

**Henry Walker**

12 March 1998

**Submission No. 23**

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The Committee Secretary  
House of Representatives Standing Committee  
on Aboriginal and Torres Strait Islander Affairs  
Parliament House  
CANBERRA ACT 2600



Dear Sir,

Attached for you information is Henry Walker's submission to the Inquiry into Indigenous Businesses. For the purpose of full disclosure I advise that I currently am a member of the Board of Directors of the Aboriginal and Torres Strait Islander Commercial Development Corporation.

Henry Walker would be happy to answer any questions arising from the submission, or requests for further information, from the Committee. These should be directed in the first instance to Don Murchland, Manager, Corporate and Investor Relations.

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Yours sincerely,

pp **Richard Ryan AO**  
**Managing Director**

SUBMISSION

**INQUIRY INTO  
INDIGENOUS BUSINESSES**

Henry Walker Group Ltd

**March 1998**

## **Executive summary**

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As one of Australia's major contractors to the minerals sector, Henry Walker has experience, and an ongoing interest, in the development of indigenous business enterprises.

Our company's interest lies predominantly in the formation of joint ventures, or limited partnerships, with organisations representing indigenous interests in the mining sector.

Apart from providing benefits to both the company and the indigenous enterprise, joint ventures provide an avenue for aboriginal interests to participate in the employment and revenue streams created by new mineral developments. This submission addresses issues relevant to the encouragement of indigenous business by way of joint ventures.

Our experience has shown that the formation and conduct of successful joint ventures with indigenous interests is not only possible but holds the potential for mutual benefit.

Notwithstanding this, the cultural differences and disparities in financial, commercial and vocational resources present an intimidating barrier to economic co-operation between indigenous and mainstream enterprises.

Compounding this is the sense of inadequacy felt by non-indigenous businesses in negotiating with certain Aboriginal and Torres Strait Islander interest groups, or understanding the perceived complexity of land councils, tribal factions etc. An added dimension is imposed by what can become a multiplicity of government agencies and programs. The end result is that developing a joint venture with indigenous interests can sometimes be seen as being "too hard".

In this environment, the role played by the Aboriginal and Torres Strait Islander Commercial Development Corporation (CDC) has, in Henry Walker's experience, proven beneficial. The CDC's provision of commercial, financial and managerial resources has enabled the formation of joint ventures in which Aboriginal interests were able to assume an equal partnership with Henry Walker. From a company perspective, the CDC has provided a commercially minded organisation that 'speaks the same language', that has proven itself reliable as a conduit for securing indigenous involvement within the time constraints that business requires.

Accordingly, it is essential that the activities undertaken by the CDC continue to be the province of an organisation dedicated to the *economic* development of Aboriginal and Torres Strait Islander people.

Upgrading of commercial resources would improve the organisation's effectiveness further. From a business perspective, the 'one-stop-shop' has attraction in its simplicity. Making the organisation responsible for the bundling and packaging of the array of relevant assistance programs, grants and initiatives available from various government departments and agencies, on a project by project basis, could improve the efficiency of delivery of these services and significantly simplify the process for those seeking to develop the skill, financial and other resources of indigenous businesses.

At a local level, the CDEP program administered by the Aboriginal and Torres Strait Islander Commission has also enabled Henry Walker to join with indigenous community interests in the conduct of civil engineering projects.

Finally, Henry Walker is conscious that this submission may read as being especially supportive of the CDC. This is not by the intent of the company's representations, nor should this support be construed as enthusiastic support for the Commission *per se*.

Instead, we would hope that this submission be accepted evidence of the real need for an independent, appropriately resourced, commercially focused organisation that will help indigenous organisations and mainstream companies overcome the barriers that would otherwise mitigate against joint business success.

## **Submission outline**

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### **Section 1 Henry Walker's interest in indigenous business**

The company has a history of co-operative relationships with indigenous organisations, including a number of successful joint ventures. Henry Walker anticipates entering into further joint ventures with indigenous organisations in the future.

**Section 2 Opening comments** provides some opening comments on the pre-requisites for business, which Henry Walker submits should provide the context for discussion of how to encourage indigenous business.

**Section 3 Experience in joint ventures** outlines four case studies summarising Henry Walker's experience in joint ventures with indigenous organisations. The experiences of the company in these joint ventures are the basis for this submission.

**Section 4 Importance of joint ventures** discusses joint ventures as an avenue for business development for indigenous organisations and companies. Henry Walker anticipates that opportunities for joint ventures between indigenous organisations and companies servicing the Australian minerals sector will grow.

**Section 5 Barriers to development of JV's with indigenous business** discusses potential obstacles to the development of joint ventures involving aboriginal interests and companies. Henry Walker's experience with factors which obviated or ameliorated these obstacles are reported.

**Section 6 Specific comments on the CDC and other recommendations** discusses the role performed by the CDC and some avenues for encouraging the development of joint ventures involving indigenous organisations and companies.

## **1. Henry Walker's interest in indigenous business**

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Henry Walker is an Australian owned mining and engineering company listed on the Australian Stock Exchange. The company conducts operations in most states of Australia.

Henry Walker has a long record of commercial co-operation with Aboriginal communities and organisations.

Henry Walker derives approximately half of its revenue from contract mining. A further 17% is generated from civil engineering with a significant share of this being revenue generated from the mining industry.

Our involvement in mining, and extensive operations in northern and remote Australian locations, has given the company an ongoing interest in participating with Aboriginal and Torres Strait Islander organisations.

Apart from the desire to be able to utilise capable joint venture partners and employees in remote operations, our clients in the resource sector are, increasingly, expecting our tenders to provide opportunities for indigenous persons and communities to participate in the employment and revenue created by projects developed within their locality.

The company's business ventures with Aboriginal interests are summarised and appear below under the title '3. Successful joint ventures by indigenous organisations and Henry Walker'.

In 1994, Henry Walker benefited from investment in the company by the Aboriginal and Torres Strait Islander Commercial Development Corporation. The Corporation has retained an investment of over 1 million shares in Henry Walker and is represented on the company's Board of Directors.

In 1996, the company committed to a 5 year, \$1 million Aboriginal Employment Strategy. The Strategy, which is jointly funded by the company and the Department of Employment, Education, Training and Youth Affairs, is aimed at increasing Aboriginal employment across the company's operations.

The Strategy has seen, with the assistance of the Department of Employment, Education, Training and Youth Affairs, the development of accredited traineeships and skill acquisition certificates to assist indigenous people acquire skills relevant to

commercial activities conducted within their community's area of interest.

With a large proportion of the company's business being conducted in remote locations and involving mining projects, Henry Walker expects to be involved in further joint ventures with Aboriginal organisations.

Henry Walker is currently involved in over 40 mining and engineering contracts in Australia and anticipates revenue of approximately \$700 million in the year to 30 June 1998.

## **2. Opening comments**

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### **Preamble**

Henry Walker submits that the most meaningful starting point for a discussion about encouragement and support for indigenous business is with an analysis of the pre-requisites for commercial enterprise.

The challenges indigenous people and organisations face in establishing sustainable businesses can be particularly difficult. However, while these challenges may be greater for indigenous businesses, the basic pre-requisites for a sustainable business are common for all enterprises.

Conducting the discussion on indigenous business within the context of these prerequisites will direct the Inquiry to:

- ♦ identify why successful indigenous businesses have flourished;
- ♦ identify the hurdles to be overcome for indigenous businesses to achieve further success;
- ♦ identify initiatives and recommendations capable of supporting long term business development and prosperity.

### **Basic pre-requisites for business**

The minimum conditions for the establishment and ongoing existence of any commercial enterprise are:

- ♦ the existence or, reasonable prospect, of a market of sufficient size to justify investment and financial backing;
- ♦ access to the necessary resources (financial, skilled, professional, etc.) to enable a business entity to be constructed and operate;
- ♦ access to customers/business partners and the securing of agreements with customers, joint venture partners etc;
- ♦ the achievement of sufficient sales and profits to enable the business to meet financing obligations, any necessary re-investment, and provide an economic rate of return;
- ♦ finally, perhaps most importantly, the least tangible ingredient is the “human factor”. Notwithstanding how readily all of the preceding pre-conditions can be met, the business is unlikely to continue to exist unless the key people involved have vision of the commercial opportunities that can be won, and the will to



negotiate, work and “do what it takes” for those opportunities to be realised.

For a joint venture, there is the added pre-requisite that the enterprise be a ‘true’ joint venture, in that both parties contribute both financially and intellectually to the venture’s success. Joint ventures will simply not ‘get off the ground’ without potential participants respecting the ability of other potential partners to make the appropriate contribution.

It is acknowledged that Aboriginal and Torres Strait Islander businesses may have other additional social and cultural pre-requisites for success. Their omission from the list is solely attributable to the fact that Henry Walker is not able to make any meaningful comment or observation on the subject, and is not intended to diminish their significance.

### **3. Successful joint ventures by Indigenous organisations and Henry Walker**

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#### **Case study 1: Civil engineering joint venture at Gove**

Since 1985, Henry Walker has participated in two multi-million dollar commercial joint ventures with the Yirrkala people of Gove through the community's contracting company, Yirrkala Business Enterprises Pty Ltd.

The joint venture completed civil engineering contracts for the Nabalco bauxite project.

In Henry Walker's view, the joint ventures were successful. Apart from providing profits for both partners, the success of the joint ventures has created a strong relationship of mutual respect between both parties. This is likely to encourage the formation of new joint ventures involving Henry Walker and Yirrkala Business Enterprises for future civil engineering projects in the East Arnhem Land region.

#### **Case Study 2: Mirrkwork Joint Venture**

The Mirrkwork Joint Venture (MJV) was created in 1993 when the Jawoyn Association and the Aboriginal and Torres Strait Islander Commercial Development Corporation entered into a joint venture with Henry Walker to conduct contract mining at the Mt Todd Gold mine.

The MJV has provided exclusive contract mining services to Mt Todd since 1993. In 1996, MJV was awarded the contract for mining under the Stage 2 development of Mt Todd for the 8 years to year-end 2004. The \$160 million contract involved a substantial expansion to operations at the mine. The mining contract terminated early in November 1997 following the client's suspension of operations at the mine due to unprofitable gold prices.

It is Henry Walker's view this project was extremely successful and that the Aboriginal and Torres Strait Islander Commercial Development Corporation played an essential role in the creation of the MJV. The financial, legal, and general managerial input provided by the CDC enabled Aboriginal interests to commit to a 50% interest in the joint venture.

### **Case Study 3: Umbakumba Joint Venture**

Henry Walker entered into a joint venture with the Umbakumba Community Council on Groote Eylandt in the second half of 1996, to undertake roadworks for the Department of Transport & Works.

Using labour and plant jointly contributed by the community and Henry Walker, the Umbakumba Joint Venture completed approximately 40km of roadworks on Groote Eylandt.

Henry Walker understands that the Umbakumba Community Council was funded under the CDEP program. The availability of funds made available by the program gave the council the financial footing to join Henry Walker as an equal partner in the joint venture.

A highlight of the joint venture was the high participation rate of Aboriginal people in the project; at times the construction crew, including supervisory staff, was entirely comprised of Aboriginal people. The contract was successfully completed with profits distributed equally between the joint venture partners.

### **Case Study 4: Murrin Murrin mining contract**

In January 1998, Henry Walker was awarded a \$180 million mining contract at the Murrin Murrin nickel project in Western Australia. The company's final tender included an offer to conduct the contract at the mine in joint venture with Aboriginal interests.

The company was able to propose a joint venture as a result of successful negotiations with the CDC. The result of the negotiations was an agreement by the CDC to join Henry Walker in a joint venture to conduct the contract, and to divest a portion of its equity in the joint venture to local aboriginal interests.

The joint venture is still in the process of being finalised. The involvement by the CDC provided a conduit for rapid commitment by Henry Walker to a joint venture with Aboriginal interests, on the understanding that local Aboriginal communities would also be involved.

#### **4. What is the relevance of joint ventures for the development of indigenous business**

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Henry Walker's experience and interest in indigenous business lies in the formation for joint ventures with indigenous organisations.

It is our belief that joint ventures provide significant benefits for established companies and their indigenous joint venture participants.

Through joint ventures with Aboriginal organisations, Henry Walker has:

- ♦ been able to participate in commercial ventures which attract business by virtue of their indigenous shareholders;
- ♦ been able to participate in business ventures in regions where the company would not, ordinarily, expect to be involved, eg: Umbakumba, Gove;
- ♦ benefited from the capital risk sharing with organisations that are accustomed to, and have an interest in, remote regions;
- ♦ had improved access to employees accustomed to working and living in remote regions, and who do not have to be flown to and from capital cities at the commencement and conclusion of rosters.

In turn, Henry Walker believes these joint ventures have provided Aboriginal interests with:

- ♦ the opportunity to participate commercially in projects which might otherwise have presented capital, technical or managerial demands beyond their present resources;
- ♦ the benefits from the transfer of business and technical skills and employment experience;
- ♦ participation in accredited vocational training programs, some of which have been especially structured to also address local community interests as well.

Given these advantages for both parties, joint ventures offer the opportunity for nurturing indigenous businesses and increasing the profile and understanding of indigenous business within the Australian business community.

Henry Walker anticipates that opportunities for joint ventures between indigenous and non-indigenous businesses will increase as a result of:

- ♦ the desire for greater economic participation by Aboriginal and Torres Strait Islander people from mining economic activity within their communities;
- ♦ the ongoing development of new minerals projects;
- ♦ the aforementioned (refer page 4) trend to require the inclusion in tender documents of an outline of avenues for indigenous involvement in employment and revenue streams created by the project.

Measures which encourage the formation of joint ventures will encourage the development of indigenous business. Conversely, barriers to the formation of joint ventures between established Australian companies and indigenous people and organisations represent barriers to the development of indigenous business.

## **5. Potential challenges and obstacles to joint ventures involving indigenous people and organisations**

In our experience, the formation or success of joint ventures involving indigenous people can be inhibited or threatened by a number of common hurdles which prevent the achievement of the pre-requisites for business, summarised at the opening of this submission.

Equally, our experience demonstrates that joint ventures involving Aboriginal interests and companies is possible, and holds the potential for mutual benefit.

A summary of the typical obstacles to the formation of joint ventures with Aboriginal interests, and our experience in dealing with those obstacles, follows.

### ***1. Non-continuity or breaking up of work***

Contract mining and civil engineering is a capital intensive business. Without the assurance of adequate ongoing work it is difficult to finance capital equipment purchases. Civil engineering projects are often broken up into small discretionary projects, tendered separately. Conversely, where projects are tendered on a turnkey basis (ie: as a package to a single contractor), organisations can approach financiers with more viable propositions.

*As Henry Walker experienced at Umbakumba, the CDEP program can provide the financial resources with which indigenous people can acquire vocational and business experience and skills by addressing opportunities within their community. As at Umbakumba, where significant projects can be identified, the program can enable the community to attract companies to enter into joint ventures, in which vocational training and technical and supervisory skills can be transferred.*

### ***2. Inability to contribute resources commensurate with meaningful participation***

Probably the greatest hurdle for indigenous communities and organisations seeking to participate in joint ventures, is the difficulty in mustering the resources for a significant level of participation.

Apart from the capital requirements (a 5 year open cut mining contract can require \$10 million to over \$20 million of mobile

equipment in the initial year), a meaningful contribution towards the creation of a joint venture carries demands in terms of commercial negotiation and analysis, legal work and management.

Difficulty in resourcing these demands carries a dual impact - not only are indigenous communities hamstrung in their ability to participate in joint ventures but their attractiveness to mainstream companies as a joint venture partner is diminished.

*In Henry Walker's experience, the CDC has provided an invaluable focal point through which the company has been able to pursue Aboriginal involvement in large scale mining projects.*

*The Corporation's ability to fund significant capital investments and involve local Aboriginal interests has enabled indigenous interests to maintain a 50% share of the Mirrwork Joint Venture and, it is expected, a similar share of the joint venture to conduct the Murrin Murrin mining contract.*

*At a more local level, the funds provided by the CDEP program at Umbakumba, enabled the community to maintain a 50% equity share in civil engineering projects in their region.*

### **3. The "Too Hard" complex**

The political and social structures of indigenous organisations and communities are not well understood in non-indigenous circles. Australian companies (including Henry Walker) are generally unfamiliar with Aboriginal and Torres Strait Islander values and customs. The task of negotiating with different organisations such as land councils, community associations and tribal factions, often via lawyers, is "too hard" for most business people.

The involvement of a multiplicity of government representatives who are delivering programs and/or agencies designed to assist indigenous people can add further to the perceived complexity getting joint ventures with indigenous persons 'off the ground'.

*Once again, it has been Henry Walker's experience that the involvement of the CDC has facilitated the formation of joint ventures with indigenous businesses. Most individual companies do not have the time or resources to be involved in brokering agreements with various indigenous interests or the confidence in dealing with community issues and factions at a local level.*

#### **4. Skills and employment issues**

The comparatively low level of vocational experience and skills typically found amongst most remote indigenous communities does not encourage consideration of local Aboriginal people for employment on projects.

There are various state and federal government funded training programs and initiatives that can overcome help indigenous people acquire the skills and experience to participate in projects.

However, the identification, access, co-ordination and integration of these various initiatives with the development of joint ventures or business enterprises is rarely simple, and can prove intimidating for those unfamiliar with sorting through the various program names, funding sources, committees and advisory bodies.

#### **5. The human factor is non-existent: the main players are not given the scope to do business**

Finally, the very preponderance of external advisors, lawyers, accountants, and consultants (*some of whom have their own vested interests*) employed by indigenous organisations to provide managerial and professional advice, can mitigate against companies and indigenous organisations 'doing business'.

Business requires a shared view of commercial opportunity and the will to find a commercial solution upon which a business can be based. In our experience, this rarely results from gatherings of hired lawyers, consultants or accountants but rather, from a meeting of parties who demonstrate "goodwill" toward achieving the desired goal.

The formation of joint ventures and other commercial arrangements between indigenous organisations and companies, will work best when companies are able to negotiate directly with commercially-capable representatives with a direct interest in agreeing a business solution that benefits that indigenous organisation.

*It is Henry Walker's experience that this role was well performed by the CDC in respect of the joint ventures to conduct mining at the Murrin Murrin and Mt Todd mines. At Umbakumba, the CDEP Co-ordinator also performed a similar function. In both instances, the ability to deal directly with a person with authority, who shared our desire to do business and who possessed commercial understanding, enabled the creation of viable joint ventures.*



## **6. The encouragement of joint ventures involving indigenous business**

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As the preceding discussion indicates, Henry Walker's experience with the CDC has been positive. It is improbable that the company would have been able to enter into the large joint venture at Mt Todd, and that being prepared for Murrin Murrin, without the conduit and financial and commercial resources provided by the Corporation or a similar organisation.

We are conscious that the this submission may read as being especially supportive of the CDC. This is not by the intent of the company's representations, nor should this support be construed as enthusiastic support for the Corporation *per se*.

Instead, this submission should be accepted as evidence for the real need for an independent, appropriately resourced, commercially focused organisation that will help indigenous organisations and mainstream companies overcome the barriers that would otherwise mitigate against joint business success.

The CDC has, from Henry Walker's perspective, been able to perform that role - providing the links and involvement with Aboriginal and Torres Strait Islander interests in a way that a bank could not aspire to, while also providing the commercial focus and approach that enabled business to be done.

Accordingly, it is essential that the activities undertaken by the CDC continue to be the province of an organisation dedicated to the *economic* development of Aboriginal and Torres Strait Islander people.

Re-allocation of the Corporation's financing and investment roles into a general (ie: without links to Aboriginal and Torres Strait Islander people) investment banking organisation would result in an organisation without the capacity to offer itself to business as a credible interface with Aboriginal interests.

Our experience at Umbakumba has convinced the company of the value of programs such as the CDEP program, supported by competent locally based co-ordinators, as a means of providing communities with the financial resources with which they can develop businesses and attract joint venture partners.

This submission has already noted that the potential for increasing involvement for Aboriginal and Torres Strait Islander people in joint ventures as a result of:

- ♦ the desires by traditional land holders to achieve improved employment outcomes and more direct economic involvement in projects; and
- ♦ the ongoing development of new minerals projects.

The extent to which this potential is translated into increases in indigenous business will obviously be enhanced by measures which further reduce the hurdles that make the formation of joint ventures difficult, and assist the organisations to achieve the pre-requisites for business sustainability.

With this in mind, Henry Walker makes the following specific suggestions:

- ♦ as noted earlier, one of the assets that the CDC has brought is (*apart from a capability to act as a conduit to capital for indigenous organisations and a focal point for companies to target indigenous organisations*) commercial experience and understanding. Henry Walker believes the CDC's effectiveness could be improved with an upgrading of its commercial resources.
- ♦ the formation of joint ventures involving indigenous organisations can only be enhanced by simplifying the process to a "one stop shop" operation.

Under this concept the CDC, or a successor organisation, would deliver and co-ordinate all government programs and initiatives that relate to indigenous business and be responsible for packaging and delivering of all other programs that may be relevant to the formation of joint venture involving indigenous business (eg: labour market programs, skill acquisition programs) for a particular project on an as-required basis.

Henry Walker also recommends that Federal and State Government examine the structuring of public works tenders and contracts to be let in Northern and remote Australia with a view to ensuring that the tender structure encourages participation by indigenous businesses and the formation of joint ventures comprising indigenous businesses and established companies.

This could be achieved through letting projects on a turnkey basis, or bundling several years work together to provide a project which will increase the probability of indigenous businesses attracting finance.

For example, significant capital amounts are allocated for expenditure in Northern Australia under the Health Improvement Priority Program.

Under the current system, administration of the entire contract amount is usually allocated to a single consultant, who then issues a number of tenders for the various locations, or various items, for which the infrastructure expenditure is intended.

Rather than adopting this piecemeal approach, the tendering of a number of contracts on a regional basis would provide tender packages of sufficient size for indigenous businesses to commit to equipment purchase and attract joint venture interest.