

**Schedule of Documents**

<b>Date</b>	<b>Document Description</b>	<b>Released or Exempted in Part</b>	<b>Material Not Published in this Disclosure Log</b>
19-10-2011  19-10-2011	Letter from Jenny Macklin MP to Dr Dawn Casey, Chair, ILC attaching: (a) ILC Statement of Expectations	Exempt in Part	None
01-11-2011  04-07-2011  07-07-2011	Email titled 'ILC GM appointment' from FaHCSIA to Dr Casey attaching: (a) Letter from Jenny Macklin MP to Shirley McPherson, former chair of ILC (b) Letter from Shirley McPherson to Jenny Macklin MP and attachments	Exempt in Part	None
02-02-2012	Email titled 'Possible governance advice' from FshCSIA to Dr Casey	Exempt in Part	None
14-03-2012	Letter from Jenny Macklin MP to Dr Casey	Exempt in Part	None
11-04-2012 and 10-04-2012	Emails titled 'FW: GM's appointment processes' from FaHCSIA to Dr Casey	Exempt in Part	Document not published because it contains personal information.
02-05-2012	Email titled 'ILC Board minutes Brisbane meeting' from Dr Casey to ILC Board members	Exempt in Part	None
11-05-2012	Letter from Dr Casey to Jenny Macklin MP attaching: (a) Report against the ILC Statement of Intent (for 2010-2011)	Release in Full	None

21-06-2012	Letter from Jenny Macklin MP to Dr Casey	Release in Full	None
22-06-2012	Letter from FAHSCIA to Dr Casey	Release in Full	None
25-06-2012	Letter from Dr Casey to Jenny Macklin MP attaching: (a) Significant Issues considered by the ILC Board	Exempt in Part	None
26-06-2012	Letter from Jenny Macklin MP to Dr Casey	Release in Full	None
01-11-2011	Email from Department of Families, Housing and Indigenous Affairs to Dr Casey attaching Cabinet Guidelines	Release in Full	Cover email not published because it contains personal information.
14-12-2011	Email from Dr Casey to Board members attaching: (a) Audit and Risk Committee Charter and Finance; (b) Investment Committee Charter	Release in Full	Cover email not published because it contains personal information.
14-12-2011	Email from Dr Casey to Board members attaching;	Exempt in Part	Documents (a) and (g) not published because they contain personal information.
05-09-2011	(a) ILC Instrument of Appointment		
04-07-2011	(b) Letter from Jenny Macklin MP to Shirley McPherson, former chair of ILC		Part only of document (f) not published because it contains business and commercial affairs.
07-07-2011	(c) Letter from Shirley McPherson to Jenny Macklin MP and attachments. (d) Letter from Shirley McPherson, former chair, ILC to Jenny Macklin MP		

17-10-2011	(e) The Appointments Process (f) Audit Committee responsibilities (g) ILC Determination of Remuneration, Allowances and Terms and Conditions		
21-01-2012	Email between Dr Casey, CEO and Board members attaching excerpt of CAC Act	Exempt in Part	None
23-01-2012	Email between Dr Casey to Department of Families, Housing and Indigenous Affairs	Exempt in Part	Document not published because it contains personal information.
26-03-2012	Email between Dr Casey and Board members attaching letter from Jenny Macklin MP dated 14 March 2002	Exempt in Part	None
23-07-2012	Email between Dr Casey and Department of Families, Housing and Indigenous Affairs attaching ATSI Act provisions	Release in Full	Cover email not published because it contains personal information.
20-04-2012	Email between Dr Casey and Board members re Audit Office attaching letter	Release in Full	None
02-05-2012	Email between Dr Casey and Board members attaching ANAO letter	Exempt in Part	None
17-05-2012	Email between Dr Casey and Department of Families, Housing and Indigenous Affairs	Release in Full	Document not published because it contains personal information.

22-05-2012	Email between Dr Casey and Department of Families, Housing and Indigenous Affairs attaching list of consultants	Exempt in Part	Document not published because it contains business and commercial affairs.
30-05-2012	Email between Dr Casey and Board members	Release in Full	Document not published because it contains personal information.
14-06-2012	Letter from Australian National Audit Office to Dr Casey.	Release in Full	None
14-06-2012	Letter from Australian National Audit Office to Dr Casey.	Release in Full	None
14-06-2012	Email between Dr Casey and Board member attaching ANAO letters	Release in Full	Cover email not published because it contains personal information. Attachments are the ANAO letters that have already been published.
06-07-2012	Email between Dr Casey and Board members	Release in Full	Document not published because it contains personal information.
10-07-2012	Email between Dr Casey and Board members attaching various documents concerning guidance on members of audit committees	Exempt in Part	Cover email not published because it contains personal information.



The Hon Jenny Macklin MP  
Minister for Families, Housing, Community Services  
and Indigenous Affairs

Parliament House  
CANBERRA ACT 2600

Telephone: (02) 6277 7560  
Facsimile: (02) 6273 4122

19 OCT 2011

MN11-002470

Dr Dawn Casey PSM FAHA

[s47F]

Dear Dr Casey *Dawn*

I am pleased to inform you that I have appointed you as the Chairperson of the Board of the Indigenous Land Corporation (ILC) on a part-time basis for a period of four years. I appreciate your willingness to accept this important role in my portfolio.

The ILC aims to stimulate sustainable socio-economic development and improve the wellbeing of Indigenous Australians through acquiring and helping to manage Indigenous held land. In addition, the ILC is uniquely able to focus on achieving longer-term benefits for Indigenous people through its training to employment strategy. These priorities make a significant contribution to the Australian Government's broader policy of closing the gap in Indigenous disadvantage. Importantly, the ILC will contribute to the Indigenous Economic Development Strategy which aims to support greater participation in the economy by Indigenous people.

I would like the ILC to play a stronger role in progressing the resolution of native title settlements through making its programs and resources more accessible to native title claimants.

I anticipate that you will oversee this period of governance change and provide strategic direction to the Board, to ensure the ILC meets its statutory obligations and contributes to the Government's broader policy agenda.

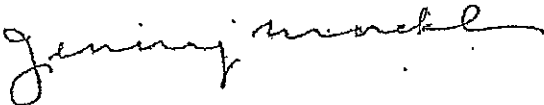
The ILC and Indigenous Business Australia share common goals to support Indigenous people and communities to pursue economic development. Your role as Chairperson of both organisations will strengthen collaboration between the two and generate opportunities to develop linkages that will further improve services for Indigenous Australians.

You will be aware that I consider the provision of a Statement of Expectations, and the development of a Statement of Intent in response, to be a sound governance mechanism for maintaining transparency and accountability arrangements with portfolio bodies. I have enclosed a copy of the Statement of Expectations that I issued to the ILC Board in July 2010.

On 17 February 2011, I wrote to your predecessor requesting the ILC Board provide me with an amended Statement of Intent that gives me the level of assurance that, as the responsible Minister, I would like to see with regard to the ILC. To date an amended Statement of Intent has not yet been provided and I look forward to receiving this from the new ILC Board shortly.

A copy of my instrument appointing you is enclosed. I welcome you to the ILC Board and look forward to your contribution.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Jenny Macklin', written in dark ink.

JENNY MACKLIN MP

Encl.

## Indigenous Land Corporation

### Statement of Expectations

The Indigenous Land Corporation (ILC) is an independent statutory authority established under Part 4A of the *Aboriginal and Torres Strait Islander Act 2005* (ATSIA Act). It was established in June 1995 to assist Aboriginal persons and Torres Strait Islanders to acquire and manage land to achieve economic, environmental, social or cultural benefits. The National Indigenous Land Strategy outlines the strategies, policies and priorities which guide the ILC's land acquisition and land management functions and I note that the ILC Board is planning to revise it in 2010. I encourage any revision to clearly set out the ILC's strategy for achieving measurable benefits through its land acquisition and land management programs.

While recognising the independence of the ILC, the Australian Government will be looking to the ILC Board to respond to the Council of Australian Governments (COAG) reform agenda by making a contribution to achieving the Closing the Gap targets, and in particular through the Indigenous Economic Development Strategy and the National Partnership on Remote Service Delivery.

The Australian Government is working to achieve constructive and flexible resolution of native title. To progress this priority, the ILC should contribute directly to native title settlements. It is important that the ILC support this role as part of its land acquisition and land management functions.

In order to successfully achieve the required outcomes for the period of this Statement of Expectations, and through to a revised Statement of Expectations in 2011, I expect that ILC will:

- continue to assist Aboriginal persons and Torres Strait Islanders to acquire and manage Indigenous-held land so as to provide economic, environmental, social or cultural benefits for Aboriginal persons and Torres Strait Islanders including assisting native title claimant groups to build their capacity to manage land and establish viable, land-based enterprises through training, education and other services;
- continue initiating strategic land acquisitions and land management projects having regard to the investment principles and locations detailed in the COAG National Partnership on Remote Service Delivery and the Indigenous Economic Development Strategy;
- continue to maximise employment and education and training benefits having regard to the COAG targets for Closing the Gap in employment outcomes and educational attainment;
- actively contribute to making the ILC's programs and resources more accessible to native title claimants to facilitate and support resolution of native title claims

and implementation of settlement agreements; and report progress to this end to me with a copy to the Attorney-General's Department and my Department;

- continue to develop an active land grant plan and to progress land grants consistent with the ILC's legislative brief, including maintaining and developing as appropriate land grant plans which include detailed property-specific divestment strategies for all properties owned by the ILC. I encourage the ILC to monitor and progress such strategies in a timely and reasonable manner to ensure sustainable benefits; and
- brief me regularly on progress by the ILC in the performance of its statutory functions and of key business issues faced by the Board.

In performing its role and pursuing the priorities outlined above, I expect that the ILC will:

- continue to operate in accordance with all relevant legislation (including the *Aboriginal and Torres Strait Islanders Act 2005*; *Auditor-General Act 1997*; *Corporations Act 2001*; *Commonwealth Authorities and Companies Act 1997*) covering your responsibilities to your Annual Report, subsidiary's financial statements, significant events, accounting records, conduct of directors and officers, director's duty to disclose, compliance with General Policy Orders, subsidiaries' activities and Audit Committee;
- maintain best practice standards of corporate governance by:
  - having regard to the ANAO's Public Sector Governance Better Practice Guides; and
  - ensuring ILC Board members remain aware of their roles and responsibilities and discharge their duties impartially with a high degree of diligence, care and skill and at all times act in a manner that promotes the highest level of corporate governance in Board operations.
- continue to build organisational and workforce capabilities to meet current future demands and expectations; and
- develop a protocol with my Department that sets out mechanisms for achieving effective communication and joint outcomes over the longer term. I have asked my Department to work with you and the Board's Executive on the development of an appropriate protocol.





COMMONWEALTH OF AUSTRALIA

*Aboriginal and Torres Strait Islander Act 2005*

MEMBER OF THE INDIGENOUS LAND CORPORATION BOARD

INSTRUMENT OF APPOINTMENT

I, JENNY MACKLIN, Minister for Families, Housing, Community Services and Indigenous Affairs, in accordance with sections 191V(2)(a) and 191X(1) of the *Aboriginal and Torres Strait Islander Act 2005* appoint DAWN CASEY as the Chairperson of the Indigenous Land Corporation Board on a part-time basis for a period of four years commencing from the beginning of 20 October 2011.

Dated this 19<sup>th</sup> day of October 2011

A handwritten signature in black ink, appearing to read 'J. Macklin'.

Minister for Families, Housing, Community Services and Indigenous Affairs

**Casey, Dawn**

---

**From:** MOODY, Donna [Donna.Moody@fahcsia.gov.au]  
**Sent:** Tuesday, 1 November 2011 12:33 PM  
**To:** Casey, Dawn  
**Subject:** ILC GM appointment [SEC=IN-CONFIDENCE:LEGAL].  
**Attachments:** Atch A - Letter to Chair 4 July 11.pdf; Atch B - Ltr from Chair (MC11-008078).pdf; Shirley McPherson letter to Minister 17 Oct 11.PDF; 22 Aug 2011 Letter to Chair MN11-002008.DOC

Dawn

Attached are copies of correspondence between the Minister and the former chair of the ILC. The Minister's Office has asked that I provide copies to you to assist with your understanding of the process to date.

The summary of events from the attached correspondence is as follows:

- On 4 July 2011 Minister Macklin wrote to Ms Shirley McPherson regarding David Galvin's expiring appointment on 23 September 2011, reminding her of Cabinet Handbook guidelines and suggesting that the ILC Board consider asking for a 3 month extension for Mr Galvin while Board appointments are finalised (Attach A Letter to Chair);
- On 7 July 2011 Ms McPherson wrote to Minister Macklin acknowledging Cabinet Handbook guidelines and asking [s47E(c) s47E(d)] for appointing Mr Galvin for a further four years (Attach B Letter from Chair);

[s47E(c) s47E(d) s22]

Donna

---

Donna Moody  
Group Manager  
Information Management and Technology  
Department of Families, Housing, Community Services and Indigenous Affairs  
P: 02 6244 5200 | M: 0402 462 396 | F: 02 6204 5910 | E: donna.moody@fahcsia.gov.au

---



The Hon Jenny Macklin MP  
Minister for Families, Housing, Community Services  
and Indigenous Affairs

Parliament House  
CANBERRA ACT 2610

Telephone: (02) 6277 7560  
Facsimile: (02) 6273 4122

MN11-001722

4 JUL 2011

Ms Shirley McPherson  
Chairperson  
Indigenous Land Corporation  
GPO Box 652  
ADELAIDE SA 5011

Dear Ms McPherson

I am writing about the impending expiry of the appointment term of the Indigenous Land Corporation's General Manager, Mr David Galvin, on 23 September 2011. I am also aware that all Board member appointments expire on either 19 September 2011 or 16 October 2011.

While the power to appoint the General Manager under the *Aboriginal and Torres Strait Islander Act 2005* rests with the Board, the appointment is a significant government appointment subject to the Cabinet Handbook (the Handbook) guidelines.

Under section 125 of the Handbook, significant appointments must be referred to the Prime Minister, the Hon Julia Gillard MP, seeking her or, at her discretion, Cabinet's approval of the appointment prior to it being finalised.

The Australian Government is keen for all significant appointments to have a strong, transparent merit-based selection process. Under section 128 of the Handbook, I am required to provide an account of the selection process, including particular justification when reappointment is proposed, in seeking the approval of the Prime Minister or Cabinet for a proposed appointment.

Given the timing of the General Manager's appointment relative to the Board appointments, you may wish to consider requesting my approval for an extension to Mr Galvin's appointment to provide continuity to the Indigenous Land Corporation's operations while Board appointments are settled and to given the Board time to consider its options. Under section 125(e) of the Handbook, Ministers are able to make acting appointments for up to three months without seeking the Prime Minister's approval.

Yours sincerely

JENNY MACKLIN MP

Casey, Dawn

---

From: MOODY, Donna [Donna.Moody@fahcsia.gov.au]  
 Sent: Thursday, 2 February 2012 11:32 AM  
 To: Casey, Dawn  
 Subject: Possible governance advice [SEC=IN-CONFIDENCE:STAFF]

Dawn

Following recent discussions about ILC governance matters I thought I would send you some references for organisations that might be able to assist you and your Board with governance advice or with any review you may wish to undertake. The list below includes some large consultancy firms and smaller organisations with a specific focus on corporate governance and Board performance. We don't have any particular experience with them so can't help with who is best. I would also suggest as an alternative that someone experienced in public sector Board governance, for example [s47F] or [s47F] may also be appropriate for ILC.

[s47F]

[s47F]

Give me a call if you would like to discuss.

Thanks

Donna

Australian Institute of Company Directors are Australia's pre-eminent organisation for directors, dedicated to making a difference in the quality of governance and directorship

Website <http://www.companydirectors.com.au>  
 Telephone 02 8248 6600  
 Email [contact@companydirectors.com.au](mailto:contact@companydirectors.com.au)

Boardroom Partners is a well-established specialist board search and advisory company based in Australia established to help organisations review their corporate governance needs within the boardroom.

Website <http://www.boardroompartners.com.au>  
 Telephone 02 9241 6311  
 Email [mail@boardroompartners.com.au](mailto:mail@boardroompartners.com.au)

Directors Australia is a national boutique consultancy firm specialising in board consulting and director recruitment based in Brisbane, Queensland.

Website <http://www.directorsaustralia.com>  
 Telephone 07 3221 5107  
 Email [info@directorsaustralia.com](mailto:info@directorsaustralia.com)

Effective Governance provides expertise and assistance to all types of organisations on governance, strategy and sustainability to clients in Australia and New Zealand

Website <http://www.effectivegovernance.com.au>  
 Telephone 07 3510 8111  
 Email [advisors@effectivegovernance.com.au](mailto:advisors@effectivegovernance.com.au)

Julie Garland McLellan is an international expert on corporate governance and a consultant to corporate and public organisations on corporate governance issues.

Website <http://www.mclellan.com.au>  
 Telephone 02 9499 8700  
 Email [julie@mclellan.com.au](mailto:julie@mclellan.com.au)



**The Hon Jenny Macklin MP**  
**Minister for Families, Community Services and Indigenous Affairs**  
**Minister for Disability Reform**

Parliament House  
 CANBERRA ACT 2600

Telephone: (02) 6277 7560  
 Facsimile: (02) 6273 4122

MN12-000056

14 MAR 2012

Dr Dawn Casey PSM FAHA,  
 Chairperson  
 Indigenous Land Corporation  
 PO Box 38  
 WODEN ACT 2606

Dear Dr Casey

I write further to our recent conversation regarding your initial experiences as Chairperson of the Indigenous Land Corporation. During our conversation we discussed our joint desire to improve corporate governance practices at the Indigenous Land Corporation.

My department has recently raised concerns with me regarding these issues. These concerns centre on the governance arrangements that I understand have been implemented by the Indigenous Land Corporation, including those relating to its subsidiaries. I appreciate these arrangements were put in place before your tenure as Chairperson of the Board.

While I fully appreciate the statutory independence of the Indigenous Land Corporation, and the Board's responsibility for the implementation of appropriate and best practice governance arrangements for the delivery of its statutory objectives, as the responsible Minister under the *Commonwealth Authorities and Companies Act 1997*, I am ultimately accountable to the Parliament of Australia for the performance of the Indigenous Land Corporation.

In your letter of appointment from me of 19 October 2011, I stated my expectation that you would oversee a period of governance change and provide strategic direction to the Indigenous Land Corporation Board and provide me with a Statement of Intent that will describe how the Indigenous Land Corporation will implement best practice governance arrangements and operate in a more transparent and accountable manner.

I recognise it is early in your period of tenure and I am grateful that you are already seriously progressing these matters. I strongly support your early and thorough focus on these areas.

You may be aware that I wrote to your predecessor on several occasions reminding her that under section 15(1) of the *Commonwealth Authorities and Companies Act*, the Indigenous Land Corporation must notify me of significant events. I also asked the Indigenous Land Corporation for written particulars about the proposed purchase and management arrangements for the Ayers Rock Resort. In response, I was provided limited financial, management and divestment information, and assurance that the purchase would have no adverse impact on the delivery of the Indigenous Land Corporation's operations. I was also advised that a new subsidiary called Indigenous Land Corporation Tourism would be established with an independent Board.

A recent search of the Australian Securities and Investments Commission register showed the existence of Voyages Indigenous Tourism Australia Pty Ltd, which replaced Indigenous Land Corporation Tourism on 24 May 2011.

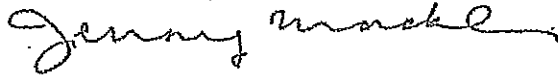
[s47G(1)(a)]

[s47E(d)]

I request that the Board considers the issues I have raised with a view to ensuring that the Indigenous Land Corporation is operating on the basis of best practice governance principles. I would appreciate your advice on progress in due course.

I also understand that your most recent board meeting discussed issues around improving corporate government at the Indigenous Land Corporation, and its subsidiaries, and I would appreciate your prompt advice on progress on these important matters.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Jenny Macklin', with a long horizontal flourish extending to the right.

JENNY MACKLIN MP

Casey, Dawn

---

**From:** Casey, Dawn  
**Sent:** Wednesday, 2 May 2012 2:20 PM  
**To:** Neil Westbury; Ian Trust; 'Olga Havnen'; Graham Atkinson  
**Subject:** ILC Board minutes Brisbane meeting

Hi All

[s47F]

I have had a brief look at the minutes and I didn't think said he would be happy to have another board member chair the audit and risk committee. As I recall I advised there was a number of the Board members who could chair the committee.

Dawn

Dr Dawn Casey PSM FAHA  
Director  
Powerhouse Museum  
PO Box K346  
Haymarket NSW 1238  
500 Harris Street, Ultimo NSW 2007  
Tel: + 61 2 9217 0363; Fax: +61 2 9217 0459  
Email: [dawnc@phm.gov.au](mailto:dawnc@phm.gov.au)  
Web: [www.powerhousemuseum.com](http://www.powerhousemuseum.com)





Australian Government  
Indigenous Land Corporation

11 May 2012

The Hon Jenny Macklin MP  
Minister for Families, Community Services and Indigenous Affairs, and  
Minister for Disability Reform  
PO Box 6022  
Parliament House  
Canberra ACT 2600

Dear Minister,

I am writing in relation to your *Statement of Expectations (SOE)* and the *Statement of Intent (SOI)* issued by the Indigenous Land Corporation (ILC), and to advise you of the ILC's progress in fulfilling its intentions.

The ILC Board is committed to ensuring that the Government's expectations, as expressed through your SOE, are considered as part of the ILC's planning. As you would be aware, the most recent SOE and SOI expired in June 2011. I have included a brief summary of the ILC's progress in fulfilling the *ILC Statement of Intent* at Attachment 1 for your information. As you know, the ILC has made significant contributions to the Government's *Indigenous Development Strategy* and the Prime Minister's 2012 *Closing the Gap Statement*.

The new ILC Board is in the process of making a number of changes to enhance the governance of ILC. I will be advising you of these over the next few weeks in response to a range of correspondence from you over recent months.

May I suggest ILC staff commence discussions with the Department to formulate a new Statement of Intent that takes into account the issues you have raised as well as the outcomes the Board is seeking to achieve.

Should officers in your Department require any advice or assistance in these matters, the ILC contact officer is Michael O'Ryan, Director Policy and Program Development, phone 07 3854 4600, or at [michael.oryan@ilc.gov.au](mailto:michael.oryan@ilc.gov.au).

Yours sincerely,

Dr Dawn Casey PSM FAHA  
Chair

ATTACHMENT

## Report against the ILC Statement of Intent (for 2010-2011)

The following table sets out the actions and activities required under the ILC Statement of Intent and comments on the ILC's compliance.

Activities required by Statement of Intent	Compliance activities
The ILC will strive to fulfil its responsibilities in accordance with the ATSI Act, the Commonwealth Authorities and Companies Act 1997 and other relevant legislation.	The ILC's activities and its compliance with the ATSI, CAC Act and other Acts is set out in the Annual Report 2010-11.
The strategies, policies and priorities which guide the ILC's land acquisition and land management functions are outlined in the National Indigenous Land Strategy (NILS) 2007-2012. The ILC Board reviews the NILS annually and will provide a copy of the NILS to the Minister within two months of making any changes <sup>1</sup> .	<p>The NILS was revised at the Board's Meeting No. 139 of 23 February 2011 and provided to the Minister for tabling on 15 April 2011. The NILS had regard to the Minister's Statement of Expectations and the ILC Statement of Intent. Specifically, care was taken to include particular issues of concern to the Minister, including:</p> <ul style="list-style-type: none"> <li>• Closing the Gap, the Government's Indigenous economic development strategies (the NILS was tabled before the formal strategy was launched), and the COAG reform agenda - all of which were included in the Introduction to the NILS as key Government policy; and</li> <li>• Native Title - "The ILC will collaborate with Indigenous people and Australian and State/Territory governments to contribute to constructive and flexible settlement of Native Title claims to achieve sustainable Indigenous benefits" - included under "Collaboration to create opportunities".</li> </ul>
The ILC will continue to assist Aboriginal persons and Torres Strait Islanders to acquire land and manage Indigenous-held land so as to provide economic, environmental, social and/or cultural benefits, including assisting groups to build capacity to own, manage and derive sustainable benefits from their land. The ILC will continue to assist the development of Indigenous enterprises and place priority on the achievement of training to employment outcomes.	<p>The ILC's functions were carried out in accordance with the Act and continued to focus on the achievement of Indigenous benefits. The ILC exceeded its Performance Indicators in the Portfolio Statements and reported the following in its 2010-2011 Annual Report:</p> <ul style="list-style-type: none"> <li>• 5 properties were acquired and 2 further approved acquisitions were awaiting settlement</li> <li>• 91 land management projects were undertaken</li> <li>• 162 Indigenous-held properties were assisted to improve land management</li> <li>• 31% of ILC-assisted projects assisted the protection of cultural and environmental heritage values of maintained culture</li> <li>• 135 Indigenous staff were directly employed in ILC-operated tourism and agricultural businesses</li> <li>• 188 Indigenous trainees were hosted through ILC tourism and agricultural businesses</li> <li>• 1446 employment outcomes were enabled through ILC land acquisition and land management assistance</li> <li>• Nearly 5,000 training events were enabled through ILC land acquisition and land management assistance</li> </ul>
The ILC will continue to develop and implement divestment strategies to ensure acquired properties are granted within a reasonable time, ensuring that sustainable benefits are achieved for Aboriginal persons and Torres Strait Islanders.	All 75 ILC-held properties have divestment strategies in place. Twelve (12) properties were divested to Indigenous corporations in 2010-11, a further 8 are planned in 2011-12 and 14 in 2012-13. Some properties are held by the ILC at the request of proponent groups; for some properties the proponent group is in conflict or non-compliant with regulatory responsibilities; and other properties have no apparent proponent group and the ILC is seeking expressions of interest. Other properties will require a longer term divestment strategy given the complexities of managing such properties and the ILC is engaged in active

<sup>1</sup> s. 191N(7) of the ATSI Act requires the Minister to table any changes to the NILS in each House of the Parliament within 15 days of receiving the document.

	discussions with proponent groups about how to achieve a successful divestment strategy in these more complex environments. <sup>29</sup>
The ILC will contribute to constructive and flexible settlement of native title claims, where its legislative functions and budgetary constraints allow it to do so. The ILC will report to you annually on activity in this area.	The ILC was not formally approached in 2010-11 to assist with the settlement of native title claims, although informal discussions were held with the Victorian and South Australian Governments about potential settlements. The ILC continues to work in a number of areas of relevance to native title. The ILC works through its land management program with Prescribed Bodies Corporate that have gained native title recognition (e.g. De Rose Hill, SA). The ILC has also acquired land from time to time for groups who have also claimed native title over the relevant land (e.g. Tallaroo Station QLD and Fish River Station in the NT) and in other cases where a native title claim may have been unsuccessful (e.g. Ayers Rock Resort where the compensation claim failed). The ILC is also continuing discussions with the Commonwealth regarding further areas where the ILC and its programs might play a constructive role in native title and what possible legislative, regulatory or guideline support might appropriately assist the ILC. (The ILC Board has recently endorsed a draft Native Title policy for consultation with Stakeholders.
The ILC will continue to collaborate with Australian and State/Territory Government agencies, private industry bodies, peak Indigenous organisations and the non-government sector, where our actions are supplementary to the responsibilities of other agencies <sup>2</sup> and where our involvement will bring benefits to Aboriginal persons and Torres Strait Islanders.	69% of ILC land acquisition and land management projects in 2010-11 were collaborative with and leveraged funding from other agencies, industry and/or the non-government sector.
The ILC Board has aligned its benefits reporting framework with the Closing the Gap indicators and will continue to play a constructive role in the Council of Australian Governments (COAG) reform agenda. It will have regard to the National Partnership on Remote Service Delivery and contribute to the development of the Indigenous Expenditure Report, being formulated by the Productivity Commission.	The ILC Benefits Framework aligns with the Closing the Gap indicators. The ILC regularly consults with the ABS and the Productivity Commission to ensure its indicators and measures are appropriate and aligned. The ILC has contributed to the development of the <i>Indigenous Expenditure Report</i> and has regard to the Australian Government's (COAG) reform agenda and the <i>National Partnership on Remote Service Delivery</i> , as articulated in the NILES. The ILC featured prominently in the Prime Minister's 2012 <i>Closing the Gap</i> statement).
The ILC and its subsidiary companies will maintain the highest standards of corporate governance, including having regard to the ANAO <i>Best Practices Corporate Governance in Commonwealth Authorities and Companies</i> and the requirements of the <i>Auditor-General Act 1997</i> .	The ILC and its subsidiaries demonstrate their commitment to high standards of corporate governance and have policies and practices in place to support this (including (but not limited to): <ul style="list-style-type: none"> <li>• An Audit and Risk Management Committee chaired by an ILC Director and an external member with high-level industry expertise</li> <li>• An active Internal Audit Program, conducted by external consultants and overseen by the ILC's Risk Management Steering Committee, with an external Chairman with high-level industry expertise</li> <li>• Risk Management program that is adopted across the organization</li> <li>• Sound Human Resource policies and processes, illustrated by successful negotiation of an Enterprise Agreement that is consistent with the <i>Australian Government Enterprise Bargaining Framework</i></li> <li>• Commitment to open and transparent decision making, including provision of statements of reason to unsuccessful applicants</li> <li>• The ILC reports activities and achievements of its</li> </ul>

<sup>2</sup> S. 191F(3) of the ATSI Act provides that the functions of the ILC are in addition to, not instead of, functions conferred on other agencies.

Corporate Governance in each year's Annual Report	
The ILC will comply with applicable <i>Estimate Memoranda</i> and relevant directives issued by the Minister for Finance and Deregulation, or the Department of Finance and Deregulation.	The ILC has complied with relevant <i>Estimate Memoranda</i> and relevant directives issued by the Minister for Finance and Deregulation, or the Department of Finance and Deregulation.
The ILC will continue to ensure its Board members are aware of their roles and responsibilities and are supported so they can discharge their duties impartially with a high degree of diligence, care and skill in a manner that promotes the highest level of corporate governance. ILC Board members will participate in an annual skills evaluation and the ILC Chairperson will inform the Minister of any relevant issues in relation to the on-going performance of Board members.	The ILC Board members and subsidiaries Boards members are provided with a detailed induction on commencement. The ILC Board has adopted a Code of Conduct. Board members have access to external consultants as required and are supported by the ILC to attend to any training or skills development. The ILC Chairperson has met regularly with the Minister and the Minister's Senior advisor.
The ILC will maintain its continuous improvement approach; maintain and build on relationships with key stakeholders to help inform this approach; and continue to build organisational and workforce capabilities to meet current and future demands and expectations.	<p>The ILC seeks to improve its policies and procedures and relationships with key stakeholders through:</p> <ul style="list-style-type: none"> <li>• Evaluation activities, including evaluations of each land acquisition and land management project</li> <li>• Active seeking of feedback from applicants during each Land Acquisition and Land Management application round.</li> <li>• Meetings with key stakeholders</li> <li>• Attendance at Portfolio CEO and CFO Forums.</li> </ul> <p>Details of evaluation and consultation are included in the ILC's Annual Report</p>
The ILC will maintain effective communication and close co-operation with the Minister and her Departmental officers on significant policy and service delivery matters arising from the ILC's functions.	The ILC Chairperson and CEO maintained regular meetings with the Minister, her Office and Department. At the Board's invitation, the Minister attended the ILC Board meeting of 23 February 2011 at the National Centre of Excellence in Redfern, Sydney. The Minister launched the opening of the abattoirs and pastoral station at Gunbalanya and visited the Mossman Gorge Centre in October 2011. During 2011, the ILC CEO attended all CEO forums chaired by FaHCSIA and the ILC Chief Operating Officer attended all FaHCSIA Chief Finance Officer forums. The ILC responded in a positive and timely manner for requests from FaHCSIA to a range of issues including development of the Indigenous Economic Development Strategy and the PM's Closing the Gap Statements for 2011 and 2012. The ILC CEO and Chief Operating Officer attended quarterly meetings with officers from the Department of Finance and Deregulation and FaHCSIA to provide briefings on the operations of Ayers Rock resort.



16

**The Hon Jenny Macklin MP**  
**Minister for Families, Community Services and Indigenous Affairs**  
**Minister for Disability Reform**

Parliament House  
CANBERRA ACT 2600

Telephone: (02) 6277 7560  
Facsimile: (02) 6273 4122

21 JUN 2012

MN12-000923

Dr Dawn Casey PSM FAHA  
Chairperson  
Indigenous Land Corporation  
GPO Box 652  
ADELAIDE SA 5001

Dear Dr Casey

Thank you for the advice of 4 April 2012 from the Indigenous Land Corporation Chief Executive Officer, Mr David Galvin, providing me with the audited reports and financial statements for four Indigenous Land Corporation subsidiaries.

The information provided enables me to fulfil my responsibilities under the *Commonwealth Authorities and Companies Act 1997*.

I would like to congratulate the Indigenous Land Corporation on receiving an unqualified set of audit reports.

I appreciate being kept informed and look forward to receiving progress reports, particularly in relation to the performance of the Ayers Rock Resort which is managed by Voyages Indigenous Tourism Pty Ltd.

I have copied this letter to Mr Galvin for his information.

Thank you again for writing.

Yours sincerely

**JENNY MACKLIN MP**



Australian Government  
Department of Families, Housing,  
Community Services and Indigenous Affairs

Finn Pratt PSM  
Secretary

Dr Dawn Casey PSM FAHA  
Chairperson  
Indigenous Land Corporation  
PO Box 686  
CURTIN ACT 2606

*Dawn*  
~~Dear Dr Casey~~

Thank you for your letter of 14 May 2012 advising of a number of governance issues relating to the Indigenous Land Corporation (ILC) Board.

It is pleasing that the Auditor-General has now written to you advising that the Australian National Audit Office (ANAO) will revise its *Public Sector Audit Committees Better Practice Guide* to fully reflect the *Commonwealth Authorities and Companies Regulations 1997*. This includes the notation in the regulations that specifically provides for the audit committee of a Commonwealth authority to include external appointees, and for the committee to be chaired by an external appointee.

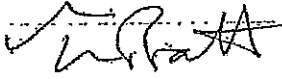
In his letter, the Auditor-General highlighted the importance of the ILC considering its specific needs and particular governance requirements, and of maintaining an appropriate balance between independence and corporate knowledge for members of an audit committee. The Auditor-General notes the ANAO guidance that the initial term for a committee member be three years, with a possible extension of up to five years. While it is a matter for the ILC, in my view, any term beyond five years would be cause for careful review and consideration of all options in order to ensure ongoing refreshment of membership.

I also consider that while it is important that the chair of an audit committee have a good understanding of the entity, it is also important that the chair be appropriately independent of the operations of the entity and its subsidiaries in order to avoid any real or perceived conflicts of interest.

Further, I support the efforts of the ILC Board to ensure that it is able to fulfill its director's duties in accordance with the *Commonwealth Authorities and Companies Act 1997* by having access to sufficient information to enable fully informed decisions about the operations of the ILC and its subsidiary entities.

It is clear to me that the direction the Board is taking under your leadership is already delivering improved governance arrangements for the ILC, and I look forward to seeing ongoing enhancement in the year ahead.

Yours sincerely



Finn Pratt

22 June 2012



Australian Government  
Indigenous Land Corporation

25 June 2012

The Hon Jenny Macklin MP  
Minister for Families, Community Services and Indigenous Affairs  
and Minister for Disability Reform  
PO Box 6022  
Parliament House  
Canberra ACT 2600

Dear Minister,

As advised in my letter of 11 May 2012, the ILC Board of Directors is committed to the continuous improvement of corporate governance arrangements.

I am pleased to advise that the Board has established a new process of writing to you after each Board meeting to advise you of significant issues and upcoming events.

Please find attached a short brief setting out significant issues arising from the February and April 2012 ILC Board meetings and upcoming events of note. The Board meets again on Friday 29 June and I anticipate agreement on a number of governance issues with advice to you shortly thereafter.

The brief also highlights media and project opportunities in which you might wish to participate.

Please let me know if you would require more detailed briefings in respect to any of these issues. Should officers in your Department require any advice or assistance in these matters, the ILC contact officer is Michael O'Ryan, Director Policy and Program Management, telephone 07 - 38544600, or at [michael.oryan@ilc.gov.au](mailto:michael.oryan@ilc.gov.au).

Yours sincerely,

Dr Dawn Casey PSM FAHA  
Chair



Significant issues considered by the ILC Board  
February and April 2012

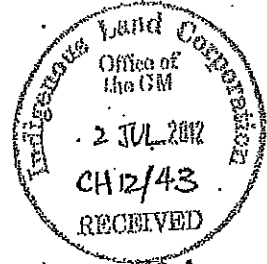
Issue	Description
National Indigenous Land Strategy (NILS)	The NILS 2007-2012 expires at the end of 2012. The Board is developing consultation strategies to assist with its review and revision including surveys, seeking submissions and conducting focus groups. The Board will consider its final strategy for consultations about the NILS at its meeting on 29 June 2012.
Statement of Expectations / Statement of Intent	The Board agreed that the Chairperson write to Minister Macklin to seek new <i>Statement of Expectations</i> to assist in revision of the <i>ILC Statement of Intent</i> and to inform revision of the NILS. Note that the Chairperson wrote to the Minister in this regard on 11 May 2012.
Acquisitions of Fish River Gorga Block (FRGB) and [s47G(1)(a)] Northern Territory	The Board agreed in principle to acquire two NT properties with significant cultural heritage and environmental values.  [s47G(1)(a)]  Indigenous Savannah Burning projects will be established on the properties to establish a carbon offsetting enterprise.
ILC Portfolio Budget Statements (PBS)	The ILC Board endorsed <i>Deliverables and Key Performance Indicators</i> for 2012-2013 and out-years for inclusion in the FALCSA PBS.
ILC Draft Native Title Policy	The ILC Board endorsed a draft policy that sets out the ILC's commitment to contribute to the constructive and flexible settlement of Native Title claims, and the achievement of social, cultural, environmental and economic benefits for Indigenous Australians, consistent with its statutory responsibilities. The policy provides that the ILC will consider providing land acquisition and/or land management assistance where a proposed Native Title settlement will facilitate a full and final resolution of claims and improve the quality of Native Title outcomes for Indigenous parties. The Policy is "draft" as Board is happy to consider further amendments depending on the outcomes of the NILS consultations (see above). Note that the Chairperson wrote to the Minister in this regard on 21 May 2012.

Emerging issues / upcoming events

Issue	Description
Mossman Gorge Visitor and Training centre (QLD)	<ul style="list-style-type: none"> <li>Business opening 20 June 2012, with up to 70 Indigenous jobs in the tourism high season (58 Indigenous employees currently engaged).</li> <li>Media / Ministerial launch opportunity planned for 1 August 2012</li> </ul>
[s47G(1)(a)]	[s47G(1)(a)]
[s47G(1)(a)]	
Ayers Rock Resort	<ul style="list-style-type: none"> <li>Opening of new convention centre for 450 people</li> <li>Media / Ministerial launch opportunity September 2012 (date to be confirmed) [s47G(1)(a)]</li> </ul>
2012 Land Management applications	<ul style="list-style-type: none"> <li>Applications closed 2 April 2012 available for property, planning and Infrastructure to assist in development of Indigenous land-based enterprises.</li> </ul>
2012 Land Acquisition applications	<ul style="list-style-type: none"> <li>Applications close 2 July 2012 - available for socio-economic outcomes. [s47G(1)(a)]</li> </ul>

Other Matters – Section 15 of the CAC Act

Deregistration of ILC subsidiary Land Enterprises Australia Pty Ltd (LEA)	LEA has now been deregistered. It had been an inactive subsidiary for a number of years. Its deregistration is part of the ILC's ongoing corporate governance review processes.
Creation of Body Corporate to hold strata title for Black Theatre Site Building, Redfern, NSW	The ILC has recently strata titled the property "Black Theatre Site" at Cope St Redfern. Strata titling of the building is part of the ILC's divestment strategy for the property, enabling separate floors of the building to be granted to individual Indigenous organisations. As a result of the strata titling, a body corporate to hold title has been established. The legal name of the body corporate is "The Owners—Strata Plan No. 86156".



**The Hon Jenny Macklin MP**  
**Minister for Families, Community Services and Indigenous Affairs**  
**Minister for Disability Reform**

Parliament House  
CANBERRA ACT 2600

Telephone: (02) 6277 7560  
Facsimile: (02) 6273 4122

26 JUN 2012

MN12-001336

Dr Dawn Casey PSM FAHA  
Chair  
Indigenous Land Corporation  
PO Box 586  
CURTIN ACT 2605

Dear Dr Casey

Thank you for your letter of 11 May 2012 reporting on the Indigenous Land Corporation's progress against its 2010-2011 Statement of Intent.

I am encouraged by the work you and the Board are undertaking to improve the governance arrangements of the Indigenous Land Corporation. I consider the opportunity to review and inject new and critical thinking into an organisation's governance arrangements is key to maintaining best practice.

You will be aware that I have previously written to your predecessor, Shirley McPherson, relating to Statement of Expectations and Statement of Intent arrangements, and I raised these matters with you in your appointment letter of 19 October 2011. On the basis of that correspondence I do not consider that there is an approved Statement of Intent in place.

Given the time that has now elapsed I would suggest that staff from the Indigenous Land Corporation work with my Department to commence a process of consultation on the development of a new Statement of Expectations for me to issue, and for response by the Indigenous Land Corporation in the form of a new Statement of Intent.

Yours sincerely

JENNY MACKLIN MP

## THE APPOINTMENTS PROCESS

124 Where a significant government appointment is proposed, the responsible minister must write to the Prime Minister seeking his or, at his discretion, the Cabinet's approval of the appointment before any appointment action is finalised.

125 The appointments to be brought to the Prime Minister's attention include:

- (a) significant full time or part time appointments (including interim appointments) to boards, commissions or statutory offices;
- (b) full time chief executive officer (CEO) positions in such agencies (where the board selects the CEO, the government should be consulted and the minister should not signify agreement without the approval of the Prime Minister);
- (c) acting appointments in the above categories where the appointment is for more than three months (an initial acting appointment for up to three months may be made without seeking the Prime Minister's approval, but any extension would require the Prime Minister's agreement);
- (d) appointments to significant non statutory tribunals, advisory bodies and commissions of inquiry; and
- (e) appointments as heads of mission other than Austrade managed posts.

126 For other proposed appointments, it is for ministers, in consultation with the Prime Minister if appropriate, to judge whether the proposal should be brought to his attention. As a general rule, if appointments to a particular body have been submitted for approval by the Prime Minister or the Cabinet in the past, they should continue to be submitted for approval unless the Prime Minister agrees otherwise. The Cabinet Secretariat can assist with advice on past practice.

127 To avoid pre-empting any decisions, potential appointees are to be approached initially only to ascertain:

- (a) a willingness for their name to be put forward for consideration along with other candidates; and
- (b) whether, if selected, there would be any conflict of interests, in accordance with the government's requirements.

128 In submitting proposals to the Prime Minister, ministers must ensure that:

- (a) an account is given of the selection process, including whether the position has been advertised and, if not, the reason for that decision. If the position is subject to the New Arrangements for Merit and Transparency in Senior Public Service Appointments (announced in February 2008), the minister's letter should outline how that process was applied. Where the minister recommends re-appointment, particular justification for doing so is to be included;
- (b) the person being proposed is appropriately qualified and has experience relevant to the vacancy;
- (c) the appointment would conform with any applicable legislation;
- (d) any urgency or sensitivity relating to the proposed appointment is explained;
- (e) any necessary consultation with other ministerial colleagues or state/territory counterparts has occurred (nominating ministers should consult relevant ministerial colleagues when proposing to appoint officers employed in another portfolio to an advisory committee in their own portfolio; where a state or territory public servant is being considered for appointment to a

part time position, the relevant premier, chief minister or state/territory minister should also be consulted); and

(f) no public announcement is made prior to approval of the appointment by the Governor-General, the Prime Minister or the Cabinet (as relevant).

129 In preparing appointment proposals for the Prime Minister's consideration, ministers must also ensure that:

(a) proposals reach the Prime Minister's office at least 10 working days before the Cabinet meeting at which the appointment may be raised for consideration. As a general rule, proposals should be submitted for consideration well in advance of the time the position is to be filled, but usually no more than three months in advance. For appointments that require Federal Executive Council consideration, calculation of the lead time must take into account the cut off dates for submission of Federal Executive Council agenda items;

(b) due regard has been paid to gender balance in appointments;

(c) careful attention has also been paid to the need to have an appropriate geographical balance in appointments;

(d) in proposing appointments to a Government Business Enterprise Board, ministers are to follow the procedures set out in the Finance guidelines: Governance Arrangements for Commonwealth Government Business Enterprises – June 1997; and

(e) every appointment proposal to the Prime Minister is accompanied by the following attachments (templates are available from the Cabinet Secretariat):

(i) an Appointment for Cabinet form, whether or not the particular appointment is a candidate for Cabinet consideration. All questions on the form, including accurate remuneration details, must be answered;

(ii) an up to date curriculum vitae (one to two pages);

(iii) a completed and signed Private Interests Declaration; and

(iv) a current Membership List of the relevant organisation, including the proposed appointments and the resulting gender and geographical balance.

130 Additional procedures apply to appointments concerning close relatives of ministers, members of parliament, ministerial staff or departmental secretaries and agency heads. Any such relationship should be noted in appointment proposals.

131 To avoid the appearance of conflict of interest, those involved in the appointments process should have no family relationship with the person under consideration and any ministers concerned should absent themselves from all discussion on that matter. There is a long standing practice that ministers do not appoint close relatives to positions in their own offices. In addition, close relatives of a minister should not be appointed to any other minister's office irrespective of the level of the position, except with the specific approval of the Prime Minister. A minister's close relative should not be appointed to any position in an agency in that minister's own portfolio if the appointment is subject to the agreement of that minister or the Cabinet. Further information on the appointment of close relatives may be found in the Guide on Key Elements of Ministerial Responsibility.

132 Circulation of appointment minutes is limited on the understanding that no information concerning an appointment is to be divulged until all necessary processes have been completed.

(for example, the Governor-General has made the appointment) and an announcement made by the minister.

133 In exceptional circumstances, where the appointment is to be made by the Governor-General following the Prime Minister's consideration, it may be possible to obtain approval from the Governor General for the early announcement of a proposed appointment before the processes have been completed. The Federal Executive Council Secretariat (located in the Cabinet Secretariat) will assist with advice and make any necessary arrangements in such cases.

134 The procedures to be followed for re appointments are the same as those for appointments.

135 The making of appointments is a very significant government activity with important long term implications. The above process is designed to ensure that appointments receive the full and proper consideration they deserve. In order to maintain the integrity of the Cabinet's appointments system, there must be rigorous adherence to this process.

# INDIGENOUS BUSINESS AUSTRALIA

## AUDIT & RISK COMMITTEE CHARTER

<b>Issue Date</b>	December 2008
<b>Approval</b>	Board Meeting 55 [December 2008]
<b>Revision</b>	Board Meeting 67 [December 2010]

The Board of Indigenous Business Australia (IBA) has established the Audit & Risk Committee in compliance with section 32 of the *Commonwealth Authorities and Companies Act 1997* (CAC Act).

This charter sets out the Committee's objectives, authority, composition and tenure, roles and responsibilities, reporting and administrative arrangements.

## **Objective**

The objective of the Committee is to provide independent assurance and assistance to the Board on IBA's risk, control and compliance framework, and its external accountability responsibilities.

## **Authority**

The Board authorises the Committee, within the scope of its role and responsibilities, to:

- ◇ Obtain any information it needs from any employees and/or external party (subject to their legal obligations to protect information);
- ◇ Discuss any matters with the external auditor, or other external parties (subject to confidentiality considerations);
- ◇ Request the attendance of any employee, including Directors, at committee meetings; and
- ◇ Obtain external legal or other professional advice, as considered necessary to meet its responsibilities, at IBA's expense.

## **Composition and Tenure**

The Board is responsible for the appointment of Committee members. The Committee will consist of at least two and not more than five members, drawn from the Board. The Board has the authority to also appoint an independent member.

The Board will appoint a non-executive member as Chair of the Committee. The IBA Chairperson will not be the Chairperson of the Committee. The Chair must have qualification or able to be accepted as a member of the Certified Practising Accountants (CPA) or Chartered Accountants.

Members will be appointed for an initial period of not exceeding three years after which they will be eligible for extension or re-appointment, after a formal review of their performance.

The Chief Executive Officer, Deputy Chief Executive Officer Business Support and the Head of Internal Audit will not be members of the Committee, but may attend meetings as observers as determined by the Chair.

The members, taken collectively, will have a broad range of skills and experiences relevant to the operations of IBA. At least one member of the Committee (as well as the Chair) should have accounting or related financial management experience with an understanding of accounting and auditing standards in a public sector environment.



## **Roles and Responsibilities**

The Committee has no executive powers, unless delegated to it by the Board.

The Committee is directly responsible and accountable to the Board for the exercise of its responsibilities.

The responsibility of the Committee may be revised or expanded in consultation with, or as requested by, the Board from time to time.

The Committee's responsibilities are to:

### **Risk Management**

- ◇ Review and make recommendations to the Board whether management has in place a current and comprehensive risk management framework, and associated procedures for effective identification and management of IBA's financial and business risks, including fraud;
- ◇ Review and make recommendations to the Board whether a sound and effective approach has been followed in developing strategic risk management plans for major projects or undertakings;
- ◇ Review and make recommendations to the Board on the impact of IBA's risk management framework on its control environment and insurance arrangements;
- ◇ Review and make recommendations to the Board on whether a sound and effective approach has been followed in establishing IBA's business continuity planning arrangements, including whether disaster recovery plans have been tested periodically; and
- ◇ Review and make recommendations to the Board on IBA's fraud control plan and satisfy itself IBA has appropriate processes and systems in place to capture and effectively investigate fraud related information.

### **Control Framework**

- ◇ Review and make recommendations to the Board whether management's approach to maintaining an effective internal control framework, including over external parties such as contractors and advisors, is sound and effective;
- ◇ Review and make recommendations to the Board whether management has in place relevant policies and procedures, including General Manager's Instructions or their equivalent, and that these are periodically reviewed and updated;
- ◇ Determine whether the appropriate processes are in place to assess, at least once a year, whether policies and procedures are complied with;
- ◇ Review and make recommendations to the Board whether appropriate processes are in place for the management and exercise of delegations;
- ◇ Consider how management identifies required changes to the design or implementation of internal controls; and
- ◇ Review and make recommendations to the Board whether management has taken steps to embed a culture which is committed to ethical and lawful behaviour.

### **External Accountability**

- ◇ Review the annual consolidated financial statements and provide advice to the Board (including whether appropriate action has been taken in response to audit recommendations and adjustments), and recommend their signing by the Chair of the Board;
- ◇ Review the annual consolidated financial statements of IBA subsidiaries and provide advice to the Board (including whether appropriate action has been taken in response to audit recommendations and adjustments), and recommend that the Board provides the audit report and financial statements to the Minister (as per section 12 of the CAC Act);
- ◇ Satisfy itself that the annual consolidated financial statements are supported by appropriate management signoff on the statements and on the adequacy of the systems of internal controls;
- ◇ Review and make recommendations to the Board on the processes in place designed to ensure that financial information included in IBA's Annual Report is consistent with the signed financial statements;
- ◇ Satisfy itself that IBA has appropriate mechanisms in place to review and implement, where appropriate, relevant Parliamentary Committee reports and recommendations; and
- ◇ Satisfy itself that IBA has a performance agreement framework that is linked to organisational objectives and outcomes.

### **Legislative Compliance**

- ◇ Determine whether management has appropriately considered legal and compliance risks as part of IBA's risk management and management arrangements; and
- ◇ Review and make recommendations to the Board on the effectiveness of the system for monitoring IBA's compliance with relevant laws, regulations and associated government policies.

### **Internal Audit**

- ◇ Act as a forum for communication between the Board, senior management and internal and external audit;
- ◇ Review the internal audit coverage and annual work plan, ensure the plan is based on IBA's risk management plan, and recommend approval of the plan by the Board;
- ◇ Advise the Board of the adequacy of internal audit resources to carry out its responsibilities, including completion of the approved internal audit plan;
- ◇ Oversee the coordination of audit programs conducted by internal and external audit and other review functions;
- ◇ Review all audit reports and provide advice to the Board on significant issues identified in audit reports and action taken on issues raised, including identification and dissemination of good practice;
- ◇ Monitor management's implementation of internal audit recommendations;
- ◇ Review the internal audit charter to ensure appropriate organisation structures, authority, access and reporting arrangements are in place;
- ◇ Periodically review the performance of internal audit; and
- ◇ Review and make recommendation to the Board on the appointment of the internal auditor.

### **External Audit**

- ◇ Act as a forum for communication between the Board, senior management and internal and external audit;
- ◇ Provide input and feedback on the financial statement and performance audit coverage proposed by external audit and provide feedback on the audit services provided;
- ◇ Review and make recommendations to the Board on all external plans and reports in respect of planned or completed audits and monitor management's implementation of audit recommendations; and
- ◇ Provide advice to the Board on action taken on significant issues raised in relevant external audit reports and better practice guides.

### **Responsibilities of Members**

Members of the Committee are expected to understand and observe the legal requirements of the CAC Act and Sections 145 – 191, Part 4, Division 1 – 9 of the *Aboriginal and Torres Strait Islander Act 2005*. Members are also expected to:

- ◇ Contribute the time needed to study and understand the papers provided;
- ◇ Apply good analytical skills, objectivity and good judgement; and
- ◇ Express opinions frankly, ask questions that go to the fundamental core of the issue and pursue independent lines of enquiry.

### **Reporting**

The Chair of the Committee will provide at each meeting of the Board, an Audit & Risk Committee Report that will include minutes of prior meetings.

The Committee will regularly, but at least once a year, report to the Board on its operations and activities during the year. The report should include:

- ◇ A summary of the work the Committee performed to fully discharge its responsibilities during the proceeding year;
- ◇ A summary of IBA's progress in addressing the findings and recommendations made in internal, external and Parliamentary Committee reports;
- ◇ An overall assessment of IBA's risk, control and compliance framework, including details of any significant emerging risks or legislative changes impacting IBA; and
- ◇ Details of meetings, including the number of meetings held during the relevant period, and the number of meetings each member attended.

The Committee may, at any time, report to the Board any other matter it deems of sufficient importance to do so and as required in response to a specific request from the Board. In addition, at any time, an individual Committee member may request a meeting with the Chair of the Board.

## **Administrative Arrangements**

### **Meetings**

The Committee will meet at least four times per year. A special meeting may be held to review IBA's annual financial statements.

The Chair is required to call a meeting if asked to do so by the Board, or another Committee member.

A forward meeting plan, including meeting dates and agenda items, will be agreed by the Committee each year. The forward meeting plan will cover all of the Audit & Risk Committee's responsibilities, as detailed in this Charter.

### **Attendance at Meetings and Quorums**

A quorum will consist of a majority of committee members.

Meetings can be held in person, by telephone or by video conference.

The Head of Internal Audit and external audit representatives will be invited to attend each meeting, unless requested not to do so by the Chair of the Committee. The Committee may also request the Chief Finance Officer or other employees attend committee meetings or participate in certain agenda items.

The Committee will meet separately with both the internal and external auditors at least once a year.

The Chair of the Board and/or the Chief Executive Officer may be invited to attend Committee meeting to participate in specific discussion or provide strategic briefings to the Committee.

### **Secretariat**

The Governance Officer will provide secretariat support to the Committee. The secretariat will ensure the agenda for each meeting and supporting papers are circulated, after approval from the Chair, at least one week before the meeting, and ensure the minutes of the meetings are prepared and maintained. Minutes must be approved by the Chair and circulated within two weeks of the meeting to each member and committee observers, as appropriate.

### **Conflicts of Interest**

Once a year Audit & Risk Committee members will provide written declarations to the Board stating they do not have conflicts of interest that would preclude them from being members of the Committee.

Audit & Risk Committee members must declare any conflicts of interest at the start of each meeting or before discussion of the relevant agenda item or topic. Details of any conflicts of interest should be appropriately minuted.

Where members or observers at Audit & Risk Committee meetings are deemed to have a real, or perceived, conflict on interest it may be appropriate that they are excused from Committee deliberations on the issue where a conflict on interest exists.

**Induction**

New members will receive relevant information and briefing on their appointment to assist them to meet their Committee responsibilities.

**Assessment Arrangements**

The Chair of the committee, in consultation with the Chair of the Board, will initiate a review of the performance of the Committee at least once every two years. The review will be conducted on a self-assessment basis (unless otherwise determined by the Board) with appropriate input sought for the Board, the Chief Executive Officer, Deputy Chief Executive Officer Business Support, the internal and external auditors, management and any other relevant stakeholders, as determined by the Board.

**Review of Charter**

At least once a year the Committee will review the Charter. This review will include consultation with the Board.

Any substantive changes to the Charter will be recommended by the Committee and formally approved by the Board.

# **INDIGENOUS BUSINESS AUSTRALIA**

## **FINANCE and INVESTMENT COMMITTEE CHARTER**

<b>Issue Date</b>	December 2009
<b>Approval</b>	Board Meeting 61
<b>Revision</b>	Board Meeting 69
<b>Revision</b>	19 March 2011

The Board of Indigenous Business Australia (IBA) has established the Finance & Investment Committee. This charter sets out the Committee's objectives, composition and tenure, roles and responsibilities, reporting and administrative arrangements.

## **Objective**

The objective of the Committee is to provide assurance and assistance to the Board on IBA's financial performance and its investment decision making.

## **Composition and Tenure**

The Board is responsible for the appointment of Committee members. The Committee will consist of at least two members drawn from the Board and the Board also has the authority to appoint up to two independent members.

The Board will appoint a non-executive IBA Director as Chair of the Committee. The Chair must have relevant financial, commercial or investment experience.

Members will be appointed for an initial period not exceeding three years after which they will be eligible for extension or re-appointment, after a formal review of their performance.

The Chief Executive Officer, Deputy Chief Executive Officer(s) and Chief Financial Officer will not be members of the Committee, but will attend to provide support and advice as determined by the Committee's Chair.

The members, taken collectively, will have a broad range of skills and experience relevant to the operations of IBA. At least two members of the Committee should have a depth of investment or related financial management experience with a comprehensive understanding of sound commercial investment practices and indigenous cultural issues.

## **Roles and Responsibilities**

The Committee has no executive powers, unless delegated to it by the Board.

The Committee is directly responsible and accountable to the Board for the exercise of its responsibilities.

The responsibility of the Committee may be revised or expanded in consultation with, or as requested by, the Board from time to time.

The Committee's responsibilities are to:

### **Finance**

- ◇ Review and report and make recommendations to the Board at scheduled Board meetings regarding:
  - Annual Program/Corporation/Consolidated budgets.
  - Mid-year budget updates.

- ◇ Compare year-to-date actual income and expenses with budgets and consider the implications of significant variances, providing feedback to IBA's Administration as appropriate and report and make recommendations to the Board at scheduled Board meetings on these matters.
- ◇ Provide input to the process and methodology for fair valuation of investments.
- ◇ Review the actual valuations of investments following application of the methodology for annual financial reporting and recommend these to the Audit and Risk Committee for approval.

### **Investments**

- ◇ Review and recommend Board approval of:
  - Investment policy and investment strategy at least annually.
  - Portfolio mix at least quarterly.
  - Portfolio performance at least quarterly.
- ◇ Assess and make recommendations to the Board on individual investment and divestment cases.

### **Responsibilities of Individual Members**

External members of the Committee are expected to understand and observe the legal requirements of the *Commonwealth Authorities and Companies Act* and Sections 145 – 191, Part 4, Division 1 – 9 of the *Aboriginal and Torres Strait Islander Act 2005*.

In addition, members of the Committee are expected to:

- ◇ Contribute the time needed to study and understand the papers provided.
- ◇ Apply good analytical skills, objectivity and good judgement.
- ◇ Express opinions frankly, ask questions that go to the fundamental core of the issue and pursue independent lines of enquiry.

### **Reporting**

The Committee will report to the Board on its operations and activities at each scheduled Board meeting. The report should include;

- ◇ A summary of the work the Committee performed to fully discharge its responsibilities since the previous report.
- ◇ An overall assessment of IBA's financial performance, including the implications of budget variances, since the last report.
- ◇ A list of recommendations for each investment proposal that it has considered since the last report.
- ◇ Details of meetings, including the number of meetings held during the relevant period.

The Committee may, at any time, report to the Board any other matter it deems of sufficient importance to do so. In addition, at any time an individual committee member may request a meeting with the Chair of the Board.



## **Administrative Arrangements**

### **Meetings**

The Committee will meet as required.

### **Attendance at Meetings and Quorums**

A quorum will consist of two members.

Meetings can be held in person, by telephone or by video conference. Where out of session decisions are required, this may be undertaken by telephone, video conference or email exchange.

The Committee may request employees to attend Committee meetings or participate in certain agenda items.

The Chair of the Board and/or the Chief Executive Officer may be invited to attend Committee meeting to participate in specific discussion or provide strategic briefings to the Committee.

### **Secretariat**

IBA Management will provide secretariat support to the Committee. The secretariat will ensure the agenda for each meeting and supporting papers are circulated, after approval from the Chair, at least one week before the meeting, and ensure the minutes of the meetings are prepared and maintained. Minutes must be approved by the Chair and circulated within two weeks of the meeting to each member, the IBA Board Chair and Committee observers, as appropriate.

### **Conflicts of Interest**

Each year Committee members will provide written declarations to the Board stating they do not have conflicts of interest that would preclude them from being members of the Committee.

At least one week before the distribution of meeting papers Finance and Investment Committee members must declare any conflicts of interest as well as at the start of each meeting or before discussion of the relevant agenda item or topic. Details of any conflicts of interest should be appropriately minuted.

Where members or observers at Finance and Investment Committee meetings are deemed to have a real, or perceived, conflict of interest it may be appropriate that they are excused from Committee deliberations on the issue where a conflict of interest exists.

### **Induction**

New members will receive relevant information and briefing on their appointment to assist them to meet their Committee responsibilities.

### **Assessment Arrangements**

The Chair of the Committee, in consultation with the Chair of the Board, will initiate a review of the performance of the Committee at least once every two years. The review will be conducted on a self-assessment basis (unless otherwise determined by the Board) with appropriate input sought from the Board, the Chief Executive Officer, Deputy Chief Executive Officer(s), and any other relevant stakeholders as determined by the Board.

### **Review of Charter**

At least once a year the Committee will review the charter. This review will include consultation with the Board.

Any substantive changes to the charter will be recommended by the Committee and formally approved by the Board.



The Hon Jenny Macklin MP  
Minister for Families, Housing, Community Services  
and Indigenous Affairs

Parliament House  
CANBERRA ACT 2600

Telephone: (02) 6277 7560  
Facsimile: (02) 6273 4122

MN11-001722

4 JUL 2011

Ms Shirley McPherson  
Chairperson  
Indigenous Land Corporation  
GPO Box 652  
ADELAIDE SA 5011

Dear Ms McPherson

I am writing about the impending expiry of the appointment term of the Indigenous Land Corporation's General Manager, Mr David Galvin, on 23 September 2011. I am also aware that all Board member appointments expire on either 19 September 2011 or 16 October 2011.

While the power to appoint the General Manager under the *Aboriginal and Torres Strait Islander Act 2005* rests with the Board, the appointment is a significant government appointment subject to the Cabinet Handbook (the Handbook) guidelines.

Under section 125 of the Handbook, significant appointments must be referred to the Prime Minister, the Hon Julia Gillard MP, seeking her or, at her discretion, Cabinet's approval of the appointment prior to it being finalised.

The Australian Government is keen for all significant appointments to have a strong, transparent merit-based selection process. Under section 128 of the Handbook, I am required to provide an account of the selection process, including particular justification when reappointment is proposed, in seeking the approval of the Prime Minister or Cabinet for a proposed appointment.

Given the timing of the General Manager's appointment relative to the Board appointments, you may wish to consider requesting my approval for an extension to Mr Galvin's appointment to provide continuity to the Indigenous Land Corporation's operations while Board appointments are settled and to given the Board time to consider its options. Under section 125(c) of the Handbook, Ministers are able to make acting appointments for up to three months without seeking the Prime Minister's approval.

Yours sincerely

JENNY MACKLIN MP

## THE APPOINTMENTS PROCESS

124 Where a significant government appointment is proposed, the responsible minister must write to the Prime Minister seeking his or, at his discretion, the Cabinet's approval of the appointment before any appointment action is finalised.

125 The appointments to be brought to the Prime Minister's attention include:

- (a) significant full time or part time appointments (including interim appointments) to boards, commissions or statutory offices;
- (b) full time chief executive officer (CEO) positions in such agencies (where the board selects the CEO, the government should be consulted and the minister should not signify agreement without the approval of the Prime Minister);
- (c) acting appointments in the above categories where the appointment is for more than three months (an initial acting appointment for up to three months may be made without seeking the Prime Minister's approval, but any extension would require the Prime Minister's agreement);
- (d) appointments to significant non statutory tribunals, advisory bodies and commissions of inquiry; and
- (e) appointments as heads of mission other than Austrade managed posts.

126 For other proposed appointments, it is for ministers, in consultation with the Prime Minister if appropriate, to judge whether the proposal should be brought to his attention. As a general rule, if appointments to a particular body have been submitted for approval by the Prime Minister or the Cabinet in the past, they should continue to be submitted for approval unless the Prime Minister agrees otherwise. The Cabinet Secretariat can assist with advice on past practice.

127 To avoid pre-empting any decisions, potential appointees are to be approached initially only to ascertain:

- (a) a willingness for their name to be put forward for consideration along with other candidates; and
- (b) whether, if selected, there would be any conflict of interests, in accordance with the government's requirements.

128 In submitting proposals to the Prime Minister, ministers must ensure that:

- (a) an account is given of the selection process, including whether the position has been advertised and, if not, the reason for that decision. If the position is subject to the New Arrangements for Merit and Transparency in Senior Public Service Appointments (announced in February 2008), the minister's letter should outline how that process was applied. Where the minister recommends re-appointment, particular justification for doing so is to be included;
- (b) the person being proposed is appropriately qualified and has experience relevant to the vacancy;
- (c) the appointment would conform with any applicable legislation;
- (d) any urgency or sensitivity relating to the proposed appointment is explained;
- (e) any necessary consultation with other ministerial colleagues or state/territory counterparts has occurred (nominating ministers should consult relevant ministerial colleagues when proposing to appoint officers employed in another portfolio to an advisory committee in their own portfolio; where a state or territory public servant is being considered for appointment to a

part time position, the relevant premier, chief minister or state/territory minister should also be consulted); and

(f) no public announcement is made prior to approval of the appointment by the Governor-General, the Prime Minister or the Cabinet (as relevant).

129 In preparing appointment proposals for the Prime Minister's consideration, ministers must also ensure that:

(a) proposals reach the Prime Minister's office at least 10 working days before the Cabinet meeting at which the appointment may be raised for consideration. As a general rule, proposals should be submitted for consideration well in advance of the time the position is to be filled, but usually no more than three months in advance. For appointments that require Federal Executive Council consideration, calculation of the lead time must take into account the cut off dates for submission of Federal Executive Council agenda items;

(b) due regard has been paid to gender balance in appointments;

(c) careful attention has also been paid to the need to have an appropriate geographical balance in appointments;

(d) in proposing appointments to a Government Business Enterprise Board, ministers are to follow the procedures set out in the Finance guidelines: Governance Arrangements for Commonwealth Government Business Enterprises – June 1997; and

(e) every appointment proposal to the Prime Minister is accompanied by the following attachments (templates are available from the Cabinet Secretariat):

(i) an Appointment for Cabinet form, whether or not the particular appointment is a candidate for Cabinet consideration. All questions on the form, including accurate remuneration details, must be answered;

(ii) an up to date curriculum vitae (one to two pages);

(iii) a completed and signed Private Interests Declaration; and

(iv) a current Membership List of the relevant organisation, including the proposed appointments and the resulting gender and geographical balance.

130 Additional procedures apply to appointments concerning close relatives of ministers, members of parliament, ministerial staff or departmental secretaries and agency heads. Any such relationship should be noted in appointment proposals.

131 To avoid the appearance of conflict of interest, those involved in the appointments process should have no family relationship with the person under consideration and any ministers concerned should absent themselves from all discussion on that matter. There is a long standing practice that ministers do not appoint close relatives to positions in their own offices. In addition, close relatives of a minister should not be appointed to any other minister's office irrespective of the level of the position, except with the specific approval of the Prime Minister. A minister's close relative should not be appointed to any position in an agency in that minister's own portfolio if the appointment is subject to the agreement of that minister or the Cabinet. Further information on the appointment of close relatives may be found in the Guide on Key Elements of Ministerial Responsibility.

132 Circulation of appointment minutes is limited on the understanding that no information concerning an appointment is to be divulged until all necessary processes have been completed

(for example, the Governor-General has made the appointment) and an announcement made by the minister.

133 In exceptional circumstances, where the appointment is to be made by the Governor-General following the Prime Minister's consideration, it may be possible to obtain approval from the Governor General for the early announcement of a proposed appointment before the processes have been completed. The Federal Executive Council Secretariat (located in the Cabinet Secretariat) will assist with advice and make any necessary arrangements in such cases.

134 The procedures to be followed for re appointments are the same as those for appointments.

135 The making of appointments is a very significant government activity with important long term implications. The above process is designed to ensure that appointments receive the full and proper consideration they deserve. In order to maintain the integrity of the Cabinet's appointments system, there must be rigorous adherence to this process.

## Audit Committee responsibilities

### Summary

Audit Committee responsibilities are broadly covered by the CAC Act and are more fully covered in the ANAO Public Sector Audit Committees Better Practice Guide (Better Practice Guide) which was released in August 2011. The Better Practice Guide does not include activities of a finance committee nature (i.e. review of results and approval of budgets etc. to the Board) within its recommended Model Audit Committee Charter for CAC entities. I also conducted a review of a selection of CAC agency annual reports across portfolios- some have Finance Committees which report directly to the Board and for those that don't the majority have adopted the model ANAO Better Practice Guide Charter. Finance related matters would appear to be reported directly to the Board.

### Legislation

Section 32 of the CAC Act states:

- a) *The directors of a Commonwealth authority must establish and maintain an audit committee which functions that include:*
  - a) *Helping the authority and its directors to comply with obligations under this Act;*
  - b) *Providing a forum for communication between the directors, the senior managers of the authority and the internal and external auditors of the authority.*

### Better Practice

The ANAO Better Practice Guide-Public Sector Audit Committees 2011 has recently been released and builds on the responsibilities of the earlier guide which was released in 2005. Most Commonwealth entities have been operating on the basis of the 2005 Better Practice Guide for some time and there is an expectation from the Auditor General that Audit Committees will review their operations against the latest Better Practice. Finance management related activities have not been included in either the 2005 or 2011 guide and are not considered better practice activities for Audit Committees.

The Better Practice Guide states that the objective of an Audit Committee is to provide Independent assurance and advice to the Board on the entities risk, control and compliance framework, and annual financial statement responsibilities.

It specifically states "that the Audit Committee should not be seen as a 'catch-all or default' committee, but as a committee that has a key, focused, role in providing independent assurance that assists the Board discharge their respective responsibilities" (page 5).

Review of monthly financials, recommendation of budgets and decisions affecting financial outcomes of the entity are of a Board/management nature and are inconsistent with the "independent assurance" role required of Audit Committees. Independent members are reluctant to join audit committees which stray into the management or board direct accountability areas.

The Better Practice Guide recommended Charter for CAC Entities at Part 2 lists the following as recommended responsibilities of Audit Committees:

- Risk Management
- Internal Control
- Financial Statements (Annual)
- Legislative and policy compliance
- Internal Audit
- External Audit
- Governance Arrangements
- Review of parliamentary committee report and external reviews
- Performance reporting framework linked to government policy objectives and the entity's objectives and outcomes

It is my experience that most CAC and non-CAC entities adopted the 2005 suggested practice guide model charter some years ago which did not include any financial management functions which were covered by a Board Finance Committee or directly my management reporting to the Board.

---

#### Independence of Audit Committee members

The ANAO Better Practice Guide (2011) provides guidance on independence of Audit Committee members. It states at Page 22:

"The distinguishing feature of an Audit Committee is independence. An Audit Committee is independent of the activities of management and its independence assists in ensuring that the Audit Committee acts in an objective, impartial manner free from any conflict of interest or inherent bias or undue influence".

It goes on to list a number of measures to strengthen an Audit Committee's independence, including the appointment of an external chair, the appointment of more than one independent and appointment of committee members who exhibit an independence of mind in their deliberations and do not act as a representative of a particular area within the entity.

#### Recommendations:

1. The ILC should be operating under principles of better practice governance which is consistent with the adoption of the ANAO Better Practice Guide on Public Sector Committees. Responsibilities of Audit Committees should be consistent with those outlined in the Guide.
2. Whilst the ANAO Better Practice Guide does not prescribe the use of independent chair for Audit Committee there is a strong case exists for this for the ILC.



### Excerpt of the CAC Act

#### 31 Exemption from requirement to align accounting periods of subsidiaries

- (1) The Finance Minister may grant a written exemption to the directors of a Commonwealth authority from the requirements of section 30, either generally or in relation to one or more subsidiaries.
- (2) The exemption may be granted subject to conditions.
- (3) The Finance Minister may, on behalf of the Commonwealth, engage a registered company auditor to investigate and report on an exemption application. For this purpose, *registered company auditor* means a person who is registered, or taken to be registered, as an auditor under the *Corporations Act 2001*.
- (4) The authority is liable to reimburse the Commonwealth for the costs of the investigation and report.

#### 32 Audit committee

- (1) The directors of a Commonwealth authority must establish and maintain an audit committee with functions that include:
  - (a) helping the authority and its directors to comply with obligations under this Act; and
  - (b) providing a forum for communication between the directors, the senior managers of the authority and the internal and external auditors of the authority.
- (2) If the regulations state how the committee is to be constituted, it must be constituted in accordance with the regulations.

#### 33 Special rules for Commonwealth authorities established by regulations etc.

- (1) The application of this Act to Commonwealth authorities covered by paragraph 7(1)(b) is subject to any modifications that are prescribed by the regulations.
- (2) In this section:  
*modifications* includes additions, omissions and substitutions.

## Excerpt of the CAC Regulations

### Schedule 2

#### 6A Audit committees for Commonwealth authorities (Act s 32)

(1) For subsection 32 (2) of the Act, the audit committee of a Commonwealth authority is to be constituted as follows:

(a) the chair of the committee must be a person other than:

(i) the chair of the authority; or

(ii) an executive director of the authority;

(b) the committee:

(i) must be made up of at least 3 persons; and

(ii) may include only 1 person who is an executive director of the authority; and

(iii) subject to subregulation (4), must not include senior managers or employees of the authority other than the executive director mentioned in subparagraph (ii).

(2) To avoid doubt, a committee may include persons who are not directors of the authority.

Note The chair of the committee may, for example, be a non-executive director (other than the chair of the authority) or an external appointee of the authority.

(3) The quorum for meetings of the committee is:

(a) 2 persons; or

(b) if the majority of the committee is greater than 2 persons, that number of persons.

(4) The audit committee of the Australian Government Solicitor (AGS) may include members of the AGS Advisory Board.

Note The AGS is established under section 55J of the *Judiciary Act 1903*. The AGS Advisory Board is established under the corporate governance arrangements that apply to the AGS in accordance with section 55ZE of that Act.

6B Audit committees for wholly-owned Commonwealth companies (Act s 44)

(1) For subsection 44 (2) of the Act, the audit committee of a wholly-owned Commonwealth company is to be constituted as follows:

(a) the chair of the committee must be a person other than:

(i) the chair of the company; or

(ii) an executive director of the company;

(b) the committee:

(i) must be made up of at least 3 persons; and

(ii) may include only 1 person who is an executive director of the company; and

(iii) must not include senior managers or employees of the company other than the executive director mentioned in subparagraph (ii).

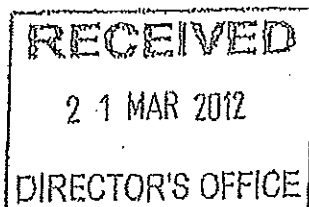
(2) To avoid doubt, a committee may include persons who are not directors of the company.

*Note* The chair of the committee may, for example, be a non-executive director (other than the chair of the company) or an external appointee of the company.

(3) The quorum for meetings of the committee is:

(a) 2 persons; or

(b) if the majority of the committee is greater than 2 persons — that number of persons.



The Hon Jenny Macklin MP  
 Minister for Families, Community Services and Indigenous Affairs  
 Minister for Disability Reform

Parliament House  
 CANBERRA ACT 2600

Telephone: (02) 6277 7560  
 Facsimile: (02) 6273 4122

MN12-000056

14 MAR 2012

Dr Dawn Casey PSM FAHA,  
 Chairperson  
 Indigenous Land Corporation  
 PO Box 38  
 WODEN ACT 2606

Dear Dr Casey

I write further to our recent conversation regarding your initial experiences as Chairperson of the Indigenous Land Corporation. During our conversation we discussed our joint desire to improve corporate governance practices at the Indigenous Land Corporation.

My department has recently raised concerns with me regarding these issues. These concerns centre on the governance arrangements that I understand have been implemented by the Indigenous Land Corporation, including those relating to its subsidiaries. I appreciate these arrangements were put in place before your tenure as Chairperson of the Board.

While I fully appreciate the statutory independence of the Indigenous Land Corporation, and the Board's responsibility for the implementation of appropriate and best practice governance arrangements for the delivery of its statutory objectives, as the responsible Minister under the *Commonwealth Authorities and Companies Act 1997*, I am ultimately accountable to the Parliament of Australia for the performance of the Indigenous Land Corporation.

In your letter of appointment from me of 19 October 2011, I stated my expectation that you would oversee a period of governance change and provide strategic direction to the Indigenous Land Corporation Board and provide me with a Statement of Intent that will describe how the Indigenous Land Corporation will implement best practice governance arrangements and operate in a more transparent and accountable manner.

I recognise it is early in your period of tenure and I am grateful that you are already seriously progressing these matters. I strongly support your early and thorough focus on these areas.

You may be aware that I wrote to your predecessor on several occasions reminding her that under section 15(1) of the *Commonwealth Authorities and Companies Act*, the Indigenous Land Corporation must notify me of significant events. I also asked the Indigenous Land Corporation for written particulars about the proposed purchase and management arrangements for the Ayers Rock Resort. In response, I was provided limited financial, management and divestment information, and assurance that the purchase would have no adverse impact on the delivery of the Indigenous Land Corporation's operations. I was also advised that a new subsidiary called Indigenous Land Corporation Tourism would be established with an independent Board.

A recent search of the Australian Securities and Investments Commission register showed the existence of Voyages Indigenous Tourism Australia Pty Ltd, which replaced Indigenous Land Corporation Tourism on 24 May 2011.

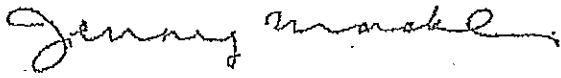
[s47G(1)(a)]

[s47E(d)]

I request that the Board considers the issues I have raised with a view to ensuring that the Indigenous Land Corporation is operating on the basis of best practice governance principles. I would appreciate your advice on progress in due course.

I also understand that your most recent board meeting discussed issues around improving corporate government at the Indigenous Land Corporation, and its subsidiaries, and I would appreciate your prompt advice on progress on these important matters.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Jenny Macklin', written in dark ink.

JENNY MACKLIN MP

# Aboriginal and Torres Strait Islander Act 2005

Act No. 150 of 1989 as amended

Provision re termination if there is a breach of s 27F or 27J of the CAC Act (note 192F relates to chairpersons pecuniary interests)

## 192H Termination of appointment

### *Misbehaviour or incapacity*

- (1) The Minister may terminate the appointment of an Indigenous Land Corporation Director because of misbehaviour or physical or mental incapacity.

### *Bankruptcy, conflict of interest etc.*

- (2) If an Indigenous Land Corporation Director:
- (a) becomes bankrupt; or
  - (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
  - (c) compounds with his or her creditors; or
  - (d) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
  - (e) fails, without reasonable excuse, to comply with section 192F of this Act or section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*;
- the Minister must terminate the appointment of the Director.

### *Full-time Chairperson—unauthorised absence, paid employment*

- (3) If the Indigenous Land Corporation Chairperson holds office on a full-time basis and the Chairperson:
- (a) is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
  - (b) engages, except with the agreement of the Indigenous Land Corporation Board, in paid employment outside the duties of his or her office;
- the Minister must terminate the appointment of the Chairperson.

### *Part-time Directors—unauthorised absence*

- (4) If an Indigenous Land Corporation Director who holds office on a part-time basis is absent, except on leave granted under section 192C, from 3 consecutive meetings of the Indigenous Land Corporation Board, the Minister must terminate the appointment of the Director.

Provision stating that ILC can maintain a quorum if a director absents themselves due to a 27F material personal interest

## 192J Meetings of Indigenous Land Corporation Board

### *Chairperson to convene meetings*

- (1) The Indigenous Land Corporation Chairperson must convene such meetings of the Indigenous Land Corporation Board as, in his or her opinion, are necessary for the efficient performance of the Board's responsibilities.

### *Quorum*

- (2) At a meeting of the Indigenous Land Corporation Board, a quorum is constituted by 4 Indigenous Land Corporation Directors.

### *Quorum if Director excluded under section 27J of the Commonwealth Authorities and Companies Act 1997*

(3) If

- (a) an Indigenous Land Corporation Director who is present at a meeting is required by section 27J of the Commonwealth Authorities and Companies Act 1997 not to be present during the deliberations, or to take part in any decision, of the Indigenous Land Corporation Board with respect to a particular matter; and
- (b) when the Director leaves the meeting there is no longer a quorum present; the Indigenous Land Corporation Directors remaining at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

### *Chairperson to preside at meetings*

- (4) The Indigenous Land Corporation Chairperson is to preside at all meetings of the Indigenous Land Corporation Board at which he or she is present.

### *Arrangements if Chairperson not present at a meeting*

- (5) If the Indigenous Land Corporation Chairperson is not present at a meeting of the Indigenous Land Corporation Board:
  - (a) if the Deputy Chairperson of the Indigenous Land Corporation Board is present—the Deputy Chairperson is to preside at the meeting; and
  - (b) in any other case—the Indigenous Land Corporation Directors present must elect one of their number to preside at the meeting.

---

### *Voting*

- (6) Questions arising at a meeting of the Indigenous Land Corporation Board are to be determined by a majority of the votes of the Indigenous Land Corporation Directors present and voting.
- 

### *Deliberative vote*

- (7) The person presiding at a meeting of the Indigenous Land Corporation Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

### *Procedure and minutes*

- (8) The Indigenous Land Corporation Board:



- (a) may regulate the conduct of proceedings at its meetings as it thinks fit; and
- (b) must cause minutes of those proceedings to be kept.

Note: Section 33B of the *Acts Interpretation Act 1901* provides for participation in meetings by telephone etc.

71

Casey, Dawn

---

**From:** Casey, Dawn  
**Sent:** Friday, 20 April 2012 6:08 PM  
**To:** Graham Atkinson; Ian Trust; Ian Trust (laptop); Olga Havnen; Neil Westbury  
**Subject:** FW: Audit Committee Composition  
**Attachments:** ILC Audit Committee Letter.pdf

Dear Graham, Olga, Neil and Ian

We need to discuss. Unknowingly Ms Serena Buchanan, the Audit Principal has been brought into an ILC Board matter. At no stage as I recall were we provided feedback or the minutes of the 21 March 2012 audit meeting.

Warm regards

Dawn

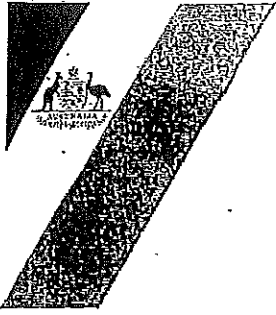
---

**From:** David Baffsky [mailto:DBaffsky@ariadne.com.au]  
**Sent:** Friday, 20 April 2012 4:49 PM  
**To:** Casey, Dawn; Ian Trust; Graham Atkinson; Olga Havnen; 'sam@mpra.com.au'; Neil Westbury  
**Cc:** Galvin, David; Lindsay, Jodie; Hayes, Paul  
**Subject:** Audit Committee Composition

Hi everyone

Following the discussions at the Board meeting, attached is a self-explanatory letter from the Australian National Audit Office containing the sentences that I read out, which appear in the second last paragraph.

Kind regards  
David Baffsky



19 April 2012

Mr David Baffsky  
Ariadne Australia Ltd  
Level 20  
39 Martin Place  
Sydney NSW 2000

Dear Mr Baffsky

Further to the discussion at the audit committee meeting of 21 March 2012 regarding membership of audit committees, I can provide the following comments.

We do not review or comment on the membership or functioning of the audit committee as part of the financial statements audit. While we look broadly at the corporate governance structure of the entity to understand the business and control environment and attend the audit committee as observers, we do not report on the committee's activities in our formal reporting process. There may be exceptions to this, if for example an entity did not have a functioning audit committee, however, this situation has been rare.

Generally speaking, the audit charter would provide guidance as to the membership of the audit committee. The ANAO recently issued a revised Better Practice Guide (BPG) on Public Sector Audit Committees. We have recommended all entities re-visit their charter using the BPG example charter for guidance. Our example charter includes a section on composition and tenure and recommends that the Chair of the committee be a non-executive member who is also a member of the Board and that the period of appointment be consistent with the appointment arrangements of the Board. As you would appreciate, in most CAC entities, term appointments to the Board are made by the Minister and as a result, rotation of Directors is a natural consequence of the ministerial appointment process. For audit committees, although there are indicative time frames of appointment included in the example charter, we note that periods may exceed those recommended if agreed with the Chair given the need to retain knowledge and experience with the entity on the committee. Good practice followed in most entities is to pursue a sensible program of rotation.

I hope this information is helpful. Please do not hesitate to contact me if you require anything further.

Sincerely,

Serena Buchanan  
Audit Principal

Casey, Dawn

---

From: Casey, Dawn  
Sent: Wednesday, 2 May 2012 9:27 AM  
To: Neil Westbury  
Subject: ANAO draft  
Attachments: ANAO letter 1 May 12.docx  
Hi Neil

Attached is the draft for comment. I hope it is in the right format so you can do track changes.

thanks

Dawn

Dr Dawn Casey PSM FAHA  
Director  
Powerhouse Museum  
PO Box K346  
Haymarket NSW 1238  
500 Harris Street, Ultimo NSW 2007  
Tel: + 61 2 9217 0363; Fax: +61 2 9217 0459  
Email: [dawnc@phm.gov.au](mailto:dawnc@phm.gov.au)  
Web: [www.powerhousemuseum.com](http://www.powerhousemuseum.com)

Ms Serena Buchanan  
Audit Principal  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear Ms Buchanan

Indigenous Land Corporation

I refer to a letter dated 21 March 2012 signed on your behalf addressed to Mr David Baffsky at his Ariadne Australia Ltd address regarding discussion on the membership of audit committee membership at a recent meeting of the Indigenous Land Corporation (ILC) Audit Committee.

In October last year four new members were appointed to the ILC Board including myself as the new Chair. The new members of the Board all have extensive experience in Indigenous areas and an impressive range of professional skills. Understandably the new Board is pursuing several new strategic directions and proposing changes of membership to the ILC's committees and subsidiaries to incorporate the skills of the recent appointees and to increase external and independent expertise.

[s47E(d)]

[s47G(1)(a)] [s47E(d)]

[s47E(d)]

[s47E(d)]

I am also providing a copy of this letter to Mr Finn Pratt, the Secretary of FAHCSIA to seek his assistance on this matter.

Yours sincerely

Dr Dawn Casey PSM FAHA

2 May 2012



14 June 2012

Dr Dawn Casey PSM FAHA  
Chair  
Indigenous Land Corporation  
c/- Powerhouse Museum  
PO Box K346  
HAYMARKET NSW 1238

Dear Dr Casey

Thank you for your letter of 14 May regarding the Indigenous Land Corporation.

Ms Serena Buchanan, in responding to your separate letter on the same topic, has confirmed that the *Commonwealth Authorities and Corporate Regulation 1997* specifically provides for external appointees to be members of, and chair of, the audit committee of a Commonwealth authority. Thank you for highlighting that the *ANAO Better Practice Guide: Public Sector Audit Committees* does not fully replicate the full regulation — we have instigated action to have this addressed.

As a general comment, the ANAO range of better-practice guides have been developed to assist entities design and manage their governance/operational arrangements. In drawing upon the experience gained through our audit activities, and the contribution flowing from our consultative activity undertaken during the guide preparation process, we are seeking to share better practice and complement any underpinning legislation frameworks.

Our better practice guides are written to outline a range of better practice principles and practices rather than establishing a single model of operation. Each public sector entity is different and each has its particular governance frameworks, risk and control structures and supporting policies and processes. As such, judgement will be required in implementing arrangements appropriate to the specific circumstances of the entity.

In developing our general better practice perspectives on audit committee membership, we were conscious of the benefits of the audit committee chair having a sound understanding of the entity's directions, risks and governance arrangements. This situation is facilitated by the audit committee chair also being a member of the entity board. Of course, external appointees may also bring specialist knowledge or experience to the committee if required.

The ANAO *Better Practice Guide: Public Sector Audit Committees* has been prepared to provide general advice to entities. I can confirm that the guide does not over-rule the relevant regulations. Thank you for identifying that the guide does not fully reflect the regulation wording, and action is underway to address this situation.

As discussed, I would be happy to meet with you and/or the Board to discuss this matter, or the financial statements audit more generally. I can be contacted on 02 6203 7479.

Yours sincerely

A handwritten signature in black ink that reads "S. Buchanan". The signature is written in a cursive, flowing style.

Serena Buchanan  
Audit Principal





14 June 2012

Dr Dawn Casey PSM FAHA  
Chair  
Indigenous Land Corporation  
c/- Powerhouse Museum  
PO Box K346  
HAYMARKET NSW 1238

Dear Dr Casey

Thank you for your letter of 14 May regarding the indigenous Land Corporation in which you sought clarification of my earlier advice on Audit Committee arrangements. I trust our recent meeting to discuss this matter was beneficial.

By way of background, the *Commonwealth Authorities and Companies Regulations 1997* establishes the relevant legislative framework. The relevant provision states:-

1. For subsection 32(2) of the Act [*Commonwealth Authorities and Companies Act 1997*], the audit committee of a Commonwealth authority is to be constituted as follows:-
  - a. The chair of the committee must be a person other than:
    - i. the chair of the authority; or
    - ii. an executive director of the authority;
  - b. The committee:
    - i. must be made up of at least three persons;
    - ii. may include only one person who is an executive director of the authority; and
    - iii. subject to subregulation (4), must not include senior managers or employees of the authority other than the executive director mentioned in sub-paragraph (ii).
2. To avoid doubt, a committee may include persons who are not directors of the authority.

*Note* The chair of the committee may, for example, be a non-executive director (other than the chair of the authority) or an external appointee of the authority.

The guide also recognises other salient factors relevant to these arrangements, particularly in relation to maintaining an appropriate balance between independence and corporate knowledge. For example, the guide suggests that appointments be for an initial period not exceeding three years, with a further extension of two years following a formal review of the performance (noting that periods of appointment would be consistent with the appointment and succession plans for the Board).

I therefore appreciate your consideration of the Better Practice Guide in determining the ILC audit committee composition, and readily acknowledge that your final arrangements will be influenced by current circumstances and your judgement of the most appropriate option to meet your governance requirements.

We would be pleased to discuss these matters with you and/or the Board if it would be of assistance.

Yours sincerely



Ian McPhee

Auditor-General