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Board Governance Arrangements

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Distribution

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Any projection of the evaluation of the control procedures to future periods is subject to the risk that the systems may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate.

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We believe that the statements made in this report are accurate, but no warranty of completeness, accuracy, or reliability is given in relation to the statements and representations made by, and the information and documentation provided by ILC personnel. We have not attempted to verify these sources independently unless otherwise noted within the report. However, where possible our procedures involved an attempt to corroborate verbal information received from ILC representatives with written evidence.

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1 Executive Summary

1.1 Objective, purpose and scope

Deloitte Touche Tohmatsu (Deloitte) was engaged by Indigenous Land Corporation (ILC) to undertake an assessment of existing ILC Board governance arrangements. This included assessing existing documentation and the effectiveness of governance practices and procedures to identify strengths, potential gaps and recommendations. The engagement was undertaken during December 2012 and January 2013.

The aim of the engagement was to identify potential enhancements the current governance environment by identifying specific recommendations to improve the transparency, structure and operation of governance at ILC across the group including ILC and its subsidiaries (the group). Via interviews and reviews of documentation, the project assessed the current governance environment by evaluating the existing structure and Board operational activities of the ILC Board, Subsidiary Boards and Sub-Committees, and also assessed specific governance case studies relating to specific transactions or events for ILC over the last 5 years. As part of the project we assessed existing governance arrangements against:

- 1) Better practice governance elements (summarised in **Appendix A**) based on global better practice documentation with reference to both good practice in government owned entities and in private enterprise to reflect the nature of ILC
- 2) Key legislation (Aboriginal and Torres Strait Islander Act 2005 (ATSI Act) and Commonwealth Authorities and Companies Act

1997 (CAC Act)) and other relevant government regulation, guidance and operating instructions such as the Cabinet Handbook.

The project included assessing the level of maturity of the current governance framework, and provides Deloitte's view on the extent of any gap between the current and possible target maturity state.

The target maturity state is an initial assessment provided by Deloitte and is informed by experience and our understanding of the environment in which ILC operate and hence the importance of each elements.

The target maturity state is not necessarily the most mature level of governance possible for any specific element of the model. Rather, it reflects the target state for each of the model elements having proper regard to the organisation's operating model, its complexity, its stakeholders and its strategy.

Our scope also used the 9 elements of Deloitte's Corporate Governance Health Check model and the data provided through the interviews we conducted and the documents we assessed.

1.2 Background and introduction

The following information is provided in order to build the context of the current ILC governance and operating environment and provide a background in which our assessment was undertaken.

Corporate governance summary

There are many and varied definitions of corporate governance, however in the context of this project and specifically for ILC, Deloitte has defined governance as:

“The appropriate structures and systems are established and operating effectively to ensure ILC’s ongoing success”

This definition of corporate governance includes:

- 1) Enhancing organisational performance and wellbeing
- 2) Increasing stakeholder value and the achievement of ILC’s business objectives.

We understand that the Board interprets the term ‘governance’ broadly to include not only corporate and statutory standards and requirements, but also governance practices, skills and capabilities, effectiveness and professional development. The Board of ILC recognise that a strong governance framework which is practical yet robust and sustainable is a critical contributor to its success.

Background of ILC

The Indigenous Land Corporation (ILC) is an independent statutory authority established to assist Aboriginal and Torres Strait Islander people to acquire and manage land to provide economic, environmental, social or cultural benefits. To assist in achieving this, the ILC receives an indexed draw down from the Aboriginal and Torres Strait Islander Land Fund Reserve (the Land Fund).

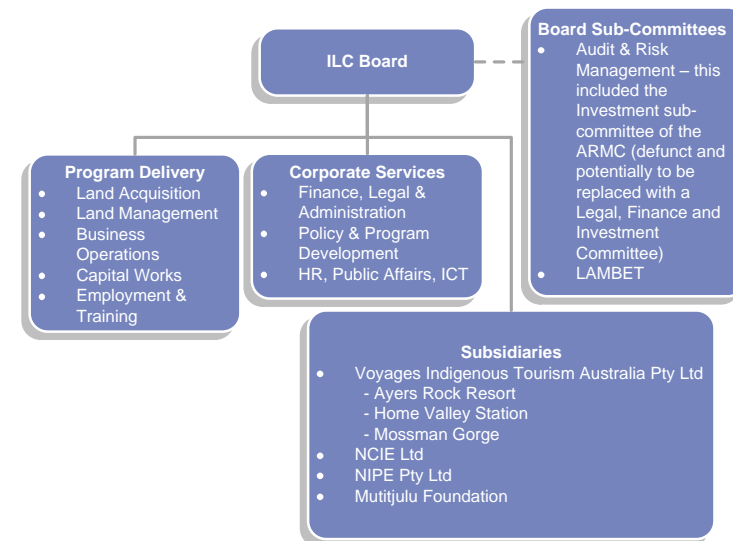
The establishment of this Land Fund was a part of the Commonwealth’s three-tier response to the High Court’s decision on the ‘Mabo case’. The first part of the response was the enactment of the Native Title Act 1993, while the establishment of the Land Fund, and subsequently the ILC, formed the second part. The third part was a proposed package to address Indigenous socio-economic issues, broadly described as the “Social Justice Package”.

The ILC came into existence on June 1, 1995 with the commencement of the Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995, which repealed Part 10 of the Native Title Act 1993 and amended the Aboriginal and Torres Strait Islander Commission Act 1989. This responsibility is now documented in the Aboriginal and Torres Strait Islander Act 2005 (ATSI Act) which constitutes the organisation.

Over the past few years, ILC has played an important role in the overall strategy to “Close the Gap” in Indigenous disadvantage.

Structure of ILC

Below is a high level operational summary of ILC:



The core business of ILC since inception has been acquiring and managing land in conjunction with (and for the benefit of) Indigenous people. The ILC has acquired 240 properties (at 30 June 2012) across Australia, with a total land area of over 5.8m hectares.

During the 2011-12 year, the ILC granted four properties to Indigenous organisations who demonstrated the capacity to own and manage land to achieve sustainable benefits for Indigenous people.

In 2011-12, \$70m was spent on land management projects. Twenty-nine new land management projects were approved in 2011-12, of which 22 were from applications and seven initiated by the ILC. As at 30 June 2012, the ILC was managing 114 land management projects, including those being implemented following approval in previous financial years.

ILC receives an indexed payment of \$45 million per year funded from the 'Land Fund'. Additional annual payments, depending on the performance of the fund are also provided to ILC. In the 2011-12 financial year, an additional \$18 million was also distributed to ILC from the Land Fund.

Significant acquisitions

In May 2011, ILC purchased the ongoing commercial enterprise Ayers Rock Resort for \$293 million with the asset being owned and operated within a new 100% owned subsidiary Voyages Indigenous Tourism Pty Ltd (Voyages).

ILC also purchased a significant property, Mossman Gorge (included land and significant construction and business development) which is also managed under Voyages and has been developed into a significant tourism business.

Prior to the above acquisitions, ILC purchased and operated commercial operations, primarily in the pastoral industry. These businesses were either owned by ILC or leased from Indigenous owners to operate pastoral businesses.

Through our assignment it was clear that the above two purchases have significantly increased the extent of commercial operations now

within the group's control and fundamentally changed the governance environment.

Summary of Board, Subsidiary Board and Sub-Committee Membership

On the following pages we have provided a diagrammatic overview of the Board, Subsidiary Board and Sub-Committee Membership.

Board, Subsidiary Board and Sub-Committee Membership

Below is an overview of the Board, Subsidiary Board and Sub-Committee members to provide further background on the existing governance arrangements.

Membership		D Casey	I Trust	W Jeffres	D Baffsky	O Havnen	G Atkinson	N Westbury	J Klein	G Dixon	R Longes	R Morony	P Barge	S Armstrong	B James	P Shergold	R Morgan	S Reys	K Kong	S Phillips	T Janke	S Fitzgerald	T O'Leary	J Morison	J Morse	S McPherson	Data
Subsidiaries	ILC	20/10/11 1	1/10/05 7	1/8/04 9	1/8/99 14	20/10/11 1	20/10/11 1	20/10/11 1																			Member Appointed Term
	Voyages			3/8/11 2	30/9/10 2	18/5/12 1		3/6/11 2	3/8/11 2	3/8/11 2	3/8/11 2	3/8/11 2	3/8/11 2	19/9/12 0	19/9/12 0												
	NCIE			9/10/08 4						9/10/08 4					17/12/08 4	24/12/09 3	16/11/12 0	16/11/12 0	16/11/12 0	16/11/12 0	16/11/12 0	16/11/12 0	16/11/12 0				
	Mutitjulu			23/5/11 2																				8/5/02 11	23/5/11 2		
	NIPE	17/2/12 1		25/8/05 8																							
ILC and Board Committees	ARMC				20/10/11 1	20/10/11 1																	20/10/11 1				
	Voyages ARMC									3/8/11 1		3/8/11 1															
	LAMBET		30/9/07 5				20/10/11 1	20/10/11 1																			
		2	2	5	2	3	3	2	1	1	3	1	2	1	1	1	1	1	1	1	1	1	1	1	1	1	Total served on

Chair
 Approximate dates xx/xx/xx

19/03/2013																												
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Recent changes within ILC

Board, Subsidiary Board and Board Committee changes

On 20 October 2011, four new directors were appointed to **ILC Board** including Dawn Casey (Chairperson) and three new directors Olga Havnen, Graham Atkinson and Neil Westbury, while existing Director Ian Trust was re-appointed as the new Deputy Chairperson. Existing Directors, Sam Jeffries and David Baffsky, form the remainder of the new Board. Consequently, changes were also made to the membership of Subsidiary Boards and Board Sub-Committees.

Changes to the Audit and Risk Management Committee (ARMC) included appointing two of the new Board members Olga Havnen and Graham Atkinson (replacing 2 members David Baffsky (12 years on the Committee) and Sam Jeffries (9 years on the Committee)) as well as independent member, Jenny Morrison, a non-Board member. The new ARMC recommended to the Board which then endorsed specific changes to the charter of the ARMC, including removing some finance responsibilities.

In November 2012, the ILC appointed a new **NCIE** Board, including the appointment of Shelley Reys (Chairperson) an independent member.

A Sub-Committee of the Board has been extended, the Land Acquisition, Management, Business, Employment and Training Committee (LAMBET) replacing the Business, Employment and Training Committee (BETC) which now has the responsibility for additional focus on Land Acquisition and Management.

It is currently proposed that a new Sub-Committee of the Board be developed with responsibility for specific focus around Legal, Investment and Finance.

In August 2012, the previous CEO, David Galvin departed ILC. Currently there is an Acting CEO, Bruce Gemmell in place and the Board is in the process of identifying a suitable replacement.

Our project has been undertaken considering the recent changes and also whilst further changes in respect of governance arrangements are being considered and implemented. Therefore our recommendations have attempted to reflect our knowledge of the changes being considered and implemented at the point of reporting.

1.3 Work Performed

Our assessment of the ILC Board Governance arrangements and supporting practices against our 9 element better practices (summarised in **Appendix A**), consisted of the following stages:

1. *Desktop Review* – An assessment of key documents in order to understand and assess key activities of the Board. This included for example organisation charts, Board Charters, strategy documents, ethics documents, recent Board papers (including financial reports, and audit reports) and Board sub-committee paper. A full list of the documents examined is included in **Appendix B**. We also examined 3 specific governance case studies relating to specific transactions or events for ILC over the last 5 years which contributed to our assessment of the appropriateness of governance structures and processes (the detail of which is included in **Section 4 Summary of Case Studies**). The case studies selected by the ILC Board included the purchase of the Voyages Ayers Rock Resort, Mossman Gorge and the National Centre for Indigenous Excellence (NCIE). The focus of the studies was to identify areas where governance process was not clear or was not aligned with good practice based on the documentation provided so as to identify potential areas of governance practice that could be enhanced under the new recommended structures. The case study examples used in this project provided an insight into the structure for decisions and did not assess the validity or accuracy of actual decisions made

2. *Stakeholder questionnaires* – A series of tailored questionnaires were distributed to Board members (including ILC, Voyages and NCIE) and Sub-Committee members. The aim of the questionnaire was to understand the various opinions and included an assessment of the operation of the different aspects of the Board, Subsidiary Boards and Sub-Committees. The stakeholders who responded to the questionnaires are included in **Appendix C**
3. *Board, Stakeholder and Executive Consultation* – Interviews with Board, Subsidiary Board and Sub-Committee members as well as the Executive team were held to confirm questionnaire responses and further investigate specific opinions. We also discussed the project with the Australian National Audit Office Deputy Auditor-General, the Group Manager Operations Strategy & Performance, Department of Families, Housing, Community Services and Indigenous Affairs and the outsourced internal audit provider, KPMG. Please refer to **Appendix C** for a list of all people interviewed
4. *Consolidate findings* – Consolidation of the key findings of our project. This has included senior partner subject matter expert involvement to ensure our recommendations are appropriately balanced with substance of good governance and in accordance with industry and across-sector experience (including specific ILC, federal government and corporate experience)

These subject matter experts included:

- **John Meacock, Deloitte NSW Managing Partner:** John is the Managing Partner, NSW and has extensive experience in consulting to major private and public sector organisations. John heads Deloitte's Australian board effectiveness practice and has led a number of board effectiveness and governance reviews for ASX200 public companies, state owned corporations, member benefit organisations and not for profit organisations.
- **Ian Breedon, Deloitte Property, Tourism and Real Estate Industry leader:** Ian has over 35 years' experience in

auditing listed property groups and providing corporate advisory and audit services to major organisations in the property, tourism and real estate industry.

- **Jon Isaacs, independent sub-contractor to Deloitte for this project:** Jon is well known for his government governance experience having been a member of and chaired many Audit Committees in the public service. Jon also has previous experience working with Indigenous based government entities both in NSW and the Northern Territory.
5. *Communicate findings* – Development of this report which includes an assessment on ILC governance gaps and recommendations for each better practice element to enhance overall governance. This process included a discussion with a Sub-Committee of the Board convened to review the findings of this project and final presentation to the ILC Board. Additionally, independent ARMC chair, Jenny Morrison also provided input on the findings included in this report, particularly in respect of the ARMC.

1.4 Summary of Results

Overall Summary

Considered collectively, the findings of this project and our recommendations indicate the need for a further strengthening of the governance structure and framework even when considering the changes in governance structures which have occurred in the last 6 months.

This comment should also be seen in the context of the significant commercial changes in ILC over the last 2 years, including the purchase of Mosman Gorge and Voyages Ayers Rock Resort, both of which have had significant impact on the size and operations of ILC (as well as NCIE purchase in 2006). It is our view that the governance processes in existence prior to the recent organisational and structural changes, particularly at ILC holding company level, reflect a governance environment more suited to ILC prior to these significant changes.

The recommendations made, if implemented, will assist in maturing the governance structure and processes of ILC that better reflect the current organisation and stakeholder expectations. It is very important that these structures and processes are designed so as to continue to enable the agility of decision making in the interest of the objectives of the organisation, but within a framework that promotes good governance. This is a critical balance particularly with regard to the operations of key subsidiaries and our recommendations have considered this balance as a key factor in design.

It is also evident from the interactions Deloitte has had with the ILC directors that there is a lack of cohesion at Board level evidenced by tension between the directors appointed in 2011 and some of the directors of ILC who remained on the Board in 2011. This has manifested in the comments we have received, as well as other specific issues such as in delays in finalisation of minutes, domination of board agendas with structural issues and time resolving governance structural issues. These items require resolution to assist with the successful implementation of the recommendations we are suggesting in the report.

It should be noted that the governance improvements required as highlighted in this report should not infer for the reader that ILC has been unsuccessful in delivering outcomes required as an organisation since constitution. A consistent theme of the representations that we received from various parties was that in many ways ILC has been successful in delivering on its mandate and in making good, well informed decisions. The recommendations should rather be viewed as an opportunity to enhance ILC and assist in becoming even more effective and accountable when implemented by management and the Board.

Key Observations and Recommendations

In summary, the key observations and recommendations that follow in the detailed observations section of this report include:

- 1) ILC Strategy** (*Detailed Observations, section 3.2, observation 1*)

Observation

Although there is an annually updated National Indigenous Land Strategy (NILS) for ILC which specifically relates to strategies for land acquisition and land management, there is no group-wide business strategy to ensure the whole group is aligned in its direction, goals and intentions.

Recommendation

- 2) We recommend that ILC develop a group-wide business strategy to ensure that the Board of each entity is setting a strategy and operational/financial annual plan which is aligned with the overall business strategy. This process should be initiated in the next few months and should result in a strategic document that can guide the 2014 financial and operational planning across the group.

Alignment of ILC Board responsibilities with subsidiary activity (*Detailed Observations, section 3.1, Observation 1*)

Observation

There is a lack of alignment of responsibility for oversight of decision making and sharing of information across subsidiaries and the ILC Board, in particular in relation to strategy, budgeting and financial reporting and the ILC has not clarified its expectations for involvement in and approval of key decisions. The ILC Board has not defined its required degree of oversight and control over subsidiaries necessary to fulfil the ILC directors and Board ultimate reporting responsibility to the Minister (“the Minister”) for Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) (“the Department”) for the performance and expectations of the organisation.

Recommendation

We recommend establishing a group-wide Decision and Authority framework, defined by the ILC Board, which sets the levels and types of authority for the ILC Board, Subsidiaries, Sub-Committees and Sub-Committees of Subsidiary Boards. It should focus on key areas of control only such as setting of subsidiary strategies, annual financial and operational planning, significant capital spend, significant press announcements, entering into material contracts etc. Getting the right balance in defining the areas and levels of authority will ensure that ILC directors retain the right level of oversight over the group activities and strategy whilst enabling agile decision-making at subsidiary level and enhancing clarity

of decision-making and expectations around consultation for subsidiary directors. This overall framework should also be referenced more clearly in Board Charters, Section 191G Agreements and Statement of Expectation and Intent so that there is clear alignment.

3) Alignment of the timing and key content of Subsidiary and Committee meetings to ensure timely reporting and accountability to the ILC Board (*Detailed Observations, section 3.1, Observation 2*)

Observation

Subsidiary Board and Sub-Committee meetings do not align with that of ILC Board and it’s Sub-Committee meetings in order to ensure timely delivery of information for consideration and context. Meetings and therefore decision-making at the group level seem to be organised and timed independently from the Sub-Board and Sub-Committee process. For example, for the FY12 year-end the subsidiary ARMC and Board meetings were not timed to ensure approval of the financial statement of the subsidiaries in advance of the ILC, and hence group, ARMC.

Additionally, given the increased complexity of the group, there is no single officer who has overarching

responsibility for the annual calendar for the operation of group-wide Board and sub-committee meetings.

This also makes the execution of recommendation 2 above very difficult to implement.

Recommendation

In order to ensure appropriate and timely flow of information to the ILC Board for consideration, review and decision making, we recommend that key meetings across the whole group are sequenced into an annual board and committee meeting calendar with appropriate Company Secretarial support. From our experience of company secretarial support across the group this will require that appointment of a resource to both coordinate calendars and agendas but also to drive inclusive agenda formulation and accurate minute taking as per other recommendations in this report.

4) Single-view financial position of ILC (*Detailed Observations, section 3.7, Observation 1*)

Observation

There is no ongoing consolidated financial reporting which is reviewed at Board level on the actual financial position of ILC other than at year end for stakeholder reporting purposes. Financial reporting information for the group needs to be defined in terms of the strategy and reported regularly to assist with performance

management and the responsibility that ILC directors have for financial oversight of the group.

Recommendation

We recommend that regular consolidated financial reporting is produced which drives oversight of financial performance against group wide financial planning. We also acknowledge that this process has been commenced by ILC management.

On the following page we have included Deloitte's Corporate Governance Health Check which forms the basis of our assessment.

2 Governance Maturity Assessment

Presented below is a schematic summarising the results of the governance maturity assessment for the current state and the target state (refer Diagram 1). ILC's current governance arrangements have been analysed against the Deloitte Corporate Governance Health Check model ('the model'). It should be noted that in the assessment below we consider the ILC group as a whole including its subsidiaries and has also included input from specifically experienced individuals as listed under section 1.3 Work Performed. The model defines better practice principles that have been selected from various governance frameworks the summary of which is included in **Appendix A**.

Each of the 9 elements also includes a description of the characteristics that should be apparent for each of the five levels of maturity. These elements and their high level descriptors are listed at the bottom of each element in the Detailed Findings. It must be noted that we have focused on the substance of good governance and not necessarily the literal application of the law as we believe it is important to apply tailored solutions to the activities of ILC given the substance of the operations.

By assessing each element of the model against the documentation supplied and interviews with key stakeholders, we have provided a current state assessment against this model. This is a current state analysis after recent changes that have been made and are in effect as at the date of this report. This is reflected in the supporting commentary shown in the 'Summary of observations and findings in support of **C** current state'. This is shown in the illustrations below as 'C'.

The target maturity state is an initial assessment provided by Deloitte of the level of governance required at ILC and is informed by experience and our understanding of ILC through this project. The target state is not necessarily the most mature level of governance capability possible for any specific element of the model. Rather, it reflects the target state for each of the model elements having proper regard to the ILC's operating model, its complexity and its strategy and the legislative and stakeholder environment within which ILC operates. It should be noted that in our view the target state should have heightened significantly over the past 18 months with the purchase of major commercial tourism assets and the extra complexity that has brought to group structures. The recommendations have been geared to take ILC from the current to the target state **T** and ILC should review the target state nominated by Deloitte and update or validate the settings for each of the 9 elements. The Target State is shown as 'T' below.

Additionally, as stated above, when determining maturity and therefore our recommendations, we have been conscious of the need for ILC to balance a structured operating model with more 'commercial' necessities of being agile and making fast and effective decisions operating in a commercial world. A structured operating model can still retain dynamic principles, however it must also retain formal processes (across the whole entity) to be accountable for public funds and expenditure to both of its key stakeholders, the government and the community that the organisation benefits.

Overall you will note that there are some significant gaps between actual and target state. There are big gaps in the areas of board process, structure and strategy largely connected to some of the challenges we highlight in our key findings above around alignment

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of the various companies objectives in the group. The biggest gaps are in the area of stakeholder engagement and financial reporting, which are linked and also referred to above.

In the areas relating to risk and internal control monitoring the gaps are minor as risk processes are generally well established across the group and the gaps in the area of the audit committee and its functions are relatively small subsequent to recent changes made in that area.

Each element within our model is examined in the following section, 3 Detailed Findings. Opportunities for improvement are presented to improve / enhance the governance arrangements with each opportunity assigned three ratings:

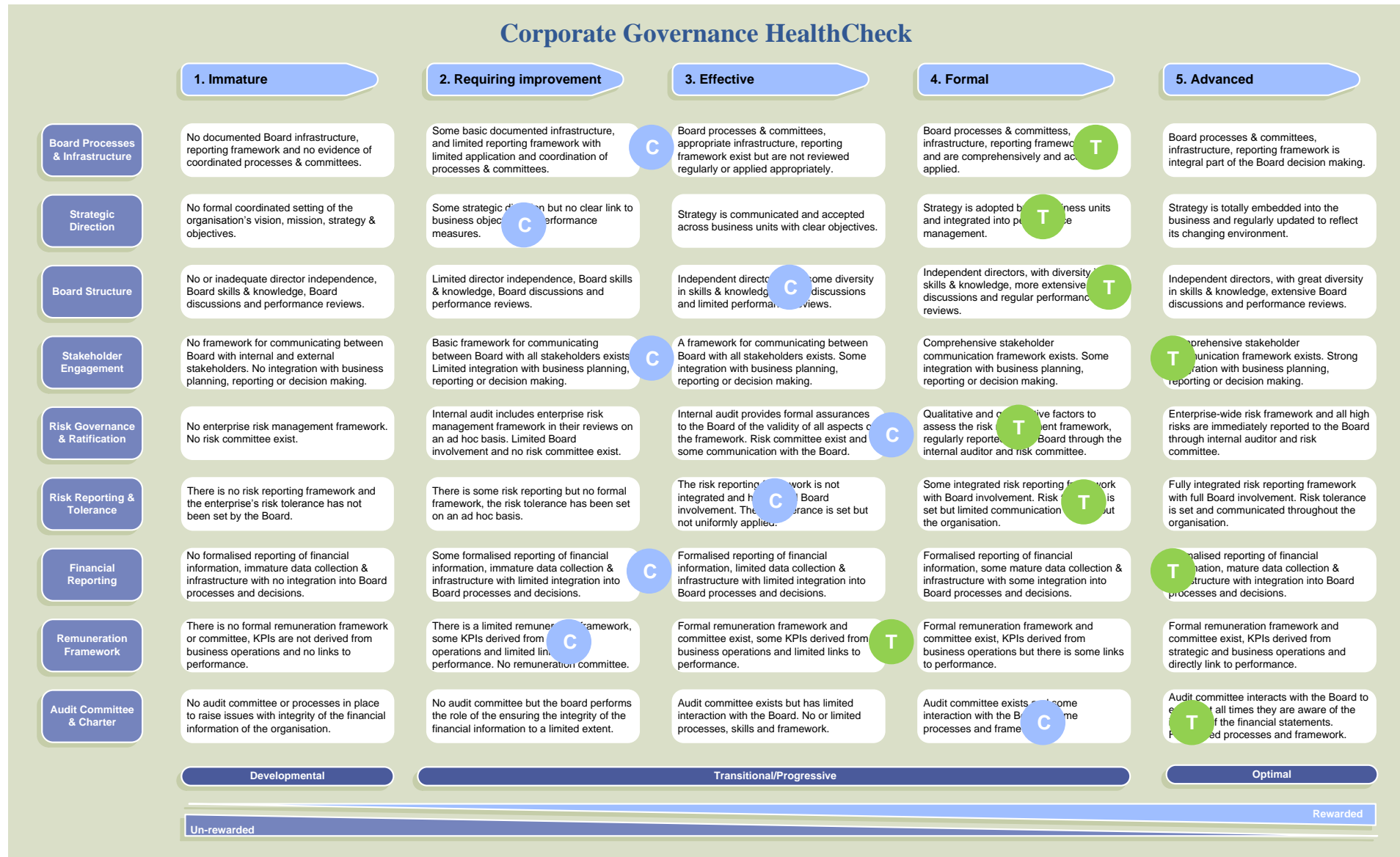
(1) Business Priority

1: Significant	Immediate action required. Expected to be prioritised for implementation in the next 3 to 6 months
2: Moderate	Action required, but of a lower priority. Expected to be implemented within 12 months
3: Desired Activity	Low priority. Expected to be implemented in 12-24 months

(2) Complexity and effort required to implement

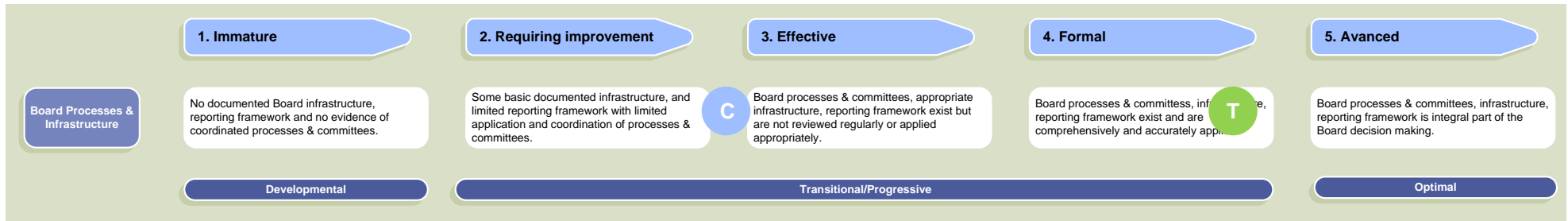
High	Will require significant planning and effort and should be resourced with specialist skills to ensure appropriately implemented
Medium	Will require resources with strong governance skills
Low	Will require resources with general administration and business skills

Diagram 1: Current and short-term target levels of ILC's Governance



3 Detailed Findings

3.1 Board Processes and Infrastructure



Summary of Board Processes and Infrastructure criteria

The Board, committees and management set the tone of ILC, its level of energy, enthusiasm, commitment and ethical standards. To set the desired tone the Board must have the skills, resources and independence to effectively carry out its duties and demonstrate a commitment to sound governance. Additionally, standards of behaviour and commitment to ILC's core values need to be reflected in policies and procedures and become part of its culture.

Summary of observations and findings in support of the current state

Although we noted there is a commitment to the values and objectives of ILC by all interviewees, we noted that this is not necessarily reflected in the current governance structure. This is particularly evident since the establishment of Voyages Indigenous Tourism Australia Pty Ltd and other significant subsidiaries which have increased the organisational complexity which has not flowed through to the sophistication in the Board processes. Overall, a number of the key elements are in existence, however further refinement to align the processes of all Sub-Committees, Subsidiary Boards and the Board itself need to be enhanced to ensure organisational governance alignment.


Specific observations identified and related recommendations	Business Priority	Complexity and effort
1) Alignment of ILC Board responsibilities with subsidiary activity Observation ILC subsidiaries do not have majority ILC Board membership, which would be the common way of a 100% holding company	1: Significant	High

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>exerting sufficient control over the strategic direction of the subsidiary. This is largely due to the need to have specific skills in relation to the specific operations of the entity and also a reflection on the restrictions on skills within the composition of the ILC Board that has to be constituted in the context of the Act. As such, there is a lack of personal connectivity, a misalignment of meeting timings and agendas between subsidiaries and ILC, until recently a lack of formal structures around sharing of information from subsidiaries to the ILC Board and also a lack of close alignment of strategic planning and associated budgeting. Therefore there is strong sense amongst the majority of ILC directors that ILC does not have the required degree of oversight and control over certain subsidiaries that is expected of directors and the board of the group holding company that is ultimately responsible to the Commonwealth Parliament for the performance and expectations of the organisation.</p> <p>As such, the lack of direct control by the ILC Board on its wholly-owned subsidiaries means that additional formal structures are required to ensure alignment of activities across the whole group. This oversight responsibility is required to ensure Directors appropriately discharge their fiduciary responsibilities in accordance with CAC Act requirements.</p> <p>Currently, it is not clearly defined and documented how the ILC Board should oversee and ensure strategic alignment across subsidiaries. However, the ILC Board as a whole, and its Directors individually, need to ensure appropriate structure and governance arrangements are in existence to ensure its fiduciary duties and responsibilities are properly discharged in the context of the group.</p> <p>Specifically, the governance and 'rules of engagement' need to be further documented and embedded, including the process in which decisions of Subsidiaries of the Board are communicated to and ratified (if required) by the ILC Board. Currently there is no clarity in respect of which decisions are delegated to Subsidiary Boards and Sub-Committees as opposed to the decisions retained at ILC Board level.</p> <p><i>Other points of note include:</i></p> <p>a. ILC Board Charter</p> <ul style="list-style-type: none"> - There are currently no ILC or subsidiary board charter documents. We note there is currently an interpretation of the ATSI Act and what it means for the Board, however this has not been documented into specific charter document for the operation of ILC and subsidiaries that show the linkage from the Act through to what is required in terms of board operations to meet the legislative and operational objectives. We do acknowledge that each Subsidiary has a constitution as required, however this is a legal document which does not stipulate operational activities expected of Subsidiaries. <p>b. Section 191G Agreements [Section 191G Agreements – An agreement where ILC may make an arrangement with a subsidiary to perform functions]</p> <ul style="list-style-type: none"> - The section 191G agreements with subsidiaries are not consistently drafted - The Voyages 191G agreement does not document specific details in relation to its operations and related governance requirements. <p>c. Statements of Expectation and Intent</p> <ul style="list-style-type: none"> - The current version of the Statement of Expectation from the Minister is due to be finalised which it is expected ILC will respond with a Statement of Intent in order to define ILC's intentions regarding the future operations of ILC. Over the past few years, these documents have not been consistently finalised. <p>d. Decision and Authority framework</p>		

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<ul style="list-style-type: none"> - The scope of Subsidiary decisions and authorities (versus ILC Board responsibilities) is not clearly defined. Respondents to our questionnaires identified multiple instances where Subsidiaries had made decisions where it was questioned as to whether there had been appropriate consultation with the ILC Board or whether the ILC Board should have approved the decision based on the overall group significance of the action. The expectations from ILC board level need to be clarified. - Our discussions also identified that Sub-Committees in some circumstances appear to have made decisions when ideally, in terms of good practice, these forums should formally provide recommendations to the Board for final approval only. There is a danger of dilution of the overall responsibility of the Board to be accountable for key decisions made. <p>e. Reporting to/from Subsidiaries and Sub-Committees</p> <ul style="list-style-type: none"> - It is not clearly defined what information and reporting ILC should receive from Subsidiaries and Sub-Committees, and what the reporting requirements are for each respective chairperson, in order for ILC Board to understand the operations as a whole. We note that the ARMC has recently defined in their charter the specific reporting to be provided to ILC Board - Information on the detail of operations from Voyages to the ILC Board is currently being restricted to hard copies of previous minutes due to the perceived commercial-in-confidence nature of information. <p>Recommendation</p> <p>Subsidiary governance and the rules of engagement to ensure ILC Board’s fiduciary responsibilities as directors of the holding company are fulfilled, should be documented and embedded in operations. This includes the process in which decisions of Subsidiaries of the Board are defined and communicated to and ratified (where required) by the ILC Board.</p> <p>This should be achieved by establishing a governance policy and procedure which defines how each Board and Subsidiary interacts with the ILC Board and should include:</p> <p>a. ILC and Voyages Board Charters and Committee terms of reference</p> <ul style="list-style-type: none"> - The Charter for both ILC and its subsidiaries should be finalised and show the linkage from the ATSI Act through to what is required to meet the legislative and operational objectives. We have provided an Example Board Charter document in Appendix E. All charters should be approved by the ILC Board. - In the case of subsidiary charters they should be clear on the role of the Chairperson for reporting to the ILC Board and the format of that reporting. Additionally, the terms of reference of the various sub-committees at ILC board and subsidiary level should be reviewed to make it clear as to the reporting responsibility of the respective Chairperson. <p>b. Section 191G agreements</p> <ul style="list-style-type: none"> - The Section 191G agreements should be made consistent across all subsidiaries. In particular, the 191G agreement needs to address the governance structures and include specific items such as the approval of subsidiary operational and capital budgets by ILC Board. If adopted, our recommendation regarding the establishment of a decision making framework (and adherence to it) should also be included as part of the 191G agreement - 191G of all subsidiaries should have ‘Statement of Expectation’ that has a clear linkage to the vision and strategy of ILC as well as operational expectations. The Statement of Expectation embedded within the 191G agreements should also clearly link to the group level ILC Statement of Expectation. 		

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>c. Statements of Expectation and Intent</p> <ul style="list-style-type: none"> - The current version of the 'Statement of Expectation' from the Minister is due to be finalised which it is expected ILC will respond with a 'Statement of Intent' in order to define ILC's intentions regarding future activities and operations. Over the past few years, these documents have not been finalised and we recommend that ILC finalise these documents to the Minister's satisfaction. <p>d. Decision and Authority framework</p> <ul style="list-style-type: none"> - The scope of Subsidiary authority needs to be clearly documented in a 'Decision and Authority framework'. The framework should allow for 'commercial' necessities of being agile to ensure fast and effective decisions whilst retaining formal processes (across the whole entity) to be accountable for public funds and expenditure. - We have provided an example document in Appendix D. This document should define responsibilities in relation to decision making, including where: <ul style="list-style-type: none"> o Formal approval is required o Agreement or consultation is required, or o Information is provided post decision - From our assessment we include below some of the key decision areas that we recommend to be included in the framework: <ul style="list-style-type: none"> o Strategy formulation and approval – both long term and annual revision o Acquisitions and disposals – a focus on limits of authority relating to level of spend and also around appointment of significant consultancy expenditure around the activity o Annual operating and capital budgets, including both capital expenditure and financial plans o Financial statements approvals o Media releases o Contract engagement with a focus on key material contracts for the group o Engagement of key executives at ILC and subsidiary level with a focus on both competency match and remuneration o Others HR, Legal, Governance, Bad Debts - The document should also clearly identify where there are aspects of key decisions where unanimous decisions are sought at ILC Board level and where all directors are required to vote versus abstaining. It should also be clear where Ministerial consultation is required and be clear on the requirement to document what the view of the Minister is in the minutes of the meeting where that decision is being taken. - Individual company levels of authority already established in the group to drive authorisations specific to decision in that company will need to be back-aligned to the group-wide authority framework. <p>e. Reporting to/from Subsidiaries and Sub-Committees</p> <ul style="list-style-type: none"> - Recommendations in relation to this point are noted under a. above. 		

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>In formulating the recommendations a number of other structural solutions were considered to try and ensure that sufficient control is maintained from the ILC Board whilst protecting the agility and quality of decision making across the group. These solutions included for example advisory boards for subsidiaries with ILC effectively remaining the Board for those subsidiaries; the CEO of ILC acting as Chair for all subsidiaries; reduced size subsidiary boards with experts acting as advisor to those board rather than directors and other such structures. It was deemed that in the context of the complexity and nature of subsidiaries, the recommendations above are the most practical and least disruptive response.</p>		
<p>2) Alignment of Subsidiary and Committee meetings to ensure timely reporting to Board</p> <p>Observation</p> <p>Subsidiary Board and Sub-Committee meetings do not align with that of ILC Board and it's sub-committee meetings in order to ensure timely delivery of information for consideration and context and sometimes decision making at the group level.</p> <p>A specific example includes the ILC ARMC, as part of signing off on their responsibilities on the financial statements for the 2011-12 financial year, received the Voyages financial statements for consolidation into the group statements and sign-off of those group statements prior to the Voyages ARMC having met to recommend sign-off of those statements to the Voyages Board. As part of their overall responsibilities, the ILC ARMC, and ultimately the Board, requires appropriate sign-off from material subsidiaries, including Voyages Board.</p> <p>Given the increased complexity of the group, there is a requirement for a single officer to have overarching responsibility for the annual calendar for the operation of group-wide Board and sub-committee meetings, both in terms of logistics as well as high level alignment of content of specific meeting Board and sub-committee activity, for example aligning the meetings across the group that develop the annual, plan, review the risk registers, approve the financial statements etc. This role would generally be managed via a company secretarial role.</p> <p>Recommendation</p> <p>In order to ensure appropriate and timely flow of information to the ILC Board for consideration, review and sometimes decision making, we recommend that key meetings across the whole group are sequenced into an annual board and committee meeting calendar and would include for example:</p> <ul style="list-style-type: none"> • Overall the Committee and Board meetings need to flow in a logical sequence in order to ensure full information is available for decision making in accordance with the Decision and Authority framework (as per recommendation 1 above) • Certain of the ILC Board meetings to be designed to align with reporting requirements to the Minister and the Department, for example financial reporting • ILC Committee meetings to take place prior to the ILC Board, ILC subsidiary meetings before the sub committees of the ILC and the subsidiary sub-committees before the subsidiary board meetings • This is particularly important for Board meetings that consider and finalise the annual financial statements (refer also to 3.9 Audit and Risk Management Committee meetings observations), approve the annual plan and strategy, approve 	1: Significant	Moderate

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>annual capital and operational budgets, but in our view should also be applied throughout the year.</p> <p>The suggested timing of meetings is demonstrated below:</p>  <p>Due to the importance of this recommendation in the context of the current governance maturity gap we recommend that ILC establishes a centralised group company secretarial role to manage the ongoing Board and Committee governance activities in terms of logistics and calendar compliance as well as driving with the respective Chairpeople the alignment of content. This is a critical support resource for Chairpeople of Boards and sub committees across the group as well and can also help to support the findings and recommendations below relating to agendas and minutes. From what we have identified during our review it is very likely that this will need to be a fresh appointment within the group.</p> <p>As part of the above recommendations being considered, there is an opportunity for the Board to consider the length and frequency of Board meetings that are required to fulfil its calendar of responsibilities.</p>		
<p>3) Board agenda and minute distribution and documentation</p> <p>Observation</p> <p>We noted the following from discussions and upon examination of Board minute documentation:</p> <ul style="list-style-type: none"> • Our examination of the documentation of minutes identified inconsistent recording of minutes for Board meetings. As we were not in attendance at Board meetings, we cannot ascertain the accuracy of minute recording, however there was a lack of consistent documentation of discussions. In particular, we noted that the context of decisions and how and why decisions are made needs further clarity in minute documentation. We do however note that for standard decisions in relation to Land Acquisition and Land Management, there was a clearly defined process which, based upon our high level assessment, seemed reasonable • As noted in observation 3 above, we also noted in Board minutes where Directors left Board meetings, however no specific reason or conflict was documented. • We also noted that, although there is the ability for Directors to add to the Agenda for discussions in the meetings, other items in relation to the operation of the meetings were not followed per better practice Board practices, such as: <ul style="list-style-type: none"> ○ Identification of conflicts based on agenda was not clearly noted ○ Timely distribution of minutes for feedback and adjustment where necessary ○ In some cases potentially excessive discussion on the detail of the previous Board meeting minutes at the following Board meeting. 	<p>1: Significant</p>	<p>Moderate</p>

Specific observations identified and related recommendations

Business Priority

Complexity and effort

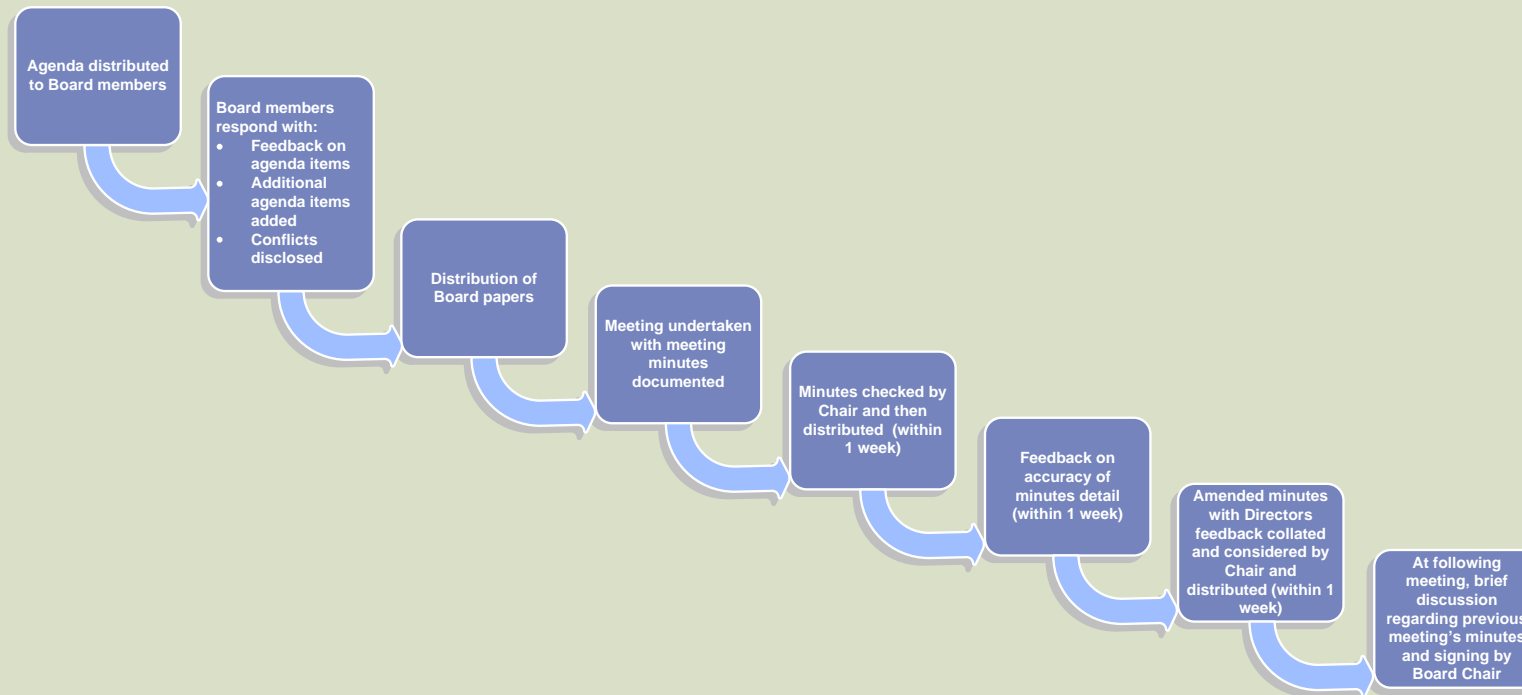
- Overall, there is no specific policy or procedure across the group regarding the process to be followed for Board meetings, including agenda distribution, minute distribution and consideration and acceptance of minutes

Recommendation

In order to:

- improve the process for appropriate distribution of minutes and agenda setting
- improve the accuracy of Board minute documentation
- ensure efficient finalisation of minutes

the process for Board minute distribution should be as follows:



At the ILC Board level in relation to decisions being considered, we also noted the following suggestion from a Board member: Before any decision, the Chair should request of all Board members: *“Does anyone have any information that they wish to*

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p><i>discuss that is relevant to this decision from Committees and Subsidiary Boards</i>". We believe this question, posed to all members during ILC Board meetings, in addition to the authority framework, calendarisation of reporting and clarity of chair reporting up the governance chain, will assist in identifying multiple levels of information which are currently available across all ILC forums.</p>		
<p>4) Appointment of significant consultancies</p> <p>Observation</p> <p>There is little evidence in the board minutes to indicate that the ILC Purchasing Policy was followed to procure the services of Grant Samuel to act as advisor to ILC on the acquisition of Ayers Rock Resort (which included overseeing the due diligence of the acquisition).</p> <p>The Annual Report 2010-11 specifically identifies that Grant Samuel was appointed via direct sourcing, however we could not identify the detail in relation to direct sourcing in the minutes.</p> <p>One Director indicated that Grant Samuel were involved with a previous potential buyer of Ayers Rock Resort in a due diligence capacity prior to ILC considering the purchase thereby reducing the amount of work ILC would need to commission for due diligence. We have noted some documentation which substantiates this point. However this is not formally documented in the Board minutes.</p> <p>The minutes from Board meeting no. 122 notes that Grant Samuel's proposal to act as advisor to ILC was presented to the Board for approval. [REDACTED] The Board approved this proposal at meeting no. 122, however the minutes are silent on the procurement approach taken.</p> <p>The ILC Purchasing Policy at the time required tendering is to be used, where the goods or service:</p> <ul style="list-style-type: none"> - is a non-standard purchase - have a high value (above \$400,000) - are a construction project with a value greater than \$9.0m <p>Since Ayers Rock Resort was, in dollar terms, ILC's largest ever Indigenous land acquisition, and the value of Grant Samuel's service was expected to be in excess of \$400,000 (based on expected purchase price, with final fees being in excess of \$3 million) it meets two of the requirements for tendering being a non-standard and high value purchase.</p> <p>If it had been interpreted that the procurement policy was for consulting services, the policy was to seek three written quotes. If however three quotes are not obtained, there is a requirement to document the reasons for not obtaining three quotes. Exceptions to obtaining quotes are as follows:</p> <ul style="list-style-type: none"> - using quotes that are less than six months old - in emergency situations - for purchases below \$2,000 a verbal quote is required - when using a Pre-Qualified Supplier (only one quote is required). <p>If a quote is not obtained due to one of the above exceptions, there is still a requirement to document the reasons for not</p>	1: Significant	Moderate

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>obtaining quotes in Board minutes. Through enquiries from management and inspection of Board minutes, there is no evidence to suggest that a tender process was followed or any written quotes were sought and/or obtained (and the exceptions to requiring written quotes did not apply in this case).</p> <p>Recommendation</p> <p>As a Statutory Authority of the Commonwealth, it is suggested that ILC Board and its subsidiaries follows the ILC Purchasing Policy requirements as detailed in the finding above to demonstrate the application of the following key procurement principles:</p> <ul style="list-style-type: none"> • Value for money • Encouraging competition • Efficient, effective and ethical use of resources • Accountability and transparency <p>Adherence to the policy requirements should be clearly documented in Board minutes for significant consultancies. Additionally, as per recommendation 1 above, the procurement rules for certain high risk elements such as significant consultancies (at a high level) should be documented in the Delegation and Authority framework.</p>		

Board Comment

The Board accepts these recommendations and will move to implement the actions. The detailed actions we will take will be built into a detailed implementation project plan as a matter of priority.

Better Practice Elements Considered

<p>Terms of Reference</p> <p>Board Meetings</p>	<p>The Board and its committees have a clear charter that includes: roles and responsibilities of the Board, Chairperson of the Board and company secretary; composition and appropriate broad skill base of the Board; nomination and remuneration process for directors; Board meeting procedures (including minutes and board papers); process for conducting board effectiveness reviews and director training; and the succession planning process</p> <p>The Board complies with the applicable subsidiaries (if different from the holding company's) approval and authorisation framework and delegation of authorities</p> <p>All the Boards (including wholly owned subsidiaries) work together effectively</p> <p>There is an appropriate process in which decisions of subsidiaries of the Board are ratified by the Board</p> <p>It is clear what decisions are delegated to subsidiary boards as opposed to the decisions retained at Board level</p> <p>The agenda setting process allows for appropriate issues to be raised as necessary</p> <p>The Board meets often enough to effectively fulfil its responsibility, sufficient time is scheduled for Board meetings and directors receive the</p>
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Better Practice Elements Considered

Board functioning, processes and culture	Board pack timeously, allowing sufficient preparation time
	The Board has access to the information needed to support key decisions and to perform their role effectively
	Board meetings are conducted ethically and in a manner that encourages open discussion, healthy debate, and allows each Board member to participate in discussion and decisions
	Board meeting minutes are appropriately and timely documented and distributed after the meeting
	The Board devotes sufficient time respectively to strategic and forward looking issues, as well as to current performance and operational issues
	The Board correctly balances its oversight role versus getting involved in operational responsibilities
	The goals and objectives of the Board are clear to all members
	The Board effectively communicates strategic direction, objectives and action plans with management
	Operations are aligned with the strategy
	The role of the Company Secretary is being performed appropriately and in compliance with the board charter
There is formal Board and Director induction and orientation	
The Board receives regular and focused training to understand and execute its fiduciary responsibilities	

Other Specific legislation or Compliance requirement

Disclosure of interests

CAC Act 1997 27F (1) and (3): A director of a Commonwealth authority who has a material personal interest in a matter that relates to the affairs of the authority must give the other directors notice of the interest. The notice must give details of:

- the nature and extent of the interest; and
- the relation of the interest to the affairs of the authority; and

be given at a directors' meeting as soon as practicable after the director becomes aware of his or her interest in the matter. The details must be recorded in the minutes of the meeting.

27J: A director of a Commonwealth authority who has a material personal interest in a matter that is being considered at a directors' meeting must not be present while the matter is being considered at the meeting; or vote on the matter.

Meeting quorum

ATSI Act 192J (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 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 when the

Other Specific legislation or Compliance requirement

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.

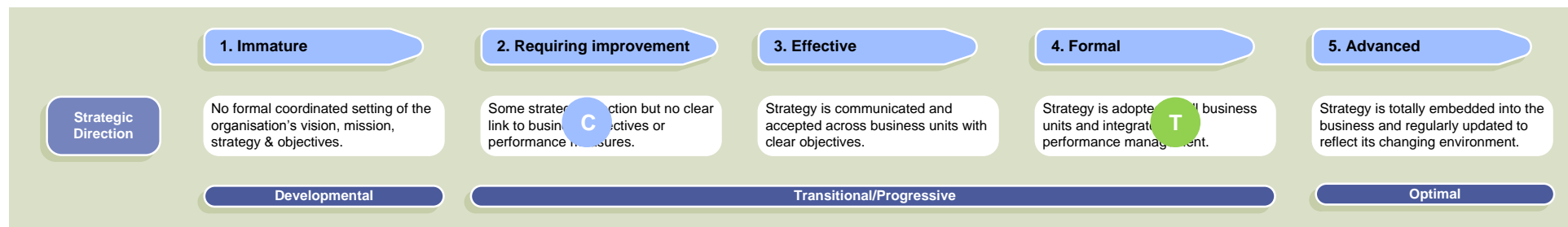
Meeting minutes

ATSI Act 192J (8) (b): The Indigenous Land Corporation Board must cause minutes of those proceedings to be kept.

CEO term of appointment

ATSI Act 192L: The Indigenous Land Corporation Chief Executive Officer holds office for such period as is specified in the instrument of appointment. The period must not exceed 4 years.

3.2 Strategic Direction



Summary of Strategic Direction criteria

Effective strategic planning and budgeting contributes to program outcomes, financial control and accountability. The extent to which ILC achieves its objectives depends importantly upon how well it identifies its stakeholders and their needs, understands its operational environment, and utilises available resources.

Summary of observations and findings in support of the current state

The strategy of ILC is currently defined within the National Indigenous Land Strategy (NILS) document, as required by the ATSI Act. However, the strategy does not:

- Identify specific financial, operational and outcome targets to be achieved
- Consider the strategy of each individual Subsidiary in the context of the overall strategy, including capital expenditure and financial objectives
- Other strategic opportunities and strategic directions ILC will consider as part of the medium-term (2 to 5 years) outlook.

In summary NILS is a land acquisition strategy in the context of the ATSI Act but it is not a business strategy. There is an opportunity to further define strategy to assist with clear and fully-informed decision-making processes aligned across the group. This overarching strategy needs to be defined in a business plan to ensure it is translated into operational structure and activity and guides annual operational, financial and capital planning across the group.

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>1) ILC Strategy</p> <p>Observation</p> <p>Although there is an annually updated National Indigenous Land Strategy (NILS) for ILC which specifically relates to strategic direction, priorities, policies and program structure, we noted the following:</p> <ul style="list-style-type: none"> • KPI indicators are high level and strategic objectives do not specifically identify target outcomes in order to create accountability. There are no specific references to Indigenous employment outcomes which are documented through S.M.A.R.T. KPIs. Other KPIs such as average cost per Indigenous employment or training outcome are not identified and measured to ensure activity is being focused in the right areas. We acknowledge that some KPIs are included in the Portfolio Budget Statements, but these are primarily outcome statements against planned expenditure. It is also noted that ILC maintain tracking and reporting of these KPIs • Without specific targets defining outcomes to be achieved, it is difficult for performance management and overall assessment of ILC's achievements in terms of the strategy and future direction • There is no specific reference to the NCIE and Voyages strategy and how their strategies link into a compliment the overall group strategy • There are generic references to employment and training and also the role of NCIE <p>The majority of the ILC directors interviewed felt that there is a need for a better aligned, group wide strategy that covers land acquisition and management objectives and KPIs as well as financial strategies and goals that are aligned and that documents the specific strategies of the key assets/subsidiaries to also ensure alignment.</p> <p>It is our understanding that a Strategy session of ILC Board with management was undertaken on 7 December. Deloitte has not assessed the outcomes of this session. It is our understanding that the outcomes are intended to be used as input to the finalisation of NILS and the development of a broader integrated strategic plan for the Board.</p> <p>We note that Management have commenced preparing an operational plan for ILC, however this has not been assessed by Deloitte.</p> <p>Recommendation</p> <p>We recommend that in addition to the NILS a separate strategy setting process should be initiated in the next few months that should result in a strategic document that can guide the 2014 financial and operational planning across the group. There is scope for the ILC Board to determine the next strategic horizon with a strategy document which covers the next 5 years. Specifically, we believe ILC needs to determine the following five crucial questions:</p> <ul style="list-style-type: none"> • <i>What are our aspirations and goals?</i> • <i>Where will we play?</i> • <i>How will we succeed in chosen areas?</i> • <i>What capabilities must be in place to succeed?</i> • <i>What management systems are required?</i> 	1: Significant	High

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>In addition, it needs to cover the specific strategies of the key assets and subsidiaries and how they fit into the group-wide strategy and not focus solely on land acquisition and land management as per the NILS. The strategy should focus on opportunities, looming risks and challenges - and strategies to address them.</p> <p>It also needs to be clear on financial strategies around funding, land divestment strategies, operating costs in the group and what returns are needed on the key assets to ensure that the ILC can continue to meet its land acquisition and management objectives.</p> <p>We also believe there is a need to develop specific reporting to track financial inputs to achieve for example:</p> <ul style="list-style-type: none"> • Cost in relation to employment and training outcomes • Profitability expectations and benchmarking. <p>These outcomes can then be assessed against strategic objectives.</p> <p>The synergy and support of the ILC overarching vision and strategy will assist in ensuring 'connectedness' across all subsidiaries to the ILC. The strategy should also be translated into business plans which should provide more detail in relation to operational activity required to implement the strategy.</p> <p>Implementation of the above will allow for more specific performance management and evaluation of strategic and operational success at both organisational level, CEO level and Board level across the group.</p>		
<p>2) Alignment of strategy for Voyages</p> <p>Observation</p> <p>One specific question, which is key financially due to the size of the assets, is the strategy for ILC around the returns/dividends that it requires from the Voyages-based assets as part of the broader financial strategy for the group. It was clear from our interviews that there are many and very varied views on both the initial financial expectations on purchase of the assets around repayment of both loan interest and capital.</p> <p>As such, we believe there is a requirement for the ILC Board to establish an unambiguous financial strategy to set clear strategy and expectations for Voyages in the short and medium term. This should include the level of profit that Voyages should contribute, the level of capital expenditure required in the short and medium term, the amount of capital to be repaid and the investment to be made in terms of employment and training expenditure.</p> <p>Additionally, Deloitte sighted the Board papers regarding the purchase of Voyages and specifically the high-level divestment strategy laid out therein. However, we also noted a lack of clarity amongst current ILC Board members regarding the divestment strategy and therefore this needs to be more comprehensively developed as part of the strategy for Voyages going forward.</p> <p>Recommendation</p> <p>As part of the strategy development, we believe that in relation to Voyages, as a matter of urgency, specific focus needs to include agreement on:</p> <ul style="list-style-type: none"> • Firstly, the broader strategic intention of the Board for Voyages as part of ILC group 	1: Significant	High

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<ul style="list-style-type: none"> Secondly, the divestment strategy <p>This should then establish short, medium and long-term targets and define:</p> <ul style="list-style-type: none"> Acceptable financial targets for Voyages at ILC and Voyages Board level and aligned with that the level of profit that Voyages should contribute and alignment of that with loan interest and capital repayment Level of capital expenditure required in the short and medium term and impact of that on profitability Investment to be made in terms of employment and training expenditure. 		
<p>3) Group Executive Management Committee</p> <p>Observation</p> <p>In order to drive outcomes and accountability across the group at an operational level, it is important for key executive management to communicate regularly. We noted that currently Subsidiary management is not represented on whole of entity executive management meetings.</p> <p>Executive meetings assist with cooperation and collaboration between management of ILC and its Subsidiaries.</p> <p>Additionally, there are instances where Subsidiaries do not have capability and capacity to deliver specific duties for their operations, for example IT and other administrative services, and therefore ILC provide this support. Deeper understanding of entity-wide capabilities assists with ensuring whole entity success as well as creating accountability for existing resource sharing. Executive Management meetings also assist in this process.</p> <p>Recommendation</p> <p>Key executive management across the entity, including Subsidiaries, should communicate regularly via an Executive Management Committee meeting, probably best configured quarterly. This is important to drive strategic alignment of the group across all subsidiaries.</p> <ul style="list-style-type: none"> Current cooperation and collaboration between management and Subsidiaries/Boards regarding roles and responsibilities should be recorded in charters and Section 191G agreements This should also include specifics on where Subsidiaries need to comply with specific ILC policies (such as procurement or other commonwealth requirements). <p>This will assist with cooperation and collaboration between management of ILC and its Subsidiaries for existing resource sharing arrangements and potential opportunities to further share resources. Such a forum would also make the CEO role at ILC more attractive to potential applicants in the upcoming process. At present the role has little influence over the group outside of the specific operations of ILC.</p> <p>It will also assist in ensuring appropriate performance management of operations across the entity between Board meetings.</p> <p>We understand the CEO is currently seeking to implement such an arrangement and we support this initiative.</p> <p>We also understand that the Board may assess the current senior executive structure of ILC to ensure it aligns with the current operational structure and executive requirements.</p>	<p>1. Significant</p>	<p>Moderate</p>

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>4) Divestment Strategy for NCIE as part of purchase decision</p> <p>Observation</p> <p>The acquisition of NCIE was stated by the Board as having being effected in order to make grants of interests in land to Aboriginal or Torres Strait Islander corporations for the purposes of section 191D(1)(b) of the ATSI Act. ATSI section 191D(3)(b) states that in a case where ILC acquires an interest in land for the purpose of making a grant of the interest to an Aboriginal or Torres Strait Islander corporation, the grant should be made within a reasonable time after that acquisition.</p> <p>The following findings however bring into question the dealing of the divestment of the land in a reasonable time in accordance with the ATSI Act:</p> <p>NCIE -</p> <ul style="list-style-type: none"> The Heads of Agreement between the ILC, Redfern-Waterloo Authority (RWA) and NSW Department of Education and Training (DET) stipulates that for a period of 10 years the ILC must not dispose of the property or enter into a long-term lease arrangement that would result in the property's use for purposes other than that of the proposed Centre. <p>A Heads of Agreement between the ILC and NSW DET for the acquisition of land cannot override the ATSI Act requirement to grant the land within a reasonable time after acquisition by stipulating that the ILC cannot dispose of the property for a period of 10 years.</p> <p>Land Acquisition decision no. 316 from Board meeting no. 99 on 12 April 2006 states that "in the event that the ILC is successful in acquiring the property, the ILC will continue to hold title over a longer-term period." Section 18 of the Deed of Agreement between ILC and NCIE however states that "The parties acknowledge that the ILC acquired the NCIE pursuant to section 191D(1)(b) of the Act and pursuant to that provision and section 191D(3)(b), the ILC has an obligation to grant the NCIE within a reasonable time to an Aboriginal or Torres Strait Islander Corporation". It goes on to state that "Nothing in this Deed is meant in any way to derogate from that obligation..." There is therefore conflicting information in relation to the dealing of the divestment of the land within a reasonable time after acquisition.</p> <p>Recommendation</p> <p>We recommend that as part of strategic purchases, the Board consider purchases with the specific focus of identifying divestment strategy unless reasons are clearly documented and approved.</p>	1: Moderate	High

Board Comment

The Board accepts these recommendations and will move to implement the actions. The detailed actions we will take will be built into a detailed implementation project plan as a matter of priority.

Better Practice Elements

Strategy/ vision/ business objective development	The strategy is regularly reviewed and updated by the Board
Strategic alignment with operations	The strategy is aligned with key performance measures and the operational responsibility for implementation is with Executive management The Board has a strong understanding of competitors, customers and industry issues The Board is proactive in ensuring the organisation is positioned for changes in political, industry and economic circumstances

Other Specific legislation or Compliance requirement

National and Regional Land Strategy

ATSI Act 191N: The Indigenous Land Corporation Board must prepare, and revise from time to time, a strategy to be known as the national Indigenous land strategy.

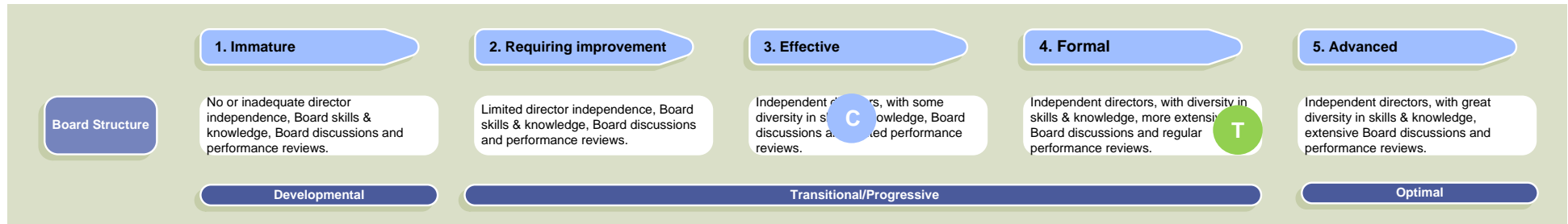
191P: The Indigenous Land Corporation Board must prepare, and revise from time to time, strategies to be known as regional Indigenous land strategies.

Notification of significant events

CAC Act 15(1): If a Commonwealth authority, or any of its subsidiaries, decides to do any of the following things, the directors of the Commonwealth authority must immediately give the responsible Minister written particulars of the decision:

- form a company or participate in the formation of a company;
- acquire or dispose of a significant business;
- commence or cease a significant business activity.

3.3 Board Structure



Summary of Board Structure criteria

The proper functioning and operation of the control structure significantly relies on the competence and ethical behaviour of the Board and its committees. Their qualifications, skills, attitude, selection, training, understanding of accountability, relationships with staff, conflict of interest management, governance structures and core values are key aspects of establishing and maintaining an effective control structure.

Summary of observations and findings in support of the current state

The current ILC Board composition is in accordance with ATSI Act requirements and the Minister appoints ILC Board Members. However there are opportunities to further enhance the process of identifying potential Board replacements and ensuring succession planning across the various Boards and Sub-Committees within the group. Additionally, there are also opportunities for the group to further embed conflict disclosures and enhance specific Director training regarding fiduciary duties.

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>1) Board and Subsidiary Board composition and tenure</p> <p>Observation</p> <p>The ATSI Act requires the ILC Board have experience in land or environmental management; or business or financial management; or Aboriginal community life or Torres Strait Islander community life. Additionally, the ILC Chairperson and at least 4 other Directors must be Aboriginal persons or Torres Strait Islanders.</p> <p>We note that the current ILC Board composition is in accordance with ATSI Act requirements and the Minister appoints ILC Board Members, however we also note the following in relation to ILC Board, Subsidiary Board and Sub-Committee composition and tenure:</p> <ul style="list-style-type: none"> There is potential for increased interaction with the Minister on suggestions for future Board member composition at both ILC and Subsidiary level. This proactive interaction with the Minister and the Department will assist with stakeholder 	2. Moderate	High

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>management. It will also demonstrate that the current Board is assessing current requirements in terms of the mix of skills required across the group and justify expenditure on Board expertise</p> <ul style="list-style-type: none"> • There are multiple Board members at both ILC and Voyages who have been appointed on the same date for the same period. This leads to a situation where there is a lack of appropriate staggering of sunset dates of Board members and therefore increases the potential for negative impact on Board effectiveness where multiple members are replaced at once • Previously former ILC Board members have continued on Subsidiary Boards post completion of term of ILC Board membership. Where an ILC Board member is representing the ILC Board on a Subsidiary, it is common practice when a period of appointment on the parent Board ends for the Subsidiary Board to end in conjunction • There is currently no documented process for identifying and appointing Subsidiary Board members which has been agreed by the Minister. Additionally, appointments should be brought to the Minister's attention as a significant event for input as per the Cabinet Handbook (Note: For a subsidiary the size of Voyages, and considering its size and significance in context of ILC, we believe it is necessary for ILC to be conscious of the Cabinet Handbook) • Currently, Voyages Board members are tenured for 5 years which is documented in the Voyages Constitution. We note that generally commercial entities are appointed on a 3 year rotation basis. ILC Board membership is for 4 years which is in accordance with legislative requirements. • A Sub-Committee of the Board has been established, the Land Acquisition and Management, Business, Employment and Training Committee (LAMBETC) extending the scope of the Business, Employment and Training Committee (BETC) which now has the responsibility for additional focus on Land Acquisition and Management. The terms of reference of the LAMBETC does not detail the skills required for the Committee. The charter needs to be more defined around mix of skills required for the detailed consideration of issues at that Committee, for example a Board member or independent member with commercial pastoral knowledge and/or experience is currently not on the LAMBETC. We note that as at March 2013 that an independent member for LAMBETC has been appointed. <p>Recommendation</p> <p>We recommend that a Board Nomination and Remuneration Committee be established and convened on a bi-annual basis to consider the Board Composition, succession planning and tenure of existing and future Board and Sub-Committee members (Note: recommendations in relation to remuneration are included in section 3.8 Remuneration framework)</p> <p>It is acknowledged that even though the Minister appoints Board members, the Nomination Committee should be proactive and make recommendations to the Minister on the composition of the ILC Board in relation to the needs of the organisation. This needs to be a balanced view of relevant and skilled people, as well as being independent.</p> <p>There is also potential for:</p> <ul style="list-style-type: none"> • Documenting and enforcing the situation where an ILC Board member is representing the ILC Board on a Subsidiary for the Subsidiary Board appointment to end at the same time unless specifically appointed. Specific consideration for review of the Voyages constitution to assess the tenure period of Board members to align with commercial entities which are appointed on a 3 year rotation with staggered appointments • The CEO of ILC to reserve the right to attend Subsidiary Boards and Sub-Committees where necessary. 		

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>2) Conflict of Interest Declarations</p> <p>Observation</p> <p>We understand from our assessment that previously the ILC Board members declared interests (including any potential for conflict) to the Minister on appointment or on exception when conflicts arose in line with the requirements of the ATSI Act. However, we understand that these declarations were not tabled amongst Board members and there is an effort at present to try and agree on a process whereby such disclosures are shared with other ILC Board members based on approval to do so from the Director involved. Also, ILC has had available guidance in this area from the ANAO good practice guidelines and the CAC Act. However this has not been translated into a specific and appropriate process for ILC. Our examination of Board minutes shows an inconsistent process for documenting declaration of interests.</p> <p>We also noted in Board minutes of case studies we assessed that there is documentation of when Directors left Board meetings, however no specific reason/conflict was documented. If it was for a specific decision where an actual or perceived conflict existed, this should be noted clearly in Board minutes.</p> <p>Since 20 December 2011 we have noted that Director declarations of conflicts or potential conflicts of interest have been a standing point on the agenda of ILC Board meetings, however this has not been documented in the Board charter. The ARMC charter has recently been updated to include the process for management of conflict of interest disclosure.</p> <p>The Board has recognised that with the ILC Chair and Deputy Chair also being Chair and Deputy Chair of the Indigenous Business Australia, there are potential probity issues that may arise from the Chair and the Deputy Chair addressing projects that involve both IBA and ILC. As a consequence it was agreed, in addition to the usual Board conflict of interest declaration process, guidelines be developed in consultation with IBA for dealing with such issues including a process to identify instances where a conflict may arise.</p> <p>Recommendation</p> <p>We recommend that the conflict of interest declaration process is defined for ILC Board and its Subsidiaries and documented in all Board and Committee charters. This policy at a minimum should include an annual declaration for all board and sub-committee members as well as specific declarations at the beginning of each meeting as to conflicts with specific decisions and considerations to be made in that specific meeting. All should be minuted with direct reference to the conflict.</p> <p>The ILC management in conjunction with IBA management should finalise the guidelines for handling joint projects including the handling of any potential probity issues, as a matter of priority.</p>	1: Significant	Moderate
<p>3) CEO appointment process</p> <p>Observation</p> <p>The Cabinet Handbook requires that for the appointment of full-time chief executive officer (CEO) positions the Minister should be consulted and that the Minister should not signify agreement without the approval of the Prime Minister. It was noted that although the Minister was consulted, the appointment of the previous CEO (Mr David Galvin) did not comply with the full extent of this requirement. It should be noted that the ATSI Act specifically does allow for the Board to decide on the appointment but as a key stakeholder the Prime Minister should have agreed on the appointment and the decision to precede without that</p>	1: Significant	Low

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>agreement is a weakness in governance process.</p> <p>Recommendation</p> <p>The CEO appointment process should be documented and included in the Board Charter document (as per 3.1 Board Processes and Infrastructure, observation 1) and be in accordance with the Cabinet Handbook</p>		
<p>4) Annual self-assessment of Board</p> <p>Observation</p> <p>Review of board papers since 2005 identified that there has not been a recent self-assessment of the performance of the Board.</p> <p>Recommendation</p> <p>An annual self-assessment of all Boards should be performed to identify where improvements can be made and increase Board effectiveness.</p>	2. Moderate	Moderate
<p>5) Board induction and ongoing Board Training</p> <p>Observation</p> <p>Although we noted there is currently induction training for new ILC and Subsidiary Board members, based on our discussions and examination of existing Board induction documentation, there is an opportunity for enhancement as documented below. Additionally, there is a perceived need and desire expressed by Board members for an ongoing director training program, as already identified by the Board. Many respondents commented on the heightened importance of this in the context of the composition of the ILC Board and the development opportunity that directorships present at both ILC and subsidiary level.</p> <p>It was commented that the training should include more than information regarding ILC. It should also include information regarding:</p> <ul style="list-style-type: none"> • roles and responsibilities as defined in the ATSI Act and in other Board documentation such as the Charter • information relating to the group authority framework, how it works and its execution in the particular context and position of that director • fiduciary duties of Directors in accordance with the CAC Act: <ul style="list-style-type: none"> ○ conduct of officers, personal obligations on the directors and officers and penalties for misconduct and not voting on a matter in which the director has a material personal interest ○ preparing budget estimates for each financial year and establishing and maintaining an audit committee ○ general duty of care and diligence (in the discharge of his or her duties); the duty to act honestly; not make improper use of inside information or position. 	2: Moderate	High

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>Recommendation</p> <p>We recommend the following be considered:</p> <ul style="list-style-type: none"> • There is an opportunity for a skills audit to be undertaken of the Board by the Nomination Committee to understand where Board needs specific training • Induction training for new Board members and ongoing director training should include information regarding ILC as well as an understanding of current issues being faced to assist with deliberation at ILC Board meetings, including coverage of: <ul style="list-style-type: none"> ○ roles and responsibilities as defined in the ATSI Act and in other Board documentation such as the recommended Charter ○ information relating to the group authority framework, how it works and its execution in the particular context and position of that director ○ fiduciary duties of Directors in accordance with the CAC Act: <ul style="list-style-type: none"> ▪ conduct of officers, personal obligations on the directors and officers and penalties for misconduct and not voting on a matter in which the director has a material personal interest ▪ preparing budget estimates for each financial year and establishing and maintaining an audit committee ▪ general duty of care and diligence (in the discharge of his or her duties); the duty to act honestly; not make improper use of inside information or position. ○ Specific consideration for Subsidiary Board members should be established also to include their role on the Subsidiary Board in the context of ILC and related operational governance activity, such as timing of meetings and information responsibilities. • There is also an opportunity for ILC Board members to attend other Subsidiary Board meetings and Sub-Committee meetings as observers to gain an understanding of current issues being faced across the whole entity. 		
<p>6) Annual Assessment of CEO</p> <p>Observation</p> <p>Currently there is no formally documented policy and procedure regarding the requirement for an annual ILC or subsidiary CEO performance review, apart from bonus arrangements.</p> <p>Recommendation</p> <p>An annual CEO performance review should be undertaken in addition to the performance of the subsidiaries' CEOs and presented to ILC Board for consideration of entity performance.</p>	2. Moderate	Moderate

Board Comment

The Board accepts these recommendations and will move to implement the actions. The detailed actions we will take will be built into a detailed implementation project plan as a matter of priority.

Better Practice Elements

Board size, composition and attributes	<p>The composition of the Board members is appropriate in terms of skills, knowledge, experience and qualifications and in line with any legislative requirements</p> <p>The Board should have sufficient representation on all subsidiary boards to reflect the 100% holding company status</p>
Board effectiveness and evaluation	<p>An independent assessment of the effectiveness of the Board is periodically undertaken and any recommendations appropriately implemented</p> <p>Directors possess sufficient knowledge of good Board practice and corporate governance to effectively discharge their responsibilities</p>
Appointment and nomination of director	<p>There is a robust process for recommending and appointing directors to the Board</p>
Succession plans	<p>There are succession plans for key members of the management team, chairperson of the Board and company secretary</p>
Leadership and support	<p>There is a clear distinction between the Board role and authority, and management role and authority</p> <p>The role of the Chairperson is being performed appropriately and in compliance with the charter and objectives of governing legislation</p> <p>The Board Chairperson is available and accessible to Directors; has a clear vision for the Board; is successful in gaining the commitment and enthusiasm of Board members; is successful in gaining required resources and information for the Board; ensures the Board plans and schedules the activities of the Board to meet their deadlines</p> <p>The process for declaring conflicts of interests is appropriate and effective</p> <p>Meetings are run efficiently and effectively</p> <p>The Chairpersons of subsidiary Boards also available and accessible to Directors and run the subsidiary boards effectively in a collaborative way</p>
Board orientation and development	<p>There is formal Board and Director induction and orientation</p> <p>The Board receives regular and focused training to understand and execute its fiduciary responsibilities</p>

Other Specific legislation or Compliance requirement**Composition of the Board**

ATSI Act 191X (2): The Indigenous Land Corporation Chairperson and at least 4 other Indigenous Land Corporation Directors must be Aboriginal persons or Torres Strait Islanders.

191X (4): Each ordinary member of the Board is to be a person who the Minister is satisfied has experience in:

Other Specific legislation or Compliance requirement

- land or environmental management; or
- business or financial management; or
- Aboriginal community life or Torres Strait Islander community life;

and the Minister must ensure that at least 2 ordinary members of the Board have experience in business or financial management.

Appointment of Directors

ATSI Act 191X (1) and (3): An Indigenous Land Corporation Director is to be appointed by the Minister by written instrument. Before appointing a person as an Indigenous Land Corporation Director, the Minister must consult the Finance Minister about the appointment.

191Z: An Indigenous Land Corporation Director holds office for such period as is specified in the instrument of appointment. The period must not exceed 4 years.

Director holding of office

ATSI Act 192 (1): Subject to this section, an Indigenous Land Corporation Director holds office on a part-time basis.

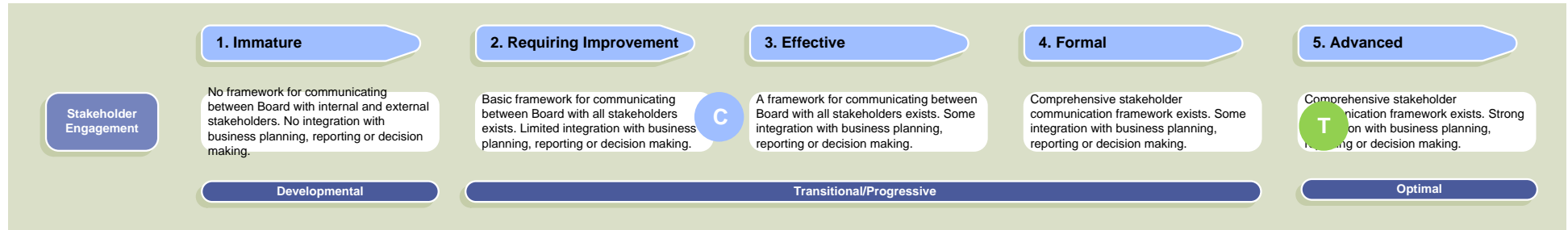
Engagement of consultants

ATSI Act 192V (1) and (2): The Indigenous Land Corporation Chief Executive Officer may, on behalf of the Indigenous Land Corporation, engage as consultants to the Corporation persons having suitable qualifications and experience. The terms and conditions on which consultants are engaged are as determined by the Indigenous Land Corporation Board in writing.

Cabinet Handbook

www.dpmc.gov.au/guidelines/docs/cabinet_handbook.pdf. Government policy on the process for significant appointments is included in Attachment J which, page 48 onwards. The following extract from para 3 includes: “(b) full-time chief executive officer (CEO) positions in such agencies (where the board selects the CEO, the Australian Government (‘the Government’) should be consulted and the minister should not signify agreement without the approval of the Prime Minister)”

3.4 Stakeholder Engagement



Summary of Stakeholder Engagement criteria
 Relationships with stakeholders need to be managed. All internal and external stakeholders need to be identified and policies developed determining how ILC is to relate to them. External influences outside the control of ILC can directly impact on its operations, business practices and risk profile. The Board needs to monitor and assess external factors and take prompt action to address them when appropriate.

Summary of observations and findings in support of the current state
 The two main external stakeholders for ILC are:

- the Minister, the Department and broader federal government (and obligations to report through CAC Act responsibilities)
- the broader Indigenous community that ILC is intended to benefit.

Our assignment was unable to assess the level of stakeholder engagement with the latter and focuses on the former including direct conversation with key representatives in the Department.

Our discussions with the Department identified that they did not believe enough consideration was given to Departmental and Ministerial viewpoints. In the interests of ILC’s long term sustainability, we believe stakeholder engagement with the primary stakeholder is essential. As such, there is an opportunity to further engage and consider the Department’s position more formally. If a purely literal legal interpretation of reporting responsibilities with respect to the Minister is followed, there is a risk that ILC can disengage the Department (and the Minister) and potentially damage the ongoing operational relationship.

Specific observations identified and related recommendations	Business Priority	Complexity and effort
1) Communication with stakeholders Observation	1: Significant	Moderate

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>Our discussions with the Department identified that they did not believe enough consideration was given to Departmental and Ministerial viewpoints. Communication issues between ILC and the Department have developed based on a the Department's perception to resistance to reporting of significant events as required under the CAC Act to the Minister in addition to not placing importance on opinion from the Department and Ministers.</p> <p>The significant events which were not formally reported to the Minister include constitution changes within Voyages.</p> <p>Other communication issues in relation to the Voyages transaction have also been identified, in particular where opinion from the Minister was not specifically followed or given appropriate attention. We note that clearly, as per the ATSI Act, ILC is an independent body and is responsible for its own decisions. However, our discussions with FaHCSIA noted that, although there was communication between the ILC and the relevant government entities, they hold the view that their position was not given due consideration, particularly around finance structuring. We view this issue as a key stakeholder management consideration. The environment in which ILC and its subsidiaries operates (i.e. government ownership) heightens the need for consciousness of stakeholders. ILC also receives significant government funding and has visible public assets. In order to establish and maintain a positive perception of the ILC at Departmental level, not only do operations have to be undertaken correctly, they also need to be communicated effectively to stakeholders. In the interests of ILC's long term sustainability, we believe stakeholder engagement with the primary stakeholder is essential. If a purely literal legal interpretation of reporting responsibilities with respect to the Minister is followed, there is a risk that ILC can disengage the Department (and the Minister) and potentially damage the ongoing operational relationship.</p> <p>Recommendation</p> <p>In relation to Departmental communication, we believe a clear communication strategy with the department needs to be developed and adhered to. As such, there is an opportunity to further engage and consider the Department's position more formally, for example undertaking quarterly meetings between the ILC CEO and the Secretary of the Department.</p> <p>At this point in time we believe there is a requirement to devote significant effort into maintaining appropriate stakeholder relationships which may be able to be reduced over time as confidence in ILC (from the Department's point of view) grows.</p> <p>As an example, as part of the appointment of the next CEO, for good stakeholder relations it would be best to consult with the Department and the Prime Minister (as per the Cabinet Handbook).</p>		

Board Comment

The Board accepts these recommendations and will move to implement the actions. The detailed actions we will take will be built into a detailed implementation project plan as a matter of priority.

Better Practice Elements

Better Practice Elements

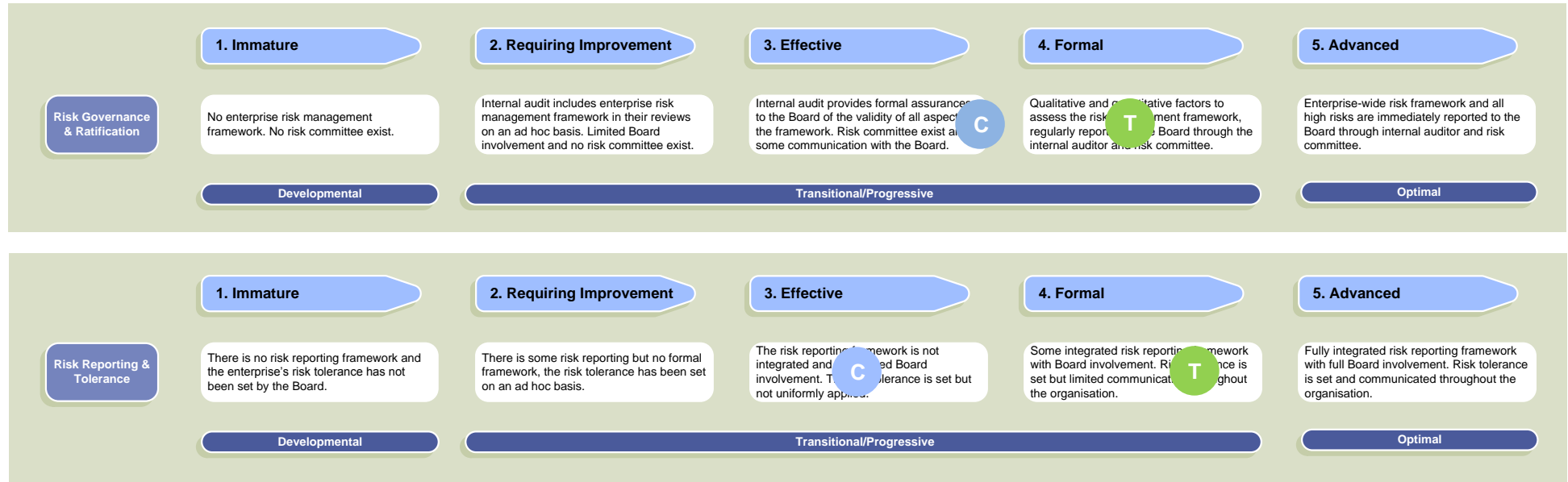
Communication with external stakeholders	The Board has clear processes to communicate strategic direction, objectives and action plans with external stakeholders
	The Board appropriately incorporates and listens to concerns or ideas of external stakeholders, including expressed Government policy
Communication with internal stakeholders	The Board has clear processes to communicate strategic direction, objectives and action plans with internal stakeholders
	The Board appropriately incorporates and listens to concerns or ideas of internal stakeholders
	Board members have a good understanding of the needs and expectations of internal stakeholders

Other Specific legislation or Compliance requirement

Powers of Minister

ATSI Act 191L: Except as expressly provided in the ATSI Act or the Commonwealth Authorities and Companies Act 1997, the Minister is not empowered to direct the Indigenous Land Corporation in relation to any of its activities.

3.5 Risk Governance & Ratification and 3.6 Risk Reporting & Tolerance



Summary of Risk Governance & Ratification and Risk Reporting & Tolerance criteria

The Board and CEO, together with senior management, are responsible for designing, maintaining and reviewing the risk management and reporting frameworks the control structure. In carrying out this responsibility the adequacy of the control structure should be reviewed on a regular basis to ensure that all key controls are operating effectively and are appropriate to achieve corporate goals, objectives and strategies.

Summary of observations and findings in support of the current state

We note that there is a Risk Management Framework and Corporate Risk Management Plan which is supported by the Corporate Management Team (CMT) and oversees delivery of the risk management program. This is particularly evident for the ongoing ILC activity regarding Land Acquisition and Land Management. The Board has ultimate responsibility for managing risk in the organisation, delegated through the Audit and Risk Management Committee. The Manager Risk and Corporate Services is responsible for ensuring regular reporting of risk management issues occurs to the ILC Board, ARMC, CEO and members of the Corporate Management Team.

Specific observations identified and related recommendations	Business Priority	Complexity and effort
For specific risks in relation to the ARMC, refer to the <i>3.9 Audit and Sub-Committees</i> section.		
<p>1) Risk reporting for Voyages and NCIE</p> <p>Observation</p> <p>Ongoing risk management reporting through to the Board for Voyages and NCIE has not yet been fully implemented. In particular, the ARMC for Voyages should ensure ongoing risk reporting be established and sent via the ILC ARMC for information and recommendation to the Board. The NCIE Board (and ARMC if established) also needs to ensure appropriate risk reporting is established via the same process.</p> <p>Action plans to address identified risks which are not being managed appropriately need to be determined and monitored.</p> <p>It is acknowledged that this was already identified by the ILC ARMC.</p> <p>Recommendation</p> <p>We recommend that risk assessment reporting for both Voyages and NCIE be established. Once established, ongoing monitoring of action plans should be implemented and reported formally to the Subsidiary ARMC functions to be distributed through to the ILC Board. Additionally, the consolidated Corporate-wide risk register should be updated to include the detailed Voyages and NCIE risk profiles once completed.</p>	2. Moderate	Moderate
<p>2) Consideration of controlled risks</p> <p>Observation</p> <p>The Corporate Risk Management Plan states that risks are assessed on an inherent basis. The following documents support/indicate that risk assessments are based on inherent risk:</p> <ul style="list-style-type: none"> • ILC Corporate Risk Treatment Plan 2012 • ILC Commercial Business Risk Treatment Plan (Updated March 2009) <p>The above risk treatment plans include a control rating however, a residual risk rating and risk impact is not specified. A residual or 'controlled' risk rating is important for management and the Board as this provides an indication of the effectiveness of controls in reducing the inherent risk ratings and whether further remediation actions are required to take the risk to a residual risk rating within the risk appetite of ILC.</p> <p>It is acknowledged that this was already identified by the ILC ARMC.</p> <p>Recommendation</p> <p>The Corporate Risk Management and Treatment Plans should include the residual risk ratings to provide the Board and ARMC with an indication of management's assessment of the effectiveness of controls in reducing identified risks and therefore where further control establishment is required. We note that the ARMC has already requested that this be undertaken.</p>	2. Moderate	Moderate

Board Comment

The Board accepts these recommendations and will move to implement the actions. The detailed actions we will take will be built into a detailed implementation project plan as a matter of priority.

Better Practice Elements

Incorporation into strategic development	<p>The risk management strategy is aligned to the overall corporate strategy and it is broadly adopted and integrated across the enterprise</p> <p>The Board sustains and strengthens the risk intelligent tone and promotes a risk intelligent culture</p>
Committee / Internal audit	<p>There is a committee established to monitor risks and risk related issues</p> <p>Objective assurance related to quality, accuracy and pertinence of information coupled with proactive monitoring and dynamic reporting is provided on the effectiveness and efficiency of the enterprise's risk program</p>
Risk governance	<p>Key roles, responsibilities and authorities relating to risk management are clearly delineated within the enterprise to promote collaboration and coordination for developing and sustaining a governance structure and executing on the enterprise's risk management strategy</p>
Risk management framework	<p>The Board authorises and periodically reviews the risk management policy/procedure/framework/strategy as well as the corporate risk register, including the risk ratings (risk management)</p> <p>The Risk Management Vision and Strategy is defined communicated / reviewed and updated and includes executive's commitment to risk management; the "tone at the top"; linking strategy to objectives, risks and controls; the basic communication & documentation protocols to be used when implementing risk management: reviewing the external environment to identify opportunities and threats in time horizons; Operational, financial reporting and compliance objectives have been defined by the executive and communicated appropriately.</p> <p>The policy or procedure includes detailed guidance for staff implementing and assessing programs such as approaches for addressing identifying and assessing risk and reporting and treatment of risk.</p> <p>A common risk framework and definition of risk, supported by appropriate standards is used consistently throughout the enterprise to manage risks</p> <p>Risks are explicitly linked to value drivers and financial and non-financial metrics</p>
Risk infrastructure and oversight	<p>Executive management has been charged with primary responsibility for designing, implementing and maintaining an effective risk program</p> <p>A common risk management infrastructure is used to support the business units and functions in the performance of their risk responsibilities, and the supporting information system is fully integrated into most aspects of operations</p> <p>Corrective actions taken against deficient conditions identified as a result of management's assurance activities are monitored and followed-up on by management i.e. 'Management agreed action register'</p>
Risk ownership	<p>The business units (departments, agencies etc.) are responsible for the management of risks they take within the risk framework established by the executive management</p>

Better Practice Elements

Board functioning, processes and culture

There are sustainable communication mechanisms internally, such as fraud risk awareness training to help people understand risks, develop their skills to perform their duties and externally to seek input from external sources

Risk assessments are based on a consistent, enterprise wide basis on inherent risk (before mitigation activities) and residual impact (vulnerability after mitigation activates)

The Board has appropriate oversight of risk management processes, a clear risk appetite and ensures risk assessment is embedded in decision making

The subsidiary Boards and ARMC have appropriate transparency and visibility into the enterprise's risk management practices in order to discharge their responsibilities for oversight

Other Specific legislation or Compliance requirement

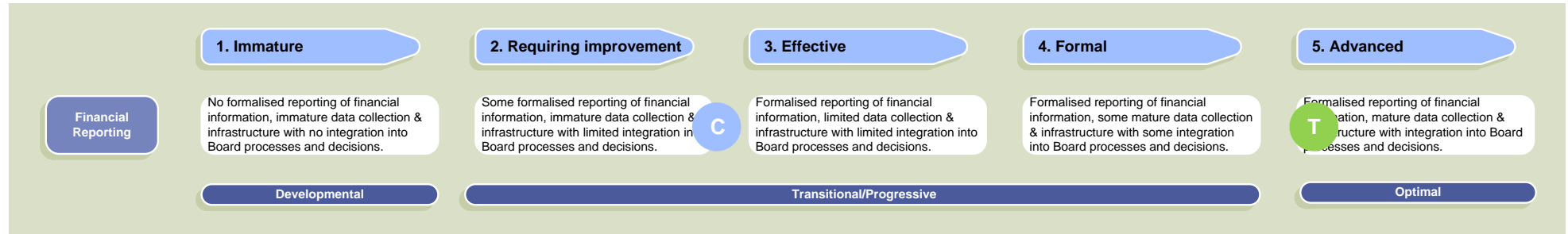
Audit Committee [considered in relation to Risk Management responsibilities]

CAC Act 32 (1): The directors of a Commonwealth authority must establish and maintain an audit committee with functions that include:

- helping the authority and its directors to comply with obligations under this Act; and
- providing a forum for communication between the directors, the senior managers of the authority and the internal and external auditors of the authority.

32 (2): If the regulations state how the committee is to be constituted, it must be constituted in accordance with the regulations.

3.7 Financial Reporting



Summary of financial reporting criteria

- Effective reporting and monitoring of performance is an integral part of the Board control structure for ILC
- Monitoring and reporting of financial information helps create accountability and ensure timely corrective action is taken
- Financial information flows effectively across ILC

Summary of observations and findings in support of the current state

Overall, we noted that there is financial reporting in existence for the core ILC operations, however recent new business activities have increased the requirement for comprehensive financial reporting at group level. There is no single consolidated view which is agreed at Board level on the actual financial position of ILC – both ongoing and at year end.

The specific cost in relation to Indigenous outcome achievement are not yet fully determined and reported on to provide linkage to strategic objectives.

Specific observations identified and related recommendations

1) Single-view financial position of ILC

Observation

There is no single consolidated view which is reviewed at Board level on the actual financial position of ILC other than at year end for stakeholder reporting purposes. Financial reporting information for the group needs to be defined in terms of the strategy and reported regularly to assist with performance management and the responsibility that ILC directors have for financial oversight of the group.

As part of ongoing reporting, monthly financial reports should be reviewed at Subsidiary and Sub-Committee level prior

Business Priority

1: Significant

Complexity and effort

High

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>to submitting to ILC Board level with appropriate recommendations. This information should be consolidated to provide a single financial view of the ILC group and be assessed against strategic objectives.</p> <p>We noted via discussions that during the last financial year, the only time that the Board witnessed a consolidated financial result was the financial statements which were provided post year-end activity. We also note that currently there is work being undertaken to consolidate financial information across the group.</p> <p>Overall, the Board needs to determine the financial reporting information requirements for the group in terms of the strategy and reported regularly to assist with performance management.</p> <p>Recommendation</p> <p>We recommend that regular (at least quarterly and potentially monthly) consolidated financial reporting is produced which drives oversight of financial performance against group wide financial planning is determined and agreed at Board level. This report should identify requirements in relation to the financial position of ILC, both ongoing and at year end. The financial outcomes should be assessed against strategic objectives, refer also to section 3.2 Strategic Direction</p>		
<p>2) Sequencing of Voyages ARMC meetings for ILC ARMC sign-off</p> <p>Observation</p> <p>The ILC ARMC, as part of signing off of their review responsibilities on the financial statements on behalf of the ILC Board, received the Voyages financial statements for consolidation and consideration prior to the Voyages ARMC had themselves reviewed. As part of their overall responsibilities, the ILC ARMC requires appropriate sequencing of sign-off from all Subsidiary Boards, including the Voyages Board after their ARMC.</p> <p>Recommendation</p> <p>The ILC ARMC requires appropriate sign-off of financial statements from Voyages Board (and NCIE) prior to receiving the financial statements for consolidation and consideration. Refer to Section 3.1, observation 2 for recommendations in relation to appropriate sequencing of Subsidiary and Sub-Committee meetings.</p>	2. Moderate	Moderate

Board Comment

The Board accepts these recommendations and will move to implement the actions. The detailed actions we will take will be built into a detailed implementation project plan as a matter of priority.

Better practice elements considered

Annual Report and Financial reporting to the Board	Timely and accurate financial information produced which reflects the operations and are reported at Board meetings or appropriate sub-committees CFO updates provided at Board meetings
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Better practice elements considered

Board functioning, processes and culture

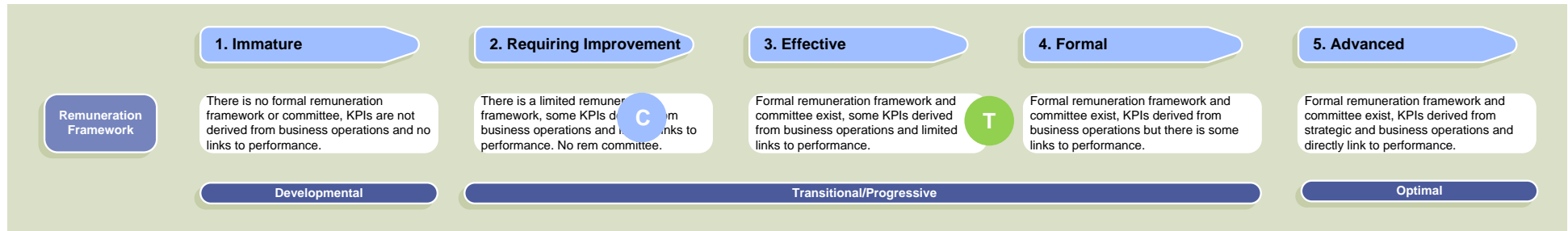
Board (or sub-committee) responsibility and accountability for the structure of the budget and management accounts
 Financial performance is assessed against strategic objectives

Other specific legislation or compliance requirement

Summary of CAC Act requirements: Prepare an annual report and provide to the responsible Minister by the 15th day of the 4th month after the end of the financial year for presentation to the Parliament.

Summary of ATSI Act requirements: The Minister must, as soon as practicable after the end of 30 June in each year, prepare a report about the administration of the Land Fund in relation to the financial year regarding the transactions, payments, investments and returns (and other information) and table annual report.

3.8 Remuneration Framework



Summary of Remuneration Framework criteria

Remuneration determined by a committee exists or an independent body which is outlined in a clear remuneration policy

Summary of observations and findings in support of the current state

Overall, there is a need for a group-wide policy on remuneration to cover areas including Subsidiary Board remuneration and the philosophy of remuneration for commercial operations in the context of a government organisation. This concept should be driven at a group level by

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>1) Director and senior executive remuneration</p> <p>Observation</p> <p>Overall, we noted that there are no specific guidelines to drive consistency of the remuneration philosophy across ILC. Although we have not noted any specific compliance issue with remuneration at both Board and employee level, it is apparent from our discussions that there is tension across the organisation due to remuneration disparity. We acknowledge it is expected that there is some disparity between a subsidiary as complex and commercial as Voyages compared with NCIE but this should be considered through an overall framework for director and executive remuneration set at ILC level. It is also noted that remuneration levels have previously been supported by independent studies of remuneration levels in similar commercial industries.</p> <p>Additionally, Subsidiary Boards need to have a consciousness of the remuneration set by the Remuneration Tribunal for Government and consider alignment of both Board and executive payments as it is part of a part a government-owned entity.</p>	3. Desired Activity	High

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>We acknowledge that the CEO is being remunerated under the PEO structure and Remuneration Tribunal determinations.</p> <p>Recommendation</p> <p>The remuneration across the group needs to be driven by a Board Nomination and Remuneration Committee which will balance the need for commercial salary and Directors fees in commercial subsidiaries whilst operating in a government environment and set the overall framework. Remuneration Tribunal guidance on salaries should be considered to ensure in accordance with salaries for the government environment.</p> <p>The above should be clearly articulated in a policy regarding remuneration.</p>		

Board Comment

The Board accepts these recommendations and will move to implement the actions. The detailed actions we will take will be built into a detailed implementation project plan as a matter of priority.

Better Practice Elements

Remuneration Committee	Where practical, a remuneration committee exists or an independent body is referred to in order to determine remuneration.
Remuneration policy	A policy exists for determining remuneration which defines the process for determining executive and non-executive director's fees The policy outlines the process and determination criteria for increases

Other Specific legislation or Compliance requirement

Summary of ATSI Act requirements:

Section 194 Remuneration and allowances -

- a) the holder of the office shall be paid such remuneration as is determined by the Remuneration Tribunal
- b) if no determination of that remuneration by the Remuneration Tribunal is in operation, the holder of the office shall be paid such remuneration as is determined, in writing, by the Minister;
- c) the holder of the office shall be paid such allowances as are determined, in writing, by the Minister.

Section 192N Remuneration and allowances of Indigenous Land Corporation Chief Executive Officer -

The Indigenous Land Corporation Chief Executive Officer is to be paid such remuneration and allowances as are determined by the Indigenous Land Corporation

Other Specific legislation or Compliance requirement

Board in writing.

ILC Board Member payments are as per the Remuneration Tribunal as per below:

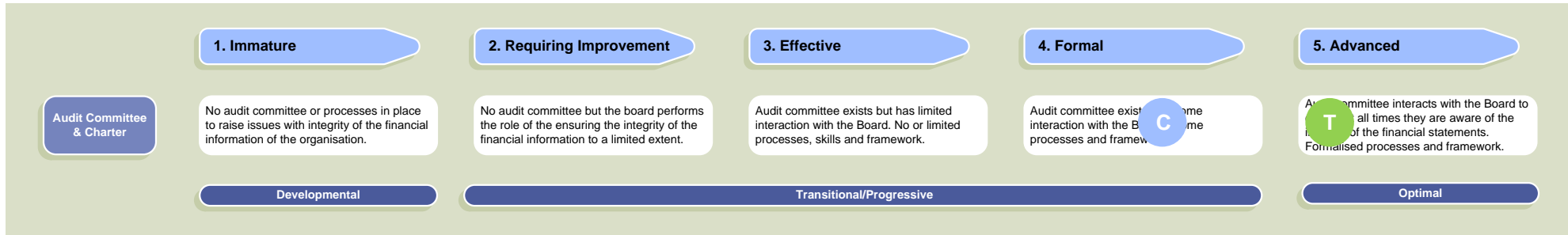
Office/Authority	Chair \$	Member \$	Additional clauses applying	Travel tier
Indigenous Land Corporation	61,760 (annual)	33,490 (annual)	A3, A13	1

<http://www.remtribunal.gov.au/determinationsReports/Current%20Principal%20Determinations/2012/2012-13%20Determination%202.1.2013.pdf>

A3. Various bodies: A member of the named body who is the Chair of the Audit Committee, or Audit and Risk Committee, however named, will receive an additional \$14,700 per annum. A member who is a member of the Committee will receive an additional \$7,350 per annum.

A13. Various: A member of the named body who is appointed as a Deputy Chair will receive \$40,510 per annum.

3.9 Audit and other Sub-Committees



Summary of Audit and Sub-Committees criteria
 Board committees have the potential to strengthen ILC's control structure and to assist the Board to foster and maintain an appropriate control culture. In particular, an agency's Audit and Risk Management Committees are a valuable means of assisting the Board meet its governance responsibilities.

Summary of observations and findings in support of the current state
 There has recently been a new ILC ARMC Chair appointed and we note some alterations to the scope of the ARMC, including removing the responsibility in respect of financial and legal aspects not consistent with a better approach to current audit committee practice.
 The ILC ARMC recommends to the ILC Board an annual risk-based internal audit plan which includes audits for the Group, however internal audits for subsidiaries are approved by the subsidiary ARMC before inclusion in the plan and monitors risk-ranked recommendations arising from audits, oversees a biennial assessment of fraud risks and directs and recommends the risk management framework to the Board.

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>1) Alignment of Subsidiary ARMC responsibilities to ILC ARMC Observation</p> <p>The ILC ARMC has recently updated its charter in respect of its activities, the specific activities and operational interactions to reflect the ANAO Better Practice Guide on Public Sector Committee. The primary objective of the ILC ARMC is to provide independent assurance and advice to the ILC Board on the risk, control and compliance framework, financial statement responsibilities and external accountability framework for the ILC. However, the interactions of the Voyages ARMC with ILC (and the ILC ARMC) are not yet defined and operational. Undertaking this process would align</p>	1: Significant	High

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>both ILC and Voyages ARMC activities as well as ensure Voyages is accountable for key decisions.</p> <p>Recommendation</p> <p>We recommend that the activities of the Subsidiary ARMCs as defined in the charter are consistent with ILC ARMC to ensure group-wide alignment. However, Subsidiary ARMCs should remain accountable to the ILC Board through appropriate Subsidiary reporting to the ILC Board. Should the ILC Board have any concerns around non-alignment of activities with the ILC ARMC charter, the ILC Board may decide to ensure stronger alignment of Subsidiary ARMC activities by agreeing to increase involvement by increasing ILC Board or ILC ARMC members on the Subsidiary ARMCs.</p> <p>This alignment of responsibilities is demonstrated in the following diagram:</p>		

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>The diagram illustrates the governance structure and interactions between the ILC Board and the Voyages Board. The ILC Board is shown with overall responsibility for audit committee activity. The ILC Audit and Risk Management Committee provides high-level direction to the Voyages ARMC. The Voyages Board has responsibility for the Voyages ARMC. There is a bidirectional relationship between the ILC ARMC and the Voyages ARMC, involving the provision of framework and information to the Voyages ARMC, and seeking advice and input from the ILC ARMC on its activities.</p>		
<p>2) Legal, Finance and Investment Committee establishment</p> <p>Observation</p> <p>As identified by ILC, there is a need for a Legal, Finance and Investment Committee as a specific Sub-Committee of the Board. This is due to the fact that:</p> <ul style="list-style-type: none"> • Some finance related oversight functions (including investment other than the Land Fund) previously undertaken by the ARMC have now been removed from that Committee's responsibility • The previous Investment Committee (for investment relating to the Land Fund) has been made redundant 	<p>2: Moderate</p>	<p>High</p>

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<ul style="list-style-type: none"> • There was no specific Committee charged with the responsibility for legal activities. It is our understanding that the Committee will be responsible for (amongst other things): • Review and approval of budgets and financial issues • Capital budget and expenditure • Analysis of financial information, including variation to budget and achievement of financial outcomes • Investment strategy • Legal advice and responsibility for legal panel • Responsibility for management of any legal proceedings • Responsibility for requests for changes to governing Acts • Responsibility for review and approval of constitutions <p>We are conscious of the Board not being able to absolve responsibility particularly in relation to finance, budgeting and performance management as this activity is core to the responsibility of the Board.</p> <p>However, despite the importance of this committee ensuring that it is not a decision making committee but purely makes recommendations to the Board to adopt as per all sub committees of the ILC Board, we support this initiative as there are a number of activities which require specific time focus at this point in time. In particular, and as noted in this report, there is a requirement to devote significant effort to developing group-wide financial reporting and focus on key investment decisions. Delegating this detailed activity to a sub-Committee enables the identification and sourcing of appropriately skilled directors to assist in this analysis.</p> <p>Recommendation</p> <p>The establishment of a Legal, Finance and Investment Committee currently being considered is supported and should have appropriate reporting to enable decisions to be made by the ILC Board. We believe that there is potential to consider external independent membership of this Committee if it is considered additional skills are required. This would be considered by the Nomination Committee as recommended in Section 3.2 Board Structure, observation 1.</p>		
<p>3) Establishment of NCIE ARMC</p> <p>Observation</p> <p>Currently there is no separate NCIE ARMC established and responsibilities in relation to this activity currently reside with the ILC ARMC. We are concerned this is not in line with the policy above to ensure that subsidiary ARMCs have a majority composition of subsidiary directors to infer the right level of fiduciary responsibility upon the sub-committee.</p> <p>ILC ARMC having responsibility of NCIE is only in accordance with better practice governance principles where common directors exist across both ILC ARMC and NCIE Board.</p>	2: Moderate	Moderate

Specific observations identified and related recommendations	Business Priority	Complexity and effort
<p>Recommendation</p> <p>We support the establishment of a separate an NCIE ARMC but acting in line with the frameworks and guidelines as established by the ILC ARMC. In the absence of a specific NCIE ARMC, NCIE should operate via within the ILC ARMC framework. Specifically, the ILC ARMC will be the ARMC for NCIE.</p>		

Board Comment

The Board accepts these recommendations and will move to implement the actions. The detailed actions we will take will be built into a detailed implementation project plan as a matter of priority.

Better Practice Elements

<p>Committee composition, attributes and culture</p>	<p>The Board has sufficient and appropriate Committees to focus on and deal with specific issues that require more detailed deliberation on its behalf</p> <p>The board has sufficient representation on all sub committees</p> <p>The composition of the Committees is appropriate in terms of skills, knowledge, experience and qualifications</p> <p>There is an appropriate process in which recommendations of committees are ratified by the Board</p> <p>It is clear where Board sub-committees can make decisions on behalf of the Board versus making recommendations to the Board for the Boards consideration and ultimate decision making</p>
<p>Terms of reference and accountability</p>	<p>Each Board Committee has a clear and appropriate mandate, charter and/or terms of reference</p> <p>Committees review their Terms of Reference annually, or as needed, and determine whether their responsibilities are adequately described</p>
<p>Committee meetings</p>	<p>The agenda setting process allows for appropriate issues to be raised as necessary and members can influence the content of the agenda</p> <p>Sufficient time scheduled for committee meetings; members receive meeting packs timeously; committees meet often enough to effectively fulfil their responsibilities</p> <p>Committees have access to the information needed to perform their role effectively</p> <p>Meetings are conducted in a manner that encourages open discussion, healthy debate, and allows each committee member to add value clearly to discussion and recommendations</p> <p>There is an appropriate and effective process for declaring conflicts of interest</p> <p>Meeting minutes are appropriately documented and distributed after the meeting timely for review and correction</p>
<p>ARMC Committee functioning and processes</p>	<p>The ARMC regularly review the corporate risk registers and the progress of mitigation plans</p> <p>The ARMC meetings regularly include separate private sessions with financial management and the internal and independent auditors</p> <p>The audit committee monitors compliance with corporate governance regulations and guidelines</p>

Better Practice Elements

Board interaction and accountability	<p>The ARMC reviews the management recommendation letters written by the independent and internal auditors and monitors the process to determine that all significant matters are addressed</p> <p>The ARMC regularly reviews the adequacy of the internal audit function (e.g., the charter; audit plan; budget; compliance; and number, quality, and continuity of staff)</p> <p>The internal audit reporting lines established with the ARMC promotes an atmosphere where significant issues that might involve management will be brought to the attention of the ARMC</p> <p>The Board is appropriately well informed about deliberations, conclusions and recommendations of its committees</p>
Leadership and support	<p>There is a clear distinction between committee roles and authority, and management role and authority</p> <p>Meetings are run efficiently and effectively; sufficient time is spent on significant or emerging issues; meetings are conducted in a manner that encourages open discussion, healthy debate, and allows each committee member to clearly add value to discussion and decisions</p> <p>The role of the Chair is being performed appropriately and in compliance with the relevant charter; the chair is successful in gaining required resources and information for the Committee and gaining the commitment and enthusiasm of Committee members; the chair ensures that the ARMC plans and schedules the activities of the Committee to meet their deadlines</p>
Committee effectiveness and evaluation	<p>Written materials provided to audit committee members are relevant and concise.</p> <p>Regular committee effectiveness assessments are performed and recommendations emanating from previous assessments are appropriately implemented</p> <p>There is a formal Committee member induction, orientation and on-going development programme</p> <p>Committee members participate in a continuing education program to understand and execute fiduciary responsibilities</p>

Other Specific legislation or Compliance requirement

CAC Regulation 6A provides that 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 *ANAO Public Sector Audit Committees Independent Assurance and Advice for CEOs and Boards Better Practice Guide* states that the appointment of an external member as chair strengthens the actual and perceived independence of the committee.

ATSI Act 142: Members who have direct or indirect pecuniary interest in a matter being considered or about to be considered by the committee must, as soon as possible disclose the nature of the interest at a meeting of the committee. This disclosure must be recorded in the minutes

4 Summary of Case Studies

4.1 Scope of analysis

Three specific governance case studies relating to transactions or events for ILC over the last 5 years were selected to contribute to our assessment of the appropriateness of governance structures and processes. The case studies selected by the ILC Board included the acquisition of the Voyages Ayers Rock Resort, Mossman Gorge and the NCIE. The case studies were examples to assist us to assess the operation of governance activities within ILC and its subsidiaries. These examples provided an insight into the structure for decisions and not assess the validity or accuracy of actual decisions made. The case studies were support for the recommended governance structure and process changes suggested in our report. Therefore recommendations should rather be viewed as an opportunity to enhance the governance of ILC when implemented by management and the Board.

The ATSI Act 2005 imposes a number of requirements on the ILC in the discharge of its Land Acquisition and Management Programs. The ILC must also comply with administrative law principles in the assessment process.

The scope of the 3 case studies focussed on the key **governance related** requirements imposed by the ATSI Act, other applicable legislation and policies set by the Board. Since the focus of the case studies was on the governance aspects of the 3 selected projects, the key documents assessed were minutes of applicable Board meetings, Board decision papers and Board reports. The assessment was about the existence or indication of any weaknesses in governance rather than a detailed assessment of adequacy of the content of documents. For example we have identified evidence that a risk assessment was completed and not performed an assessment of the adequacy of all risks identified.

The legislative requirements and policies (from the NILS 2007-2012) that apply to ILC operations and selected for testing in the case studies include:

- Assist Indigenous Australians to achieve economic, environmental, social and/or cultural benefits (ATSI s191B)
- Act in accordance with sound business principles when conducting activities of a commercial nature (ATSI s191F(1))
- Support projects that are viable and economically sustainable – Assess projects and activities to ensure they will be viable and produce ongoing Indigenous benefits. ILC does not provide recurrent funding for projects
- Support projects that are of reasonable cost, given the benefits to be delivered

- Achieve excellence in governance – The ILC fulfils its responsibilities in accordance with the ATSI Act, the Commonwealth Authorities and Companies Act 1997 and other relevant legislation. The ILC and its subsidiary companies will maintain the highest standards of corporate governance, including having regard to the ANAO Better Practices Corporate Governance in Commonwealth Authorities and Companies and the requirements of the Auditor-General Act 1997
- Conduct sound planning for ILC-acquired properties – Planning is essential for sound property management and the achievement of sustainable Indigenous benefits. Property, business, environment and/or heritage management plans are developed for ILC-acquired properties
- Grant land within a reasonable time (ATSI s191D(3)(b)) – ILC should put in place a divestment plan for each property acquired.

Strategic Projects are generally complex and long-term projects. Divestment may take place over a longer period of time while the ILC is an active partner. The ILC Board has identified the pastoral and tourism industries as key areas of focus for Strategic Projects. However, Strategic Projects are not limited to these industries.

Due diligence requirements selected for testing in the case studies include (as per ILC Land Acquisition and Land Management Board Templates):

- Information has been verified by accessing other sources or experts in the relevant field
- All evidence and decisions have been documented on file
- All costs have been identified (including acquisition and start-up costs), income verified and contributions from other partners / collaborating agencies have been confirmed
- Risks and treatments associated with the project and property have been identified
- Project management and monitoring details have been determined including drafting a work plan, reporting schedule, and lease and grant timeframes

4.2 Observations

General

Refer to section 3 of this report for all the governance weaknesses identified during this engagement. The following findings specific to each of the 3 acquisitions were identified during the case studies for which we have provided further detail here:

Voyages

The acquisition of Ayers Rock Resort for \$293 million is in dollar terms, ILC's largest ever land acquisition. The Board discussions and decisions leading up to the acquisition consisted of opposing views and extensive discussion whether ILC should acquire the resort.

We received representations from Board members who were present during this period regarding the process of agreement at ILC Board level for the purchase, separate from the final decision. We have recommended in Section 3.1, observation 1 - Alignment of ILC Board responsibilities to subsidiaries and sub-committees that a Decision and Authority framework should be developed. In particular, decisions of this size and nature where ILC as an organisation is significantly impacted should specifically form part of the Decision and Authority Framework and seek unanimous agreement and documentation at Board level. Additionally, we have also addressed this observation in Section 3.2, observation 1 – ILC Strategy – in particular we have identified that the overall strategy of ILC needs to consider detailed divestment of assets (and agreed at Board level) as part of longer term strategic planning.

- 2) In relation to the Voyages purchase, we also identified an observation in Section 3.4, observation 1 – Communication with stakeholders. Appropriate attention to the key stakeholder of ILC, the Commonwealth Government should be considered formally.
- 3) Appointment of significant consultancies – this observation is raised in Section 3.1, observation 4. We have identified where compliance with appropriate purchasing and procurement policies should be maintained
- 4) Communication with stakeholders – this observation is raised in Section 3.4, observation 1. We have identified where appropriate communication with Stakeholders is required.
- 5) Conflict of Interest Declarations – this observation is raised in Section 3.3, observation 2. We identified the need for appropriate formal policy in relation to disclosure of interests and how documentation should be undertaken.

Mossman Gorge

(no specific observations noted in the report)

NCIE

(observation noted in section 3.2 Strategic Direction)

Error! No text of specified style in document. - Board Governance Arrangements

- 1) The acquisition of NCIE was stated by the Board as having being effected in order to make grants of interests in land to Aboriginal or Torres Strait Islander corporations for the purposes of section 191D(1)(b) of the ATSI Act. ATSI section 191D(3)(b) states that in a case where ILC acquires an interest in land for the purpose of making a grant of the interest to an Aboriginal or Torres Strait Islander corporation, the grant should be made within a reasonable time after that acquisition.

[Redacted]

[Redacted]

[Redacted]

Appendix A – Deloitte’s 9 Better Practice Governance Principles

In order to define better practice, Deloitte has developed a model to perform Corporate Governance ‘Health Checks’ on organisations. The model consists of nine better practice principles that have been selected from various governance frameworks, including Committee of Sponsoring Organisations of the Treadway Commission – COSO, Commonwealth Association for Corporate Governance – CACG, ANAO, CPA Australia, OECD, ASX and Standards Australia in addition to Deloitte’s own Board Effectiveness research material. The nine principles are backed by a series of questions that were tailored to our assessment of ILC and the wholly-owned subsidiaries. As part of this project we also referenced the Commonwealth Authorities and Companies Act 1997 (CAC Act) and the Aboriginal and Torres Strait Islander Act 2005 (ATSI Act). Our assessment of governance has included interpretation of good governance in the context of federal government and corporate environment.

#	Principle	Overview
1	Board Processes and Infrastructure	The Board and Management set the tone of ILC, its level of energy, enthusiasm, commitment and ethical standards. To set the desired tone the Board must have the skills, resources and independence to effectively carry out its duties and demonstrate a commitment to sound governance. Additionally, standards of behaviour and commitment to ILC’s core values need to be reflected in policies and procedures and become part of its culture.
2	Strategic Direction	Strategic Planning and Budgeting – Effective planning and budgeting contributes to program outcomes, financial control and accountability. The extent to which ILC achieves its objectives depends importantly upon how well it identifies its stakeholders and their needs, understands its operational environment, and utilises available resources.
3	Board Structure	The proper functioning and operation of the control structure relies on the competence and ethical behaviour of the Board, management and staff. Their qualifications, skills, attitude, selection, training, understanding of accountability, relationships with staff, conflict of interest management, governance structures and core values are key aspects of establishing and maintaining an effective control structure. Management must specify the level of competence and qualifications needed for particular jobs and then ensure that on-going training develops requisite knowledge and skills. There should be an appropriate balance of oversight and operational responsibility.
4	Stakeholder Engagement	Relationships with stakeholders need to be managed. All internal and external stakeholders need to be identified and policies developed determining how ILC is to relate to them. External influences outside the control of ILC can directly impact on its operations, business practices and risk profile. Management needs to monitor and assess external factors and take prompt action to address them when appropriate.
5, 6	Risk Governance and Ratification and Risk Reporting and Tolerance	The Board and CEO, together with senior management, are responsible for designing, maintaining and reviewing the control structure and risk management framework. In carrying out this responsibility the adequacy of the control structure should be reviewed on a regular basis to ensure that all key controls are operating effectively and are appropriate to achieve corporate goals, objectives and strategies. Additionally, the Board and management must provide and nurture a learning environment for continuous improvement.
7	Financial Reporting	Effective procedures for monitoring and reporting performance are an integral part of the maintenance of a satisfactory control structure. Monitoring and reporting helps ensure accountability and timely corrective action is taken and information flows effectively across the organisation.
8	Remuneration	A Remuneration Framework should be in place ensuring that the level and composition of remuneration is sufficient and reasonable and its relationship to corporate and

#	Principle	Overview
	Framework	individual performance is defined.
9	Audit and other Sub-Committees	Board committees have the potential to strengthen ILC's control structure and to assist the Board to foster and maintain an appropriate control culture. In particular, an agency's audit and risk management committees are a valuable means of assisting the Board meet its governance responsibilities.

Appendix B – Documents received from ILC

The analysis of the documents provided by ILC gives rise to the detail contained within this report and includes:

Documents Assessed	
Document Title	Document Title
Board Induction Pack	Internal Audit Plan and Compliance Plan
Senior position duty statements	Board and Management Reports
Land Management and Acquisition user guides	Code of Conduct / ethics documents
National Indigenous Land Strategy (NILS)	Board Agendas and Minutes
NCIE Strategy	Duty Statements for key functions
Regional Indigenous Land Strategy (RILS) (WA,VIC,TAS,SA,QLD,NSW,NT)	Corporate Values Statement
Annual Reports 2010-11, 2011-12 and Financial Statements	External Audit Reports
Governance Statement	Corporate Risk Management Plan 2012
Corporate and Business Plans; strategy documents; KPIs	Board Charters
Organisation charts	Recent Board papers (including financial reports, audit reports, audit programs etc.)
Fraud and Corruption Control Plan	Board sub-committee papers
Audit and Risk Management Committee(s) Charter and/or Terms of Reference	Other documents as appropriate
Risk Management Policy	

Appendix C – Stakeholder Consultation interviewees and questionnaire responses

Party	Title	Interview	Questionnaire
[REDACTED]	[REDACTED]	●	●
[REDACTED]	[REDACTED]	●	●
[REDACTED]	[REDACTED]	●	●
[REDACTED]	[REDACTED]	●	●
[REDACTED]	[REDACTED]	●	●
[REDACTED]	[REDACTED]	●	●
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[REDACTED]	[REDACTED]	●	
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[REDACTED]	[REDACTED]	●	
[REDACTED]	[REDACTED]	●	

This report is intended solely for the information and internal use of ILC, and should not be used or relied upon by any other person or entity.

Please note, other Voyages and NCIE Board members were also requested to respond to the questionnaires, however no response was received

Appendix D – Example Decision and Authority framework

The below Decision and Authority framework developed for ILC assists with facilitating effective decision making whereby responsibility for decision making is clearly indicated, appropriate persons/bodies have appropriate authority and decisions are made on a consistent basis such that the board can effectively direct and control the group. We have retained some key categories to provide an example. As such, this is not an opinion on potential limits or restrictions for ILC.

LEGEND:	Ref	ILC GROUP BOARD	ILC GROUP EXCO	ILC GROUP CEO	ARMC	LAMBETC	SUBSID'RY BOARD ^A	SUBSID'RY ARMC
A: Formal approval								
B: Must agree/approve (before)								
C: Must be consulted during development phase								
D: Must be informed (after)								
1. ACQUISITIONS & DISPOSALS OF BUSINESSES (includes relocations and closures)								
\$XX million or greater cost, disposal value or closure/relocation cost		A	B	B			B	
2. AUDITORS (external)								
Appointment and Dismissal		A ¹	D	B				
3. BAD DEBT WRITE-OFFS								
\$XX or greater		D	D	C			B	
4. CAPITAL EXPENDITURE AND MAINTENANCE AND REPAIR OF ASSETS								
\$XX million or greater (unbudgeted \$X million)		A	B	B			B	
5. CONTRACTS³								
Appoint persons/organisations as agents locally				B			A	

^A These boards have powers of delegation within their defined limits of authority. Any sub-delegations must be reported to these boards.

¹ Part of the Audit Committee's mandate and responsibility.

³ The time periods relate to the company being bound by such agreement for the periods indicated.

and in foreign countries								
6. FINANCIAL REPORTING AND PLANNING								
Annual report:								
Accounting policies		A2		B				
8. GOVERNANCE								
Board committees:								
Mandates		A		B			C	
Composition		A		B			C	
Authorities framework:								
Approval of the group authorities framework		A		B			C	
Approval of the regional authorities framework				B			A	
Organisational changes:								
Group - major changes, rationalisation, reconstruction of personnel or employees		D		A			C	
Subsidiary - major changes, rationalisation, reconstruction of personnel or employees		D		B			A	
9. INSURANCE								
				A				
10. LEGAL MATTERS								
			A	B			D	
11. PRESS RELEASES, ADVERTISING								
		D		A				
12. HUMAN RESOURCES								
13. TREASURY								
Structured Finance & Finance Leases:								

Appendix E – Example Board Charter Contents

A board charter should outline the:

- Corporate governance statement
- Roles and responsibilities of the Minister, chairperson, non-executive Board members, CEO and company secretary (if applicable) in relation to the Board:
 - Be accountable to stakeholders
 - Work with the CEO
 - Develop strategy/objectives/risk strategies
 - Monitor and supervise the internal controls, implementation of strategy, financial performance and operational performance of the company
- Structure of the Board, including minimum and maximum size; Composition (Required skills and expertise and level of independence); Tenure; Necessary committees and their linkage to the Board
- Obligations and mechanisms to ensure stewardship, accountability and transparency:
 - Process for nomination, appointment and retirement of board members
 - Rules regarding Board and Subsidiary 'no-go zones', such as the Chair of the Board not being the Chair of the ARMC and the CEO cannot be a member of the ARMC
 - Process for remuneration for Board members
 - Process for board performance evaluation (including process for conducting board effectiveness reviews and director training)
 - Timeframe for when the Board will assess whether it has fulfilled its purpose and whether there is a continuing need for its functions (a sunset clause).
- Board meeting procedures, minutes and board papers
- Succession planning process
- Process for board meetings, including:
 - Frequency of meetings
 - Quorums and resolutions
 - Code of conduct
 - Public interest or conflict of interest disclosures
 - Access to advice

Many of these attributes are contained within an ILC's legislation. The charter should remain consistent with legislation over time.

It should be noted that a Board charter will not specify all the workings of the Board. The charter should be a high-level document that will typically be supported by other (internal) documents. These internal documents may include:

- A schedule of delegations to the CEO and the Delegations and Authority framework
- Board policy documents
- Operational policy documents.

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