

Registrar of Indigenous Corporations – Opening Statement

Senate Estimates 18 February 2022

- Acknowledge the Ngunnawal / Ngambri people, as well as Aboriginal and Torres Strait Islander people in the room and online.
- Recognise the contribution of the **former Registrar, Mr Selwyn Button**, who left the position on 3 December 2021.
- I have been acting since then.
- During his tenure he worked to strengthen relationships with stakeholders; raise issues of transparency and accountability particularly around Native Title benefits; and set a new strategic vision for ORIC. He also started to position ORIC strongly to work in emerging and future environments
- This included **Indigeneity in corporations**—that is ensuring the membership and control of corporations is in the hands of Aboriginal and Torres Strait Islander people, which I know is also something that some Senators have previously raised in previous hearings.
- To that end, last month, ORIC issued a revised policy statement about our approach to regulating the Indigeneity provisions in the CATSI Act.
- It is our expectation that implementation of this policy will help to further strengthen stakeholder and public confidence that corporations registered under the CATSI Act are controlled by Aboriginal and Torres Strait Islander people.
- Our regulated **population continues to grow**. Since last estimates over 50 new corporations have registered. There are currently 3,463 (checked Wednesday) corporations registered. This figure includes 240 RNTBCs, which is 8 more than last Estimates.

- We are buoyed by growing interest in better practice around governance as well. On 30 November last year, we hosted our inaugural **Governance Day** – a free online forum designed to elevate and inspire board capability. Speakers and discussion groups focused on governance challenges and success in Indigenous contexts in Australia and beyond.
- Speakers included:
 - Jessica Bulger the CEO of the **Australian Indigenous Governance Institute**,
 - **Gary Johns** the Commissioner of the ACNC, and
- The day was highly successful both in terms of the event itself, and in terms of using technology to maintain our capacity building support for corporations and stakeholders, in the midst of a pandemic. 125 participants attended over the course of the day and even more impressive, most stayed for the whole six hours.
- More concerning is the **slow rate of annual report lodgements** this year. To date just over half of corporations who are required to lodge reports for the 2020–21 financial year have met their obligation. *[If asked, 52%]*
- The CATSI Act emphasises the importance of compliance and reporting as a mechanism to improve transparency and accountability. Our analysis of corporations who have experienced corporate failure also indicates it's a lead indicator. Any reduction is concerning.
- Given the restrictions posed by the pandemic we have not pursued prosecutions for failing to lodge in recent years, however, depending on the circumstances of corporations and the sector, we may consider this going forward.
- As an intermediary step we intend to return to our practice of publishing the names of corporations that are in breach of their reporting obligations.

- Requiring accountability for corporation information is not just the role of the Registrar however... members also have an important role to play in holding the boards of their corporations to account. They need to ensure boards report in a timely manner and in a way that they can understand so they can assess the performance of their corporations and make decisions about who they entrust to govern their corporation.
- Finally, I would like to note that earlier this week, on Monday, the CDPP **successfully prosecuted** former CEO of Mirndiyan Gununa Aboriginal Corporation, Mr Brett Evans, following an investigation by my office.
- It's important that culturally significant areas such as the art sector are protected from people who can potentially damage the value and integrity of these works.
- Mr Evans was charged of 35 counts of using his position dishonestly to gain a benefit for himself.
- Mirndiyan operates an art centre, commonly known as Mornington Island Art (MIArt) in the Gulf of Carpentaria.
- It is one the best known and longest established art and cultural organisations in Australia, and has produced internationally acclaimed artwork.
- Mr Evans used his position and the corporation's good reputation to sell many artworks, including from the renowned artist Ms Sally Gabori, and kept the proceeds for himself.
- We value the expectations and standards in the CATSI space for holding CEO's and directors accountable, and my office does important work in this area. I would like to acknowledge the work of the team in pursuing this investigation.

- I would also like to acknowledge that it was the then directors of the corporation that first raised concerns and undertook an internal review and audit, before seeking the assistance of ORIC.
- It's particularly pleasing that this group of directors had the confidence and capacity to identify there was an issue and then the courage to ask ORIC for assistance.
- I see this as an example to other CATSI directors and a warning to would be wrong doers that Aboriginal corporations may not be the easy targets they may have been in the past.