

**Parliamentary Joint Committee on
Native Title and the Aboriginal and
Torres Strait Islander Land Fund**

OPERATION OF THE NATIVE TITLE ACT

**Inquiry Into Indigenous Land Use
Agreements**

Submission No: 9

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Mr Peter Grundy
Secretary
Parliamentary Joint Committee on Native Title and the
Aboriginal and Torres Strait Islander Land Fund
Parliament House
CANBERRA ACT 2600

Dear Peter

Inquiry into Indigenous Land Use Agreements

Thank you for the opportunity to provide comment for the above Inquiry. While the Indigenous Land Corporation (ILC) has no formal role or statutory responsibility in relation to Indigenous Land Use Agreements (ILUAs), the scope, variety, content and implications of these agreements have the potential to impact on the ILC. The ILC was established by the Commonwealth to assist Indigenous peoples to acquire and manage land in a sustainable way so as to provide economic, environmental, social or cultural benefits.

The ILC is also required to prepare National and Regional Indigenous Land Strategies that are to cover, among other issues, the acquisition of interests in land for the purpose of making grants of those interests to Aboriginal or Torres Strait Islander corporations (ATSIC Act, section 191N(2)(a)). The presence or absence of ILUAs in a given region is of considerable import in the preparation of these strategies.

Comments on the specific terms of reference are as follows.

The usefulness and scope of the ILUA provisions in the *Native Title Act 1993*

The ILUA provisions in the *Native Title Act 1993* enable land access and use agreements. Such agreements impact on the core business of the ILC.

The more land needs and aspirations that can be met by agreements concluded under the *Native Title Act*, the less call there will be on the scarce resources of the ILC. Where agreements have not been concluded, Indigenous groups will seek to have their access and use aspirations satisfied through ILC supported land acquisition or management activities. It is thus essential, to maximise the effectiveness of the ILC's resources, that ILUA activity is accelerated and increased in effectiveness. In the absence of such activity the ILC has developed its Land Needs Planning Process involving the development of Land Acquisition and Access Strategies by Indigenous

groups in local areas. These strategies involve groups giving consideration to the widest range of means of meeting their land aspirations, including the development of ILUAs.

The resources (technical/financial) that are necessary to successfully negotiate agreements.

NTRBs need to be adequately funded so that they can provide effective and professional services for groups wishing to negotiate ILUAs. The effective functioning of these agencies will also ensure a more coordinated approach to furthering Indigenous interests in land.

The Review of Native Title Representative Bodies conducted in 1995 highlighted the relationship between the functions of the ILC and the effective operations of NTRBs. It recommended (Recommendation 2):

That the regional land needs assessment and acquisition activity of the Indigenous Land Corporation should be directly informed by the activity of NTRBs

This point is further elaborated in paragraph 2.63:

The Review Committee is of the firm opinion that, properly resourced, NTRBs will increasingly become the preferred representatives and most effective advocates of regional Indigenous land interests. They will progressively acquire detailed knowledge of traditional landownership patterns and regional priorities.

The report also states that “the activities of NTRBs could generate significant savings for the ILC if claims and land purchase activities could be strategically dovetailed” (paragraph 5.102).

This has not happened generally and where it has happened it has often been through the direct deployment of ILC resources, which was clearly not the intention of the Review recommendations. It has been at ILC expense, rather than affording savings.

There are many factors that have prevented the achievement of this strategic dovetailing. These include:

- the diversion of routine activity occasioned by the re-registration process;
- inadequate resource levels;
- an inability to attract and retain experienced staff; and
- regional and national political issues.

The result has been that the ILC largely has been unable to reap the benefits of strategic activity at NTRB level and that ILUAs have not significantly lessened demand for ILC services to the extent that was anticipated.

It is evident that the preparation of agreements places a considerable burden upon Representative Bodies and the groups they represent. Particularly, agreements

- require a considerable amount of pre-negotiation preparation and information collection;
- are time consuming; and,
- require significant resources.

Aside from the resourcing and other issues impacting on the effectiveness of Representative Bodies, the lack of resources available to Indigenous groups means that they are often at a considerable disadvantage in negotiating agreements. In general, groups require assistance in planning to meet priorities and in dealing strategically in the development of agreements.

In essence, it is our view that the technical and financial resources available to Representative Bodies and the represented groups need to be at sufficient levels to enable the strategic dovetailing envisaged by the Review.

Should you have any queries regarding these comments, please contact Paul Jenkins at the ILC Head Office (GPO Box 652, Adelaide 5001), by email on paul.jenkins@ilc.gov.au, or by telephone on 08 8216 4121.

Yours sincerely

(e-signed) John Wilson

JOHN WILSON
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