
The Parliament of the Commonwealth of Australia

Open for Business

Developing Indigenous enterprises in Australia

House of Representatives

Standing Committee on Aboriginal and Torres Strait Islander Affairs

October 2008
Canberra

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urban to remote, and the particular challenges of ensuring comprehensive results.

Recommendation 1

- 2.50 **The Committee recommends that the Australian Government conduct a biennial national review of Indigenous businesses in Australia, collating data on industry sector, business size and structure, location and economic contribution.**

Counting the social contribution of Indigenous businesses

- 2.51 Understanding the prevalence, geographical and sector spread of Indigenous businesses is key to developing government policy that can harness strengths and competitive advantages. Similarly understanding the contribution of Indigenous businesses, at a national and local community level, is essential in assessing the economic and social returns on investment of fostering Indigenous enterprises.
- 2.52 The Committee received a range of evidence emphasizing the social benefits of Indigenous enterprises, particularly when businesses are clustered to provide local benefits to surrounding Indigenous communities.
- 2.53 The Bawinanga Aboriginal Corporation (BAC) in Maningrida was founded in 1979 and operates a range of enterprises based around a 'hub and spoke' business model:

BAC now manages 20 businesses including a mechanical workshop, road and housing maintenance services, a retail fuel outlet, a large supermarket/variety store, construction services, aged care services, a mobile shopping service, a takeaway food outlet, land care, a commercial wildlife venture, an eco tourism business and a highly successful community-based arts and culture centre. Its 20 businesses

powerlessness of Indigenous people to negotiate best terms for their communities under such agreements.

- 2.112 Moreover, Indigenous community corporations do not have the resources to pay for the expensive legal and taxation advice needed to set up arrangements to their best advantage. In some instances companies engaging in these agreements do pay for communities to seek advice. However, in contrast to the advice and assistance and monitoring provided to Indigenous Corporations under the CATSI Act, ILUA partnership agreements are not monitored.⁹²
- 2.113 Dr Jane Stanley of Focus Ltd noted that both administration and monitoring procedures for ILUAs are poorly developed, with agreement documentation being prepared off country by legal representatives who often have no knowledge of the cultural or commercial aspirations of the Indigenous communities involved.⁹³
- 2.114 To streamline the negotiation of ILUAs, templates have been introduced in some areas following successful developments in Queensland.⁹⁴
- 2.115 The Committee considers that there is potential under ILUA templates to mandate certain conditions, such as payment by industry partners for a lawyer and anthropologist to assist communities in agreement making. Templates for joint partnerships arrangements in specialised sectors such as such tourism could be developed, with the flexibility to specify cultural and commercial objectives.
- 2.116 The Committee notes that ORIC currently uses a template for corporate structures for negotiation of more flexible governance arrangements for communities. ORIC also provides extensive training, advice and mentoring to ensure the governance model fits closely to community needs. This model of support should be applied when negotiating ILUA agreements.

92 Focus Pty Ltd, *Submission No. 25*, p. 6, Dr Lisa Strelein, *Transcript of evidence*, 4 September 2008, p. 12.

93 Focus Pty Ltd, *Submission No. 25*, p. 4.

94 HREOC *Native Title Report 2007*, www.hreoc.gov.au, accessed 13 October 2008.

Recommendation 3

- 2.117 The Committee recommends that the Australian Government develop templates for Indigenous Land Use Agreements to specify that corporate and industry partners fund Indigenous partner corporations to access advice, including financial, taxation and in particular expert legal advice of a quality comparable to that available to the other negotiating partner. This is to ensure that the terms of agreement meet the social and commercial objectives of the Indigenous communities involved.

Recommendation 4

- 2.118 The Committee recommends that the Australian Government develop a process for monitoring the content and implementation of Indigenous Land Use Agreements, and develop a complaints process for Indigenous partners.

Box 4.2 Ngarda Civil and Mining Pty Ltd

Ngarda is a contract mining business based in Port Headland in the Pilbara region of Western Australia. Ngarda is owned by Leighton Contractors, IBA and the Ngarda Nagarli Yarndu Foundation each hold a 25 percent share.

In the first nine months of its operations, Ngarda secured approximately \$9.2 million in contracts for work over the next five years. This proved to be a catalyst for growth for the company and since 2005 Ngarda has set up its own supply contracts, finances and payroll systems.

Ngarda continues to be a presence in the Pilbara. Currently, it holds contracts with BHP Billiton and Robe River. These projects alone have resulted in the employment of over 100 local Indigenous people. Ngarda Indigenous employment participation is some of the best in the industry, building the economies of local communities. In 2004 Ngarda won the Prime Minister's Awards for Community Business Partnerships in the large business category.

Ngarda recently won a major contract to manage the BHP Billiton owned Yarria iron mine in the Pilbara. The contract is worth more than \$300 million over five years and, at September 2007, was the largest Indigenous mining contract in Australia. Ngarda has recently expanded into housing construction works subcontracting to Leightons in the Northern Territory.

Source: Professor Jon Altman & Ms Kirrily Jordan, Submission No. 39, p. 4, Rio Tinto, Submission No. 43, p. 18 and Indigenous Business Australia, Submission No 58, attachment B, p. 17

Issues in the mining sector

- 4.48 Mining is seen as an area of particular vocational and commercial advantage for Indigenous Australians. At present however, strengths are in direct employment of Indigenous peoples and not in enterprise development.
- 4.49 A study conducted in June 2007 of Indigenous Employment and Business development in the Queensland Resources sector found that, in most cases, corporate direction for increased subcontracting to Indigenous business is not substantially increasing Indigenous engagement.⁴⁴

44 P. Vidler, *Indigenous Employment and Business Development in the Queensland Resources Sector* (A report to the Queensland Resources Council) June 2007, Centre for Social Responsibility in Mining



Additional Comments

Coalition members of the Committee appreciate the spirit in which the Chair has conducted the enquiry, are grateful for the effort which so many people have made to provide evidence and wholeheartedly support the objective of increasing and strengthening Indigenous businesses. Still, there are some observations and reservations that we think should be expressed.

A distinction needs to be drawn between businesses or enterprises that are offshoots of community groups, on the one hand, and private, for-profit businesses that are owned or operated by Aboriginal people, on the other. Many Aboriginal business enterprises are not private businesses at all. They're the business arms of local councils or collectives. They're Indigenous versions, so to speak, of the NSW railways rather than, say, Toll Holdings. There's much to be said for community organizations operating such enterprises. Nevertheless, substantial economic advancement requires, in our view, the development of a private sector consciousness among Aboriginal people. This will require an awareness of the need to accumulate capital and to take risks.

There should be no reason why work currently done by private business (especially for Indigenous communities) could not be done by Aboriginal businesses operating on market principles. There is no iron clad law that says Aboriginal business should be not-for-profit, community-owned or government subsidized. Government assistance should aim to enable Aboriginal business to operate in a normal market rather than to operate indefinitely without the need to face ordinary business imperatives.

In that regard, Coalition members think that IBA has done much good work but would like to see more Aboriginal businesses learning to deal with mainstream financial organizations.

Coalition members support the recommendations that will lead to wider awareness of Aboriginal business successes. We particularly support the recommendations that should lead to the creation of more for-profit businesses by Aboriginal people as sole traders, members of partnerships or as individual shareholders (although, in respect of government procurement requirements, we

note the current limited range of Indigenous business). We have reservations, though, about the recommendations which might restrict free negotiations involving Aboriginal people. Running a business should not, primarily, be about going to meetings or securing program grants. It's about seeing an opportunity, developing the skills, taking the risks and reaping the rewards of providing a service to the community.

Mr Andrew Laming MP
Deputy Chair

The Hon. Tony Abbott MP

The Hon. Dr Sharman Stone MP