental, social or cultural benefits to Indigenous people was limited to gathering stakeholder feedback, for example, the ILC stock-take and evaluation (previously discussed in Chapter 2: Performance Measures to Assess Statutory Compliance).

3.41 The ANAO also found no evidence of a project brief to implement a continuing comprehensive evaluation regime for example, identifying evaluation regime objectives, project outputs, implementation performance measures, implementation milestones, resource allocations, and responsibilities for delivering project outputs, and monitoring and reporting implementation progress to the ILC Board.

Conclusion

3.42 The ANAO considers ILC plans could be improved with the addition of an evaluation regime. This would assist the ILC to determine the extent to which it is achieving its legislative responsibility to provide economic, environmental, social or cultural benefits to Indigenous people.

³⁴ 2001–2006 National Indigenous Land Strategy, revised October 2002, ILC December 2002.

³⁵ *ibid.*, p. 23.

Recommendation No.2

3.43 The ANAO recommends that the ILC develop an appropriate evaluation regime including stakeholder feedback to:

- evaluate its assistance to Indigenous people in acquiring and managing Indigenous-held land so as to provide economic, environmental, social or cultural benefits; and
- use periodic evaluation to inform the ILC Board, the Parliament and other stakeholders about ILC programs and outcomes achieved.

ILC response

3.44 The ILC agrees with this recommendation. The ILC has taken steps towards the implementation of an evaluation system. A project brief for the development of such a system was issued in February 2003 and a small team has been established to design a system that will ensure the formal evaluation of all ILC land acquisition and land management projects at least annually during the life of each project and for two years thereafter. This evaluation will measure the extent to which the ILC's assistance has contributed to the achievement of identifiable social, economic, environmental or cultural benefits and will incorporate a client feedback survey that determines satisfaction with ILC procedures and the benefits delivered by projects.

4. Land Acquisition Procedures

This chapter considers the implementation of the recommendations in the 2000 audit relating to ILC land acquisition procedures. The ANAO concluded that Recommendation 4 has been partially implemented and Recommendation 5 has been implemented.

Following land acquisition procedures (Recommendation 4)

Findings of the 2000 audit

4.1 The national and regional Indigenous land strategies provide a framework for the ILC to follow in land acquisition. The ILC has also developed guidelines that detail land acquisition assessment criteria.

4.2 The ILC had developed appropriate procedures to implement the framework established by the national and regional Indigenous land strategies and guidelines. However, it did not have sufficient documentation from the 39 cases examined to be confident that key controls had been followed to ensure consistent and equitable decision-making in all cases. The audit found that the ILC did not have a procedural manual for use by all its divisions, but was developing one.

2000 Audit Report Recommendation 4

4.3 The ANAO recommended that, to improve overall accountability, including transparency, the ILC ensure that it has sufficient documentation to show clearly that its land acquisition procedures have been followed.

ILC response

4.4 Agreed and already operates.

Findings of this audit

4.5 The ATSIC Act³⁶ requires the ILC to search any relevant National Native Title Tribunal registers to ascertain whether any claims have been lodged, accepted or determined in relation to land under consideration for acquisition. To monitor compliance of its procedures with the ATSIC Act, the ILC conducted an internal audit in December 2000.

³⁶ s191D(4) of the ATSIC Act.

4.6 The ILC internal audit reviewed 240 files and found that only 46 per cent had the required National Native Title Tribunal register extract, demonstrating that a search had been conducted. The ANAO considers the number of files examined by the ILC as part of internal audit to be significant given the number of properties the ILC has purchased since its inception. The ILC has not conducted any other review of compliance with its procedures.

4.7 The ANAO notes that, although less than half of the files examined as part of the ILC internal audit had the required National Native Title Tribunal register extract, demonstrating that a search had been conducted, the ILC has issued as part of its Policy and Practice manual, a Policy and Practice note to staff to addresses this requirement.³⁷

4.8 The ANAO suggests that a further internal audit be conducted by the ILC to monitor its procedural compliance in accordance with the ATSIC Act relating to this issue, once the newly issued Policy and Practice note has had sufficient time to take affect.

Launch of the Land Acquisition and Land Management Programs guide 2002–2006

4.9 In support of the national and regional Indigenous land strategies (discussed in Chapter 3), the ILC developed a comprehensive guide to its land acquisition and land management programs.³⁸ The guide has been tailored to the ILC's new four program approach in compliance with its legislative obligations. The guide was launched on 4 December 2002.

4.10 The preface of the guide positions the document in terms of its significance to the ILC, advising that it 'replaces previous ILC publications and forms relating to Land Acquisition and Land Management programs.' More particularly, the guide is an improvement on previous documents, providing substantial information including:

- legislative requirements (ATSIC Act);
- land acquisition guidelines for each of the four streams;
- a description of the land acquisition process;
- instructions on how to complete the land acquisition form;
- land management program guidelines;
- a description of the land management process;

³⁷ The ILC has issued *Policy Note 2.08a: Native Title Search Policy*, *Practice Note 2.08b: Native Title Search Practice* and a comprehensive *Native Title Search Procedure Flow Plan*.

³⁸ Indigenous Land Corporation, *Land Acquisition and Land Management Programs guide 2002–2006*.

- instructions on how to complete the land management application form; and
- a section on frequently asked questions.

4.11 The ANAO considers the extensive guidelines recently launched relating to land acquisition and management programs will assist the ILC in establishing controls against which it can assess its consistency and equity of decision-making when delivering programs. The new guidelines effectively provide the ILC with a new basis for managing its performance.

4.12 The ANAO considers the ILC has most components of a system to ensure compliance with the guidelines and consequently, enhancement of the quality of its outputs in place. For instance, the ANAO found that the ILC has developed a desktop manual and an application appraisal checklist to help ILC officers assess applications. ILC staff were trained in these new programs in late November 2002. The ILC also has a comprehensive set of delegations for land acquisition, land management and general administrative expenditure.

4.13 However, the ANAO found no evidence of a systematic quality assurance program to check that system components designed to achieve compliance were sufficient and were being used correctly. The ANAO considers the introduction of such a program to ascertain deficiencies and provide feedback on shortcomings and systematic failures would complement work already undertaken by the ILC to improve its procedures and processes. The ANAO also considers the ILC guidelines, combined with a systematic quality assurance program, would enable it to more completely address the original recommendation of ensuring that key documentation is on file, as well as broader quality management issues.

Conclusion

4.14 The ILC internal audit of December 2000, to monitor compliance of its procedures with the ATSIC Act, demonstrated that, in most instances, the files examined did not contain the required National Native Title Tribunal register extract. This meant that it was not always possible to ascertain that a search had been conducted. The ILC has since issued, as part of its Policy and Practice manual, a Policy and Practice note to staff to address this requirement. The ANAO suggests a further internal audit be conducted by the ILC to monitor its procedural compliance in accordance with the ATSIC Act, once the newly issued Policy and Practice note has had sufficient time to take effect.

4.15 The ANAO would consider this recommendation to be fully implemented when the ILC complements its new guidelines relating to land acquisition and management programs, by introducing a systematic quality assurance program

to ensure compliance with its land acquisition and land management procedures. This should be in accordance with relevant provisions of the ATSIC Act.

4.16 The ILC has partially implemented Recommendation 4.

Recommendation No.3

4.17 The ANAO recommends that the ILC complements its new guidelines relating to land acquisition and management programs, by introducing a systematic quality assurance program to ensure compliance with its land acquisition and land management procedures and relevant provisions of the *Aboriginal and Torres Strait Islander Commission Act 1989*.

ILC response

4.18 The ILC agrees with this recommendation. The ILC has completed comprehensive Desktop Manuals to guide staff through the assessment of land acquisition and land management applications. The manuals include checklists, detailed questions about the compliance of the application with program guidelines, and sign-off/certification sections. Quality control checklists have been developed for land acquisition and land management applications and will be used by line managers and peer assessment panels to ensure that procedural standards are applied on a consistent national basis. In addition, as mentioned in response to Recommendation 2, the ILC has a comprehensive three-year Internal Audit Plan in place and has engaged an internal audit consultant to examine all of its significant systems and functions, including those relating to land acquisition and land management.

Guidance on following land acquisition procedures (Recommendation 5)

Findings of the 2000 audit

4.19 The ILC did not have a procedure manual for use by all divisions. The absence of such a manual and variation in applying key controls contributed to inconsistencies in applying procedures across divisions during the audit. The ILC advised that it was developing a policy and practice manual.

4.20 The ANAO considered that completing the manual should be a priority for the ILC as it would provide a mechanism for ensuring greater consistency within and among divisions. It would be good practice to implement the completed manual in all divisions so that staff were fully aware of the procedures, and to ensure it became an integral part of future staff

induction/training procedures. It would also be good practice to keep the manual under review and advise all staff of any changed procedures.

2000 Audit Report Recommendation 5

4.21 The ANAO recommended that, as a matter of priority, the ILC complete the development of the *Policy and Practice Manual*, and implement this across all divisions so that staff are informed of procedures to be followed.

ILC response

4.22 Agreed.

Findings of this audit

4.23 A primary function of the ILC Corporate Services Unit is to finalise the ILC *Policy and Practice Manual*. The manual consists of policy and practice 'notes' for various ILC functions.

4.24 As a result of the corporate refocus on a four program approach, the Corporate Services Unit undertook an internal scoping exercise to identify which ILC functions required a policy and practice note. The unit identified 87 functions requiring a policy and/or practice note.

4.25 At the time of the audit, the ANAO found the ILC had developed and promulgated 28 policy and practice notes. Although on face value, approximately 65 per cent of the manual appeared to require finalisation, the ILC has focused on preparing the more significant policy and practice notes ahead of those for relatively minor systems or topics. An exception to this has been the policy and practice notes for the new land acquisition and land management programs. These had to await finalisation of the new *Land Acquisition and Land Management Programs guide 2002–2006*, but are now being prepared. Taking this into account, action on only 13 (or approximately 15 per cent) of the proposed policy and practice notes has not yet commenced, including a small number relating to proposed, rather than actual, systems.

4.26 The ILC advised that each policy and practice note has a review period of 12 months from the issue date. At the time of the audit, the ANAO found that several policy and practice notes were overdue for review. The ILC advised the ANAO that the Corporate Services Unit is focusing on completing policy and practice notes outstanding and will ensure the review of existing notes is brought up to date when incomplete sections of the manual are finalised. The ILC advised its intent to finalise the manual by the end of April 2003.

4.27 The ANAO considers a structured, planned approach to implementing policy and practice notes, guidelines and a compliance program concurrently would assist the ILC relating to smooth and consistent implementation.

Conclusion

4.28 The ILC has implemented Recommendation 5.

5. Land Management Procedures

This chapter considers the implementation of the recommendations in the 2000 audit relating to ILC land management procedures. The ANAO concluded that Recommendations 6 and 7 have been implemented.

Review of the First Land Management Policy (Recommendation 6)

Findings of the 2000 audit

5.1 In addition to national and regional Indigenous land strategies, the ILC had developed its First Land Management Policy 1997–99. The policy was designed to cover the two-year transition period following the transfer of ATSIC's land acquisition and maintenance program in 1997. It provided a procedural framework for ILC land management activities, identifying the procedures for registering a land management need, the assessment criteria to be used and general eligibility rules. The policy was due to expire in June 1999, and to have been reviewed by July 1999. This had not happened and the policy was extended until December 1999. At the time of the 2000 report, the ILC had not formally extended the policy.

2000 Audit Report Recommendation 6

5.2 The ANAO recommended that, in order to have an up-to-date and clear policy that reflected the ILC's program objectives for land management, the ILC complete the review of its *First Land Management Policy 1997–99*, and, subsequently, determine procedures for land management for the period from 1 January 2000, disseminating this information to stakeholders.

ILC response

5.3 Agreed. The ILC anticipates that its new land management policy will be launched in July 2000.

Findings of this audit

Background

5.4 Between 1995 and 1997, the ILC and ATSIC ran parallel programs of land acquisition and management. After ATSIC's land acquisition and maintenance program was transferred to the ILC on 1 July 1997, the ILC became the body

with primary Commonwealth responsibility for managing Indigenous-held land. To provide a more detailed framework for land management activities in the transitional period from 1997 to 1999, the ILC developed its First Land Management Policy.

ILC review of the First Land Management Policy

5.5 The First Land Management Policy was reviewed by the ILC as part of the National Indigenous Land Management Research Project during 1999–2000, with the review being completed by June 2000.

5.6 The ILC advised the ANAO that the National Indigenous Land Management Research Project was a general review of the policy in the sense that it reviewed the ILC's policy relating to land management as well as Indigenous land management generally. The research project comprised four discrete components that were contracted to four different research firms. The ILC further advised that it received approximately 10 reports and the total project cost was \$335 342.

5.7 The research conducted by the ILC has assisted it in the preparation of its *Land Acquisition and Land Management Programs guide 2002–2006* referred to earlier in this report.

Conclusion

5.8 The ILC has adequately implemented Recommendation 6.

Training in business and land management (Recommendation 7)

Findings of the 2000 audit

5.9 Developing solutions to identified land management needs presents a considerable challenge to the ILC because the landholders with whom it works are often geographically remote, may not speak English as a first language, and may have low levels of literacy and training.³⁹ They may also have limited experience of land ownership and management and, where corporations are involved, may have limited understanding of their legal responsibilities as directors of Indigenous corporations. If such skills are absent, there is a risk that business and land management will be unsatisfactory and that enterprises will collapse. This highlights the importance of effective and long-term training in business and land management for those concerned.

³⁹ Indigenous Land Corporation, *Annual report 1997–98*, p. 57.

5.10 The ILC sponsors participation in property management planning and was developing a National Extension, Education and Training Strategy. However, there was scope to work more effectively with other Commonwealth agencies, such as the Department of Education, Training and Youth Affairs, the Department of Employment, Workplace Relations and Small Business, ATSIC and the Australian National Training Authority, to address the training needs of the Indigenous community in business and land management and as directors of Indigenous corporations.

2000 Audit Report Recommendation 7

5.11 The ANAO recommended that the ILC work with other Commonwealth and state agencies to resolve the issue of responsibility for training Indigenous people as:

- directors of corporations; and
- land managers.

ILC response

5.12 Agreed. This is in fact an area the ILC has taken up in a major way in recognition of the fact that training is a land management activity as defined by the ATSIC Act. Its subsidiary company, Land Enterprise Australia Ltd, is currently developing a National Extension and Training Strategy. This training initiative will not be confined to directors and land managers, but will reflect the scope given by the Act.

Findings of this audit

5.13 During 2001–02, following an ILC Board decision, Land Enterprise Australia Ltd ceased to be a vehicle to employ staff. Former company employees affected by this decision were incorporated into the ILC staffing structure. Two directorates were formed in place of the company: the Business Planning Directorate and the Special Projects Directorate, both of which are based in Canberra.

5.14 The Business Planning Directorate operates within the enterprise development initiative of the 2001–2006 *National Indigenous Land Strategy*, which is to assist groups to develop viable and sustainable enterprises on their land.

5.15 The Special Projects Directorate is responsible for (among other things) extension, education and training. This includes management training, operational training and technical training to Indigenous landowners.

ILC Extension, Education and Training Strategy

5.16 The ILC has established an Extension, Education and Training Strategy to assist Indigenous landholders attain relevant skills. Six areas of training are provided, from base level induction through to director training.

5.17 The ILC has also approached the Department of Agriculture Fisheries and Forestry—Australia to conduct a joint training program for Indigenous people. The department has contributed funds to the joint training program.

5.18 At the time of the audit, the ILC had conducted three pilot training programs. As the pilot programs have proceeded, a number of changes have been incorporated, including linking training to the property management planning process, ensuring that training activities complement property development programs, and providing training on a contractual basis with the title-holding body.

5.19 The ILC is now proposing to develop capacity building within its existing client base. This shift in direction will require inter-agency partnerships with various Commonwealth and State training and educational bodies. The ILC considers that building the capacity of its clients to adequately manage their land is of utmost importance and this key challenge has to be implemented as quickly as possible.⁴⁰

Conclusion

5.20 The ILC has implemented Recommendation 7.

⁴⁰ *ibid.*, p. 26.

6. Performance Management Framework

This chapter considers the implementation of the recommendations in the 2000 audit relating to the ILC's performance management framework. The ANAO concluded that Recommendation 8 has been partially implemented and Recommendation 9 has not been implemented.

ILC measuring and monitoring of performance (Recommendation 8)

Findings of the 2000 audit

6.1 The performance measures identified by the ILC Board and contained in the *Indigenous Land Corporation Corporate Plan 1997–2001* related to achieving six key result areas. However, the indicators the ILC used to measure or assess its land acquisition and land management performance had some limitations, for example, they did not include targets or standards against which performance could be measured or assessed.

6.2 The ILC Board receives monthly reports on the corporation's financial status. However, at the time of the audit there was little evidence of any structured or regular monitoring or reviewing of performance against the full range of indicators associated with the key result areas. Such monitoring and reviewing would increase the Board's assurance that it was complying with its responsibility to *ensure the proper and efficient performance of the functions of the Corporation*.

2000 Audit Report Recommendation 8

6.3 The ANAO recommended that the ILC provide the Board with adequate performance information to assist the Board to comply with its statutory responsibility to ensure the 'proper and efficient performance' of the Corporation, and to enable it to monitor its performance properly.

ILC response

6.4 Agreed.

Findings of this audit

6.5 As previously discussed under ‘Planning framework—Provision of information to the ILC Board’ the ILC has made progress towards providing the ILC Board with sufficient and accurate information on which to base its policies and priorities. Reports are tailored to meet the requirements of the General Manager and the Board.

6.6 For each ILC Board meeting, the Board is provided with various reports to assist with decision-making. These reports include:

- summary of land purchased;
- contract register;
- common seal register;
- power of attorney register;
- ILC Board travel;
- finance report; and
- report on ILC businesses and subsidiaries.

6.7 Each ILC division and business unit prepares monthly reports for the General Manager. Reports from divisions include information on land acquisition activity, divestments due and the status of land management projects. Reports from business units include information on any significant issues arising during the month, and an update on current projects.

6.8 The ANAO is aware (as discussed in Chapter 2: Performance Measures to Assess Statutory Compliance) that the ILC is currently undertaking significant work to develop its performance measures. Once this work is completed, the ILC would be in a stronger position to incorporate and report on performance measures relating to its critical success factors.

ILC compliance database

6.9 To assist in monitoring statutory and other obligations, the ILC is developing a compliance database to monitor its performance. The compliance database will be used as a tool for tracking statutory, regulatory and performance issues raised by parliamentary committees, the ANAO, internal audit and other appropriate sources.

6.10 Recommendations made as a result of external or internal reviews will be recorded in the database and updated as work progresses towards implementation. The ILC advised that its Corporate Services Unit would provide quarterly reports to the Audit and Risk Management Committee on the status

of implementation of recommendations. This update will then be provided to the ILC Board.

6.11 At the time of this follow-up audit, the database was still being developed and tested. The ILC advised that the database would be operational and reporting to the Audit and Risk Management Committee in early 2003 (subsequent to audit fieldwork).

6.12 The ANAO considers the ILC development of a compliance database to be an innovative approach to monitoring and reporting to the Board on external reviews and issues relating to the ILC.

Conclusion

6.13 The ILC has made progress towards providing the ILC Board with sufficient and accurate information on which to base its policies and priorities. However, the ILC could improve the completeness and quality of performance information provided to its Board. The issue of the need for appropriate performance information for decision making purposes and the ILC's progress to developing its performance measures has been previously discussed and addressed in Recommendation No. 1 of this report.

6.14 The ANAO would consider this recommendation to be fully implemented when the ILC has implemented its new performance measures and is reporting on them to the Board.

6.15 The ILC has partially implemented Recommendation 8.

Obtaining stakeholder views

Findings of the 2000 audit

6.16 The then latest ILC annual report (1998–99) included information about the corporation's land acquisition and land management activities. It did not report on the achievement of the ILC's statutory purposes and outcome, namely the economic, environmental, social or cultural benefits to Aboriginal people and Torres Strait Islanders, resulting from its land acquisition and land management activities.

6.17 Relationships with stakeholders are an integral part of effective corporate governance. Consequently, efforts need to be made to gather and gauge their views and expectations. Although it receives informal qualitative data from Indigenous communities, the ILC did not have a structured process for obtaining stakeholder views and using the information acquired to adjust strategies, and monitor and review performance.

2000 Audit Report Recommendation 9

6.18 The ANAO recommended that, as part of its performance management framework and accountability to stakeholders, the ILC develop a practical strategy to obtain the views of stakeholders on their level of satisfaction with the procedures for, and benefits resulting from, land acquisition and land management, and with the ILC's performance of its functions.

ILC response

6.19 Agreed.

Findings of this audit

6.20 One of the key principles of effective corporate governance is to specify various reporting obligations to stakeholders in order to develop a process for gathering and gauging stakeholder views.⁴¹

6.21 The ANAO considers that stakeholder feedback should be sought on a regular basis to assist performance monitoring, planning and improvement. The ANAO notes the ILC stock-take and evaluation over the past two years obtained stakeholder feedback relating to social and cultural benefits delivered to Indigenous people.

6.22 A substantial body of stakeholder feedback has also been obtained by the ILC in its National Indigenous Land Management Research Project, the National Indigenous Land Strategy, the Regional Indigenous Land Strategies consultation processes and the Land Needs Planning Process. The ILC also engaged a consultant to undertake a review of its First Land Management Policy. The consultant's report utilised feedback from Indigenous landholders and stakeholders in the ILC's partner agencies to analyse the strengths and weaknesses of the First Land Management Policy and to assist in the consideration of new directions for the ILC land management policies.

6.23 Although the ILC has gathered considerable feedback from its stakeholders, the ANAO found that the ILC has not developed a systematic approach to analysing and reporting publicly, for example in its Annual Report, stakeholder views on the ILC's performance of its functions. The implementation of such a system would support transparency in the reporting of stakeholder feedback and allow for analysis of trends in ILC performance over time.

⁴¹ ANAO, Principles and Better Practices, *Corporate Governance in Commonwealth Authorities and Companies*, May 1999.

ILC service charter

6.24 The ILC has a Service Charter for Aboriginal people and Torres Strait Islanders and people who deal directly or indirectly with the ILC. The Charter sets out the standard of service people can expect when dealing with the ILC or its contractors or consultants. It also outlines steps people can take if they are not satisfied with the assistance being provided.

6.25 The ANAO found that the ILC was initiating action through a complaints handling system to obtain the views of a very small sub-set of stakeholders and to assess their level of satisfaction. The complaints handling system has been operational since May 2001 and records details of complaints received from stakeholders. The vast majority of complaints are handled at the divisional office level. It is noteworthy that the complaints database relates only to escalated complaints, in accordance with an ILC policy and practice note. It is a tool to ensure these complaints are handled and addressed in a timely and complete manner. The tool does not seek to capture the large majority of complaints resolved locally by divisional staff or managers. At the time of the audit, there were 14 complaints recorded in the complaints handling system, only three of which remain unresolved.

6.26 ILC Board involvement in handling complaints is initiated when:

- the complaint is relevant to the statutory functions of the ILC;
- internal ILC guidelines have been breached; and/or
- the General Manager is unable to make a decision about a specific matter.⁴²

6.27 The ANAO found that the ILC has an effective policy and procedures for handling complaints.

Conclusion

6.28 The ILC receives a substantial body of stakeholder feedback. The ANAO would consider this recommendation to be fully implemented when the ILC establishes a systematic approach to analyse, and publicly report stakeholder feedback including trend analysis of stakeholder views of ILC performance over time.

6.29 The provision of stakeholder feedback to the ILC Board has previously been addressed in relation to Recommendation 2 of the 2000 audit.

6.30 The ILC has partially implemented Recommendation 9.

⁴² ILC Customer Service System Practice Note 9.08b, November 2001.

Recommendation No.4

6.31 The ANAO recommends that to enhance transparency to stakeholders, the ILC systematically analyse and publicly report its stakeholder feedback, including trend analysis of stakeholder views of ILC performance over time.

ILC response

6.32 The ILC has obtained extensive stakeholder feedback through a stock-take of almost all properties acquired from 1996–2000; via a National Indigenous Land Management Research Project; through its statutory consultations in the updating of the National and Regional Indigenous Land Strategies; and as a result of its Land Needs Planning Processes at local and regional levels across Australia. In addition to this, as advised in the response to recommendation 3 above, the ILC is designing a client feedback survey to determine satisfaction with ILC procedures and the benefits delivered by projects.

Canberra ACT
16 June 2003



P. J. Barrett
Auditor-General

Appendices

Appendix 1

Details of different state and other legislative requirements that affect ILC land acquisition and divestment processes

General Comments

Requirements by some Crown Leases can include, for example, a requirement that the property be 'stocked'. This use may not be one contemplated or desired by the applicants to the ILC. This involves demands upon resources not directly connected to the applicant's objectives. Additionally, local government zoning requirements are not always compatible with the objectives of the applicant.

The ILC's work depends also on outcomes under the Native Title Act. It is required by its Act to search the National Native Title Register to ascertain whether any applications have been lodged, accepted or determined in relation to land under consideration for acquisition.

Eastern Division (New South Wales, Australian Capital Territory and Queensland)

The Auditor-General Audit Report No.49 of 1999–2000 found the ILC had encountered a substantial legislative obstacle to fulfilling its land acquisition functions in Queensland as a result of the requirement under the *Land Act 1994 (Qld)* that grazing homestead freeholding leases and grazing homestead perpetual leases be held by individuals. The ILC, as a corporation, was unable to buy such leases and unable, under its legislation, to acquire land on behalf of individuals. Also, these particular forms of tenure represent a substantial proportion of land in Queensland, and there are significant Aboriginal populations in regions in which these forms of leasehold are the predominant forms of tenure.

During the follow-up audit the ILC advised that section 145 of the *Land Act 1994 (Qld)* still permits only individuals to acquire a grazing homestead freeholding lease or a grazing homestead perpetual lease. It was the recommendation of a Review Committee Report in June 1999, commissioned by the Queensland Government, that the Corporation and Aggregation Restrictions in the *Land Act 1994* be removed. However, the recommendation was that this occur within the context of a further 'whole of government' approach to rural issues and the restriction remains in force.

Western Division (Western Australia)

In Western Australia, a discretion is vested in the State Government Minister to withhold consent 'in the public interest' to the transfer of pastoral leasehold land to a prospective purchaser if that transfer would result in the purchaser's holding land in excess of 500 000 hectares. While the 500 000 hectare 'limit' remains in force, it requires the ILC as the holder of pastoral land in excess of 500 000 hectares each time it purchases a pastoral lease to make extensive submissions to the Western Australia Pastoral Lands Board. No submission has yet been refused but the submissions require considerable work and time and cause delays, sometimes up to four to five months in completing a purchase.

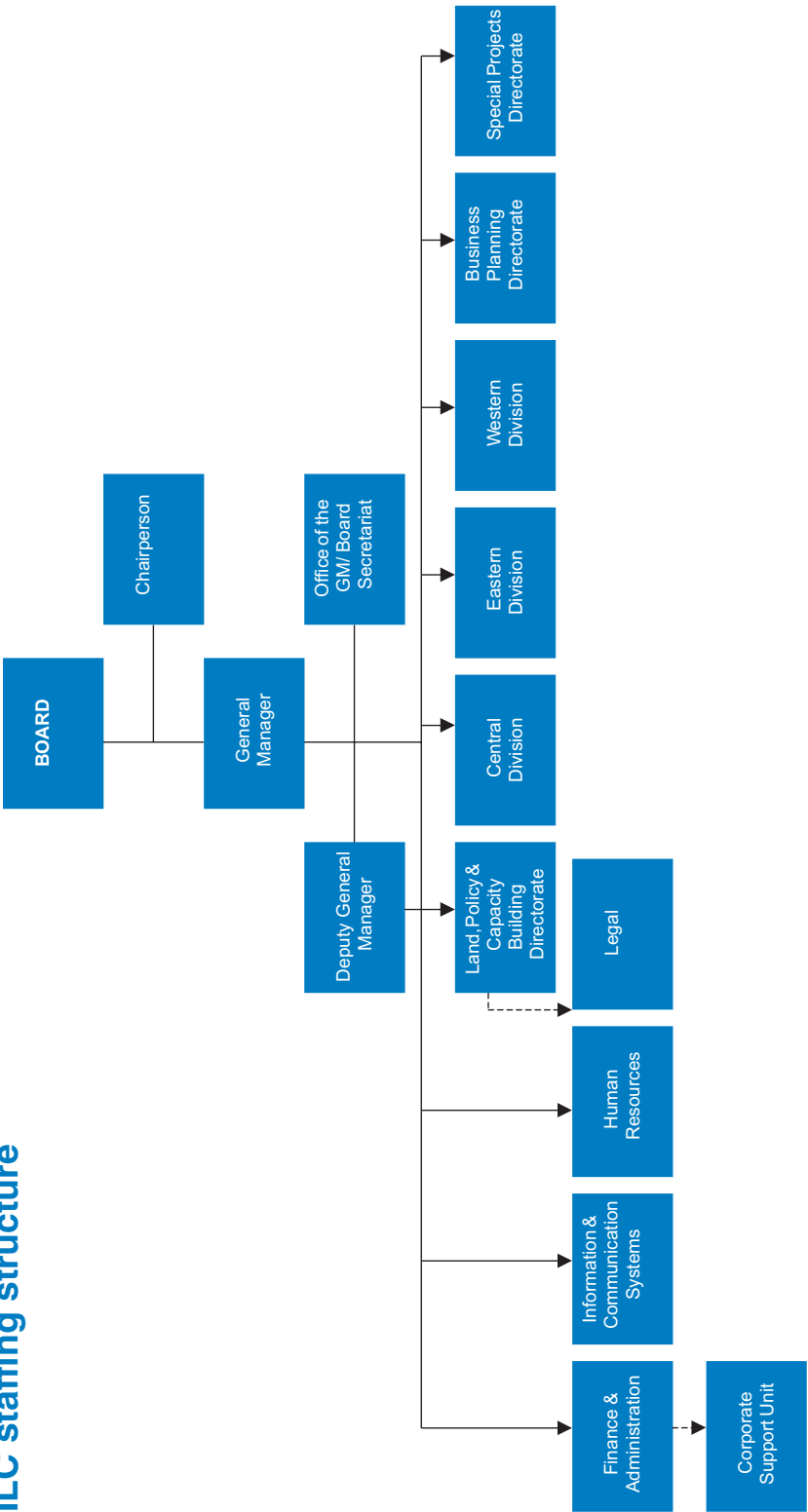
Central Division (Northern Territory, South Australia, Victoria and Tasmania)

Following an ILC land needs planning process and associated community consultations in Tasmania during 1997–98, it was apparent that the view of a significant number of Aboriginal people in Tasmania was that any land acquired by the ILC should be divested to the Aboriginal Land Council of Tasmania (ALCT) rather than to local Aboriginal organisations.

The reason generally put forward was that any land acquired should be for the benefit of all Aboriginal Tasmanians and that ALCT was a statutory body set up to receive and hold land from the State Government. It was obliged to then enter into agreements with local Aboriginal organisations for the management of that land. The ILC Board supported this view through a formal Board decision. It was found however, that ALCT's legislation prevented it from accepting title to land other than that scheduled by the State Government, thus preventing the ILC from divesting properties to the ALCT. The ILC reports that attempts to have the legislation amended over the past few years have so far been unsuccessful, but are continuing. In the meantime, the ILC has, or is in the process of, entering into lease arrangements with local Aboriginal organisations to manage ILC-owned properties as an interim measure while the divestment issue is pursued.

Appendix 2

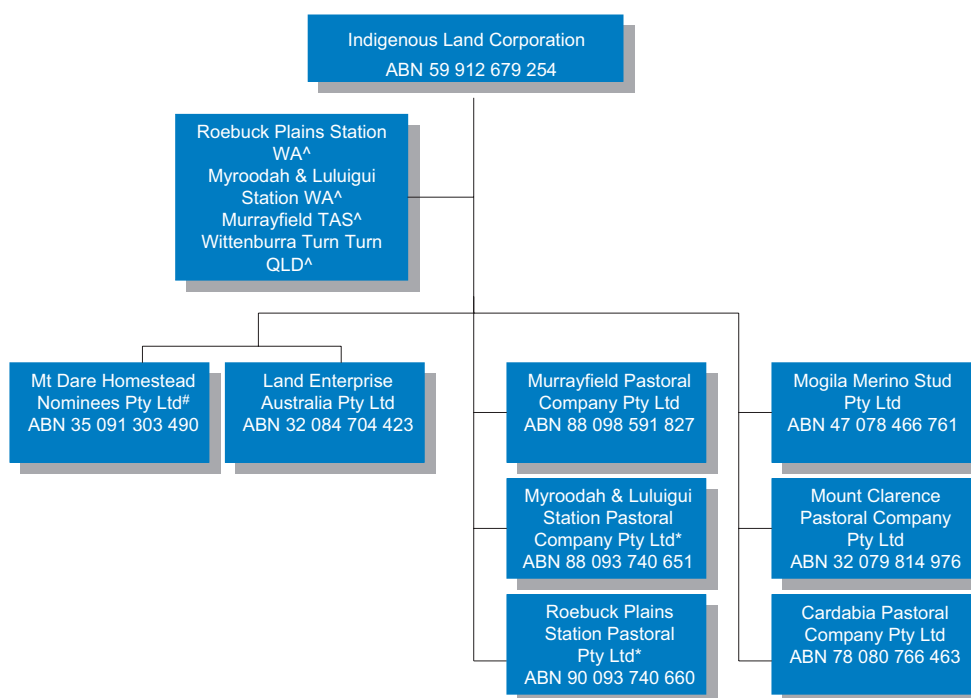
ILC staffing structure



Source: Indigenous Land Corporation, Annual Report 2001–02, p. 62.

Appendix 3

Structure of the ILC and its subsidiaries



^ Commercial Pastoral Operations on the ILC-held land

* Employment companies only

Holds licences on Mt Dare Homestead as from 1/4/02

Source: Indigenous Land Corporation, Annual Report 2001–02, p. 9.

Appendix 4

Boona Pastoral Company

Background

The ILC purchased the Boona property, between Port Fairy and Warrnambool in south-west Victoria, on 24 October 1996 and divested title to the Kirrae Whurrong Community Inc. on 20 November 1997. The ILC then provided loan funding of \$540 000 to the Boona Pastoral Company (BPC) to support the establishment of a dairy farm enterprise.

The Aboriginal and Torres Strait Islander Commission (ATSIC) provided a \$500 000 grant to the BPC to help establish the business. ATSIC also provided funding to engage a consultant to provide management advice. ATSIC funding for the consultant has now ceased.

Loan history

The ILC provided a loan of \$540 000 to BPC, which was drawn down in six instalments. The first draw-down occurred on 31 July 1999, with the final instalment (taking total drawings to \$540 000) on 29 October 2000. Draw-downs coincided with agreed farm business development stages.

An interest rate of 4.80 per cent is charged against outstanding funds. This rate can be reviewed at the end of each calendar year. No adjustments to this rate have been made since the loan commenced.

Repayments are made on the nineteenth of each month. As per the loan agreement, the repayment schedule for the first two years was sufficient to meet interest costs only. From year 3 onwards, the repayment schedule was increased so that repayments were sufficient to fully repay both interest and capital by the end of year 12. The final interest only repayment was made on 19 July 2001. The repayment made on 19 August 2001 was the first one covering both interest and capital. BPC's loan repayment history has been very good.

Farm inspections

Much like any business financier, the ILC conducts one or two farm inspections each year to help assess the ongoing performance of the business. These visits enable the ILC to get more of a 'feel' for the business and the commitment and capacity of the operators, which can't be gained from budgets and such like.

Benefit

ILC funding of the establishment of the dairy farm business on Boona has enabled the development of a significant economic base for the Indigenous community living at the Framlingham Aboriginal Trust and surrounding areas. A limited number of full-time and part-time jobs have been created, as well as ongoing education and training opportunities. A number of members of the Framlingham community have undertaken training, such as safe farm chemical handling.

Source: ILC

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