



## MINISTER FOR INDIGENOUS AFFAIRS

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

*Dawn*  
Dear Dr Casey

I refer to your letters of 17 and 18 December 2013 regarding the McGrathNicol Review of the Indigenous Land Corporation's (ILC) acquisition, operations and future prospects of Ayers Rock Resort.

As you are aware, I wrote to you on 29 November 2013 asking that you provide me with a draft of the report, and that we discuss handling and release before it was finalised and made public. I only asked for this in the spirit of working collaboratively with you to ensure that the release did not impact on the public perception of the Ayers Rock Resort and further damage its business prospects.

Can I say that I am extremely disappointed that while, technically, you provided me with a draft of the report late and out of business hours on 17 December 2013, the Board decided to release it publicly on 18 December 2013, leaving no time for me, my office, or the Department of Prime Minister and Cabinet to see the report or to consider its findings. Nor did you attempt to discuss the release and handling with me, as I had requested.

Your letter of 18 December 2013, asserts that the Board chose to act in contravention of my request because it has "...taken the view that that it would not be appropriate or ethical for us to allow the perception to be created of political interference in the ILC's activities." I want to be clear that I strongly reject the assumptions in this statement. I did not ask, nor sought, to interfere in the report's findings or processes. The notion that simply because I requested a reasonable time to consider the findings before the release, is somehow equivalent to me seeking to interfere with the review is completely untrue.

I reiterate that my sole concern was the best interests of the Ayers Rock Resort and the many Aboriginal people who are gainfully employed there and whose lives have been transformed for the better by having real work opportunities there. There is nothing inappropriate about my taking an interest in its findings.

I confirm the Government's view that a Parliamentary inquiry is not required. You have already undertaken and made public a review into the purchase process. I do not believe the review highlights matters that require the considerable time and expense of a Parliamentary inquiry. The conclusions in the report note that the matters you focus on, do not of themselves mean that the acquisition was inappropriate. From my point of view the findings of your review in fact demonstrate that there is no need for such an inquiry.

I also draw your attention to the recent tabling of the ANAO Report into the operations of the ILC. I note that the report makes no significant conclusions in relation to the purchase of the Ayers Rock Resort.

It is regrettable that this is the second occasion in which you have deliberately chosen to disregard a reasonable request by me. You will recall that I wrote to you on 16 October 2013 urging you to consider maintaining the stability of the Board of Voyages Indigenous Tourism Australia in the commercial interest of the Ayers Rock Resort.

I reiterate my disappointment that despite your assurances that you wanted to work closely with me, this does not seem to be occurring. I remain concerned that the continual media commentary is having a negative impact on public perception of the Ayers Rock Resort and the ILC.

Yours sincerely

20.12.13

NIGEL SCULLION



## MINISTER FOR INDIGENOUS AFFAIRS

Reference: C13/82858

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

  
Dear Dr Casey

Thank you for your letter dated 14 November 2013 to the Prime Minister, regarding the acquisition of the Ayers Rock Resort. Your letter was referred to me as the Minister for Indigenous Affairs. Thank you also for your letters regarding a range of matters relating to the Indigenous Land Corporation's (ILC) subsidiary, Voyages Indigenous Tourism Australia Pty Ltd (Voyages) and the Ayers Rock Resort in particular.

As you know we covered many of the issues raised in your letters in our discussion of 22 November 2013.

I also note that in your letter to the Prime Minister of 14 November 2013, you assert that you have yet to receive a reply from me to your correspondence about the ILC Board and the purchase of Ayers Rock. Our records show that I have responded to the matters you have raised in my letters to you dated 16 October 2013 and 1 December 2013 respectively.

In relation to your specific request for the Government to establish a Parliamentary Inquiry by the Joint Committee on Public Accounts and Audit to examine the acquisition of Ayers Rock Resort, you would be aware that the Government has decided to commence an independent review of the ILC and Indigenous Business Australia (IBA). This review commenced on 3 December 2013, and I recently announced that Ernst & Young have been engaged to undertake the review and report back to me in February 2014.

In addition, I believe it would be sensible to allow the ILC commissioned 'end to end' review to proceed in relation to the detailed issues you raise in relation to the Ayers Rock Resort investment. As I outlined in my letter of 29 November 2013, I ask that you provide me with a copy of the draft report when it is available and that we have the opportunity to discuss its findings.

I have also considered your correspondence dated 6 December 2013 and 16 December 2013, regarding the Terms of Reference for the review into the IBA and the ILC. I appreciated receiving the comments from the ILC Board on the terms and scope of this review. Thank you for providing feedback.

Having taken the comments you conveyed into consideration I am not satisfied, however, that any change to the Terms of Reference is required as the inquiry is intended as an open one; the findings of which will all be taken into account.

Can I also assure you that the reviewer will seek to meet with key stakeholders, such as yourself and the former Chairs of the IBA and ILC. In addition, it is the intention of the reviewer to meet with the current and former Directors and Chief Executive Officers of IBA and the ILC. A number of other key stakeholders, such as relevant peak bodies, will also be consulted directly.

In addition to targeted consultation, there will also be an open consultation process through a call for written submissions. This will enable any interested party to provide comments on the review and to ensure that a wide range of views are canvassed. Details of how submissions can be made are available online at: <http://ilcibareview.dpnc.gov.au>.

Some of the other issues you raise are matters that the review team can consider, but I do not see a need for these to be specifically addressed in a revised Terms of Reference.

I have also provided a copy of your letters of 6 December 2013 and 16 December 2013 to the review team for their reference.

In the meantime, I anticipate that the ILC will direct its efforts on maximising the financial performance of Ayers Rock Resort, and further increasing employment opportunities for Aboriginal and Torres Strait Islander peoples.

I look forward to working with you on these important issues.

Yours sincerely

16-12-13

NIGEL SCULLION

14 November 2013

The Hon Tony Abbott MP  
Prime Minister  
Parliament House  
Canberra ACT 2600

Dear Prime Minister

I write to you on behalf of the ILC to inform you of a number of serious public accountability issues relating to the decision by the then ILC Board to purchase the Ayers Rock Resort (Resort) in 2010. The Resort is now owned and managed by Voyages Indigenous Tourism Australia Pty Ltd (Voyages), a wholly owned subsidiary of the ILC.

In the two years since the acquisition was finalised, Voyages has lost in excess of \$100m. The audited financial statements for Voyages for the 2012-13 year state that the then Voyages Directors wrote down the value of the Resort by \$62m. This is some 20 percent of the book value of the Resort, and contributed to a loss of \$84m for Voyages for the year, following on a loss of \$25m the previous year. This is an extraordinary and totally indefensible evaporation of public funds intended for the benefit of Indigenous Australians. The ILC Board does not believe such a result should be swept under the carpet.

Following these results, the ILC Board acted and made a number of changes to the membership of the Board of Voyages.

I have written a number of times to Minister Scullion expressing the serious concerns of the ILC Board regarding the poor governance processes which underpinned the purchase of Ayers Rock Resort and have yet to receive a reply.

The acquisition by the ILC in 2010 of the Ayers Rock Resort cost \$317m and was funded by borrowings of \$198m. As a consequence, the write down of \$62m represents 50% of the ILC's current equity in the Resort.

The Directors appointed to the ILC in October 2011 were concerned about a number of aspects of the decision taken by the previous Board and took action to initiate a governance review of the ILC to ensure best practice corporate governance principles had been applied and would be applied in the future.

The review undertaken by Deloitte determined that the ILC needed to institute a range of improved governance approaches, and the Board accepted its recommendations and is making excellent progress in implementing these.

Particular concerns regarding the probity and processes utilised in the lead up to the acquisition of the Resort remained. For example, over \$5m was spent on due diligence consultants. The key consultants were engaged without a tender process. In light of these concerns the ILC Board approached the previous Minister, the Hon Jenny Macklin MP seeking an ANAO audit of the acquisition. Her response was that the ILC should appoint an independent reviewer to undertake a forensic examination of the acquisition, and this review is presently underway. Our concern is that this review does not require individuals to

cooperate, and does not provide those providing information with any protection against threats of legal action.

The ILC Board is committed to resolving the current commercial challenges at the Resort and will be implementing a range of short and longer term strategies with a view to improving the Resort's operations. However, in view of the disastrous outcomes to date from the purchase of the Resort, and the serious concerns of the current ILC Board regarding governance and probity at the time of the purchase, I urge you to consider establishing an inquiry by the Joint Committee on Public Accounts and Audit to examine the purchase.

While we value our independence, you have my assurance that the ILC will continue to ensure its activities are aligned to the maximum extent possible with current Government policy.

Given their responsibility and interest in these issues, I have sent a copy of this letter to the Minister Scullion and to Mr Warren Mundine.

Yours sincerely

Dr Dawn Casey, PSM FAHA  
Chairperson

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**Australian Government**  
**Indigenous Land Corporation**

18 December 2013

The Hon Tony Abbott MP  
Prime Minister  
Parliament House  
Canberra ACT 2600

Dear Prime Minister

Please find enclosed a letter sent today to the Minister for Indigenous Affairs, Senator the Hon Nigel Scullion along with a copy of the McGrathNicol report.

In my letter to you dated 14 November 2013, I outlined the ILC Board's concerns regarding governance and probity at the time of the purchase of Ayers Rock Resort and urged you to consider establishing a Parliamentary Inquiry. While we note the response from the Minister for Indigenous Affairs on your behalf rejecting this request, the ILC Board considers that this McGrathNicol Review reinforces the need for such an Inquiry.

I would be happy to provide you with a full briefing at a time convenient to you.

Yours sincerely

Dr Dawn Casey PSM FAHA  
Chair

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**Australian Government**  
**Indigenous Land Corporation**

5 January 2014

The Hon Senator Nigel Scullion  
Minister for Indigenous Affairs  
Parliament House  
CANBERRA ACT

Dear Minister

I refer to your letter to me dated 20 December 2013 regarding various matters relating to the acquisition of the Ayers Rock Resort by the previous Board of the ILC, and make the following comments in response.

In relation to the issue of perceived political interference, the ILC Board in taking the decisions it did and in writing to you to explain them, made no assumptions whatsoever about your motivations or intentions. We were entirely focused on ensuring that there could be no imputation made in the future by any person that we had somehow neglected our responsibilities to be independent, and had facilitated a situation where political interference might be alleged to have occurred. This risk was exacerbated by the fact that you had requested to be provided with a *draft* of the report prior to its finalisation.

In relation to the issue of a Parliamentary Inquiry into the acquisition, we clearly disagree.

Not only has the acquisition involved an extraordinary loss of public funds intended for Indigenous benefit, but the report undertaken by McGrathNicol now demonstrates that the administrative processes associated with that acquisition were fundamentally flawed. This report expands upon the matters outlined in our letter to you dated 16 October 2013 and which, notwithstanding your response dated 16 December 2013, have not been substantively responded to by you either in writing or at our discussion on 22 November 2013.

To list just a few of the accountability issues raised by the McGrathNicol Report:

- the failure of an ILC Director and the then CEO to comply with its own procurement policies in contracting in excess of \$6m in due diligence consultancies without appropriate tender processes raises serious questions which require answers;
- the audit committee was inherently conflicted in that the Chair of the Committee had been in place for some twelve years and was directly involved in driving the acquisition, and its failure to oversight the acquisition process appropriately raises serious questions which require answers;
- the existence of undeclared potential conflicts of interest between a Director directly involved in negotiating the purchase and a major shareholder in the seller raises questions which require answers;



- the failure of the Board to take into account the most recent financial performance of the Resort and to rely on a valuation which was over 17 months old, and which if taken into account would have reduced the fair market value by many millions of dollars raises serious questions which require answers;
- the failure of the then Board to adequately mitigate the risks identified in the due diligence (for example in relation to airline flights into Yulara) raises serious questions which require answers;
- the fact that the financial projections relied upon were not conservative (contrary to assertions made to Ministers subsequently) but projected an immediate and unjustified turnaround in the long term decline in occupancy levels raise serious questions requiring answers;
- the failure of the Board to adequately record the voting intentions of all Directors, and to leave that ambiguity in place when the minutes were subsequently confirmed as accurate and correct raises serious questions which require answers.

Given the comprehensive and independent Review which has been undertaken, which identified numerous administrative process deficiencies underpinning what has been a substantial loss of funds, the present ILC Board is not in a position to provide you or the Parliament with assurances as to the overall probity of the actions taken by our predecessor Board in relation to the acquisition of the Ayers Rock Resort.

In the light of the many accountability concerns identified in an independent report commissioned at the request of your predecessor after we sought to have the Australian National Audit Office look into this issue, I find your statement 'that a Parliamentary Inquiry is not required' impossible to comprehend.

In relation to your comment that 'this is the second occasion in which you have deliberately chosen to disregard a reasonable request by me', I note that the first request was for the Board to re-appoint Mr David Baffsky to the Chair of Voyages after the automatic expiration of that appointment, and that I provided a detailed explanation of our decision in my letter to you dated 23 October 2013.

Apart from the fact that Mr Baffsky's re-appointment would not have maintained the stability you sought for reasons which we explained in my letter, the McGrathNicol report now provides ample evidence of the wisdom of our decision in relation to your first request.

Moreover, I wish to make absolutely clear that we did not disregard your requests, but gave each of them serious consideration as a Board, and provided detailed explanations for our reasons for taking the decisions we have.

I reiterate and confirm that we are keen to work closely with the Government in addressing the land acquisition and land management needs of Indigenous Australians. However, this cannot and should not entail abandoning the requirement for the ILC Board to act transparently and independently and in accordance with our statutory responsibilities.

I have provided a copy of your letter and this response to the Prime Minister, the Minister for Finance and the Parliamentary Secretary to the Prime Minister, Mr Tudge MP for their information.

Yours sincerely

Dr Dawn Casey PSM FAHA 

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**Australian Government**  
**Indigenous Land Corporation**

8 January 2014

The Hon Tony Abbott MP  
Prime Minister  
Parliament House  
Canberra ACT 2600

Dear Prime Minister

I attach for your information a copy of the letter I sent to Minister Scullion dated 5 January 2014 along with a copy of the correspondence to which my letter refers which I received from Minister Scullion on 20 December 2013.

Yours sincerely

Dr Dawn Casey PSM FAHA  
Chair



8 January 2014

The Hon Alan Tudge MP  
Parliamentary Secretary to the Prime Minister  
Parliament House  
CANBERRA ACT 260

Dear Parliamentary Secretary

I attach for your information a copy of the letter I sent to Minister Scullion dated 5 January 2014 along with a copy of the correspondence to which my letter refers which I received from Minister Scullion on 20 December 2013.

Yours sincerely

Dr Dawn Casey PSM FAHA   
Chair

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**Australian Government**  
**Indigenous Land Corporation**

8 January 2014

Senator the Hon Mathias Cormann  
Minister for Finance  
Parliament House  
CANBERRA ACT 2600

Dear Minister

I attach for your information a copy of the letter I sent to Minister Scullion dated 5 January 2014 along with a copy of the correspondence to which my letter refers which I received from Minister Scullion on 20 December 2013.

Yours sincerely

Dr Dawn Casey PSM FAHA  
Chair