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Official Committee Hansard

**HOUSE OF
REPRESENTATIVES**

STANDING COMMITTEE ON ABORIGINAL AND TORRES
STRAIT ISLANDER AFFAIRS

Reference: Developing Indigenous enterprises

THURSDAY, 28 AUGUST 2008

CANBERRA

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**HOUSE OF REPRESENTATIVES STANDING
COMMITTEE ON ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS**

Thursday, 28 August 2008

Members: Mr Marles (*Chair*), Mr Laming (*Deputy Chair*), Mr Abbott, Ms Campbell, Mr Katter, Ms Rea, Dr Stone, Mr Kelvin Thomson, Mr Trevor and Mr Turnour

Members in attendance: Mr Abbott, Mr Marles, Dr Stone, Mr Trevor and Mr Turnour

Terms of reference for the inquiry:

To inquire into and report on:

Opportunities for Aboriginal and Torres Strait Islander people to grow small and medium-size business. This shall include Indigenous controlled enterprises and business in which Indigenous people are joint venture partners.

In particular, the Committee will focus on:

1. whether current government, industry and community programs offering specific enterprise support programs and services to Indigenous enterprises are effective, particularly in building sustainable relationships with the broader business sector;
2. identifying areas of Indigenous commercial advantage and strength;
3. the feasibility of adapting the US minority business/development council model to the Australian context; and
4. whether incentives should be provided to encourage successful businesses to sub contract, do business with or mentor new Indigenous enterprises.

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Committee met at 12.11 pm**BEVEN, Mr Anthony, Registrar of Aboriginal and Torres Strait Islander Corporations, Office of the Registrar of Indigenous Corporations****BOYLE, Mr Nathan, Branch Manager, Office of the Registrar of Indigenous Corporations**

CHAIR (Mr Marles)—I declare open this public hearing of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs inquiry into developing Indigenous enterprises. This is the fifth public hearing that the committee has undertaken for the inquiry into developing Indigenous enterprises. The hearing is open to the public and a transcript of the proceedings will be placed on the committee's website.

I welcome the witnesses who are with us today. Although the committee does not require you to speak under oath, you should understand that these hearings are formal proceedings of the Commonwealth parliament and that the giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. Would you like to make an opening statement?

Mr Beven—I thought I would make an opening statement just to summarise what was in our formal submission and to thank you for the opportunity to speak at this inquiry into developing Indigenous enterprises. It is one of the key responsibilities of my office, as the Registrar of Indigenous Corporations, to have that focus on Indigenous organisations and to provide a special measure for Indigenous organisations to build their capacity and, hopefully, move into a more mainstream type of regulatory environment.

I am an independent statutory office holder and my position is created under the Corporations (Aboriginal and Torres Strait Islander) Act 2006, which is more commonly referred to as the CATSI Act. That legislation came into force on 1 July 2007 and replaced the old Aboriginal Councils and Associations Act, which had been in force since 1976 and came into operation in 1977. Fairly substantial changes were introduced last year. There had not been a lot of changes to the old legislation in that intervening 30-year period, so we are going through a process now of fairly significant changes for Indigenous organisations registered with my office.

My office is supported by the Office of the Registrar of Indigenous Corporations. I have 65 staff. The majority are based here in Canberra but I also have two staff currently based in Kununurra and a further two based in Ceduna in South Australia. Of those 65 staff, we have approximately 18 staff who are Indigenous, so a significant proportion of our staff are Indigenous people.

The work that we do has a framework of integrated programs, and a lot of it is set up and established as a function of my office under the CATSI Act. Some of the services that my office does are a little bit different from other mainstream regulators, such as ASIC. We provide advice, information and support to Indigenous organisations around the country. We also have a very hands-on corporate governance training package which was developed specifically for Indigenous people. We have introductory workshops. We have certificate IV level accredited courses. We also have a new diploma course, which is being trialled in Victoria, which includes participants from around the country. We also produce a lot of governance materials and tools for

Indigenous organisations and we make them available in our website publications, with a really strong focus on ensuring that they are written in plain English, have a lot of colours and pictures and are very short and sweet. They are not too complicated.

In addition to that, one of the new functions we introduced on 1 July this year is a new dispute resolution and mediation service. Another thing that makes us a little bit different from other regulators is that we actually get involved in disputes between members of Aboriginal organisations, between members and directors or between directors and directors. Mainstream regulators tend to stay out of that type of role, and it is usually left to the courts to resolve. There is a lot of evidence to suggest that there are more disputes within Aboriginal and Torres Strait Islander organisations than mainstream organisations, so a key role that we introduced from 1 July is where we get involved in mediating disputes.

The next major part of the framework that we provide is a regulation process. This is our involvement when we use our powers, under the legislation, to introduce change or to prosecute breaches of the legislation. We have a formal process of examinations where every year we examine 60 to 80 Indigenous organisations around the country. We do not just look at their accounts; we go through their governance practices. Are they holding AGMs? Are they holding directors meetings, keeping minutes and engaging with their members? Are they also producing financial statements and disclosing information to members? We also look at their solvency, so we do go through their books and records. We do between 60 and 80 corporations a year under that rolling examination program.

Something else that is contained in our legislation and does not exist in the mainstream Corporations Act that ASIC has is that we also have the power to appoint a special administrator to Indigenous organisations. Where we receive a complaint or intelligence that there are governance issues within an Indigenous organisation, we have the power under the legislation to appoint an external, independent person, and we have a panel of qualified accountants involved who are experienced in insolvency and working with Indigenous organisations. Those special administrators have the power. They replace the board of directors of the organisation. We can use them to investigate issues within the corporation, but we can also use that role to restructure the organisation to improve its governance; we can replace the directors, rewrite the constitution, develop formal business plans for the organisation and resolve any issues with funding bodies. It is a unique power that rests with my office alone, but it is an important one for how we get involved and provide that hands-on assistance to Indigenous organisations.

My office and the role that I play have a strong commitment to the link between economic development and self-determination for Indigenous people. The reason the legislation I operate under, the CATSI Act, was passed was to recognise that. One of the functions and responsibilities I have is to ensure that Indigenous tradition and culture is incorporated into the way that I administer and regulate the legislation.

We look at the ways different Indigenous communities and people may operate governance within their own communities. For instance, two days ago I was at Balgo community in remote Western Australian. We have restructured their constitution and governance arrangements along family lines, so instead of having a board of directors which is elected by the broad membership of the community each of the 14 family groups in Balgo, gets together and elects a director to

represent them on the board of directors. It is more of a representational model than the standard election process and model that you may see in mainstream organisations.

One of the key issues for my office is that Indigenous organisations really do struggle with the capacity to comply with legislation, no matter whether it is state associations legislation, the Corporations Act, or my legislation. Many have difficulties with English, and there is a different culture involved so there are different ways that they manage the obligations in their communities. A large part of what we do, and it is written into the legislation we operate under, is to build up the capacity of people in Indigenous communities when they are involved in Indigenous organisations. The training component I spoke about, the mediation and dispute resolution, and the advice and assistance we provide are all about developing the capacity of Indigenous people who are involved in these Indigenous organisations. We are asked what our major role is: I see our major role as developing the capacity of Indigenous organisations and the people who are in those organisations.

The legislation was established as a separate measure. The focus that we work on is developing the capacity of people and organisations, because while Indigenous organisations may remain with us for a certain period of time, our long-term goal is—and we see it as a success—for Indigenous organisations registered with our office to get the capacity to run their own businesses, set up commercial operations, and then move to the mainstream sector and maybe register with ASIC under the Corporations Act. We see it as a success if Indigenous organisations move away from our legislation into the mainstream, provided it is for the right reasons.

As I said, the CATSI Act—the legislation we operate under—is a very flexible piece of legislation. It has introduced significant changes from the old legislation. It has been tailored specifically to meet the needs of Aboriginal and Torres Strait Islander people around the country. Central to the intent of the legislation is recognition that there are different cultures and traditions that Indigenous people operate under when they are managing organisations, whether they are for commercial reasons, for non-profit reasons, or just for private purposes. The legislation does reflect that.

We have 2,622 organisations registered with my office, and the majority of those—about 58 per cent—are from remote, or very remote, parts of Australia. Our major focus is on working with remote and very remote people. There is a lot more support in the capital cities and the major regional centres, and we recognise that the majority of Indigenous people are located in the capital cities on the eastern seaboard. They have a lot more access to services than people do in remote and very remote areas. Aboriginal legal aid services, private solicitors, and more government bodies are based in those areas. Of the Indigenous organisations registered with us, we really focus on that remote and very remote sector, and on improving the capacity of Indigenous people to manage their organisations.

Also, the majority of the organisations that are registered with my office are not for profit; a large proportion of them are about delivering services to their communities and also delivering government services. For instance, they may be delivering municipal services, CDEP programs, arts centres, health services, and a whole range of legal aid services or family violence prevention legal services. So a whole range of government services are provided through organisations registered with my office.

I would like to point out one thing. Last year the Productivity Commission report *Overcoming Indigenous disadvantage: key indicators 2007* identified a number of factors that contribute to good Aboriginal and Torres Strait Islander corporate governance. There are a number of indicators in that report, but two that stand out and are relevant to my office are the capacity building and the cultural match. As I said, those are the two things that we really work on and that are incorporated into our legislation. The Productivity Commission, in its report, did acknowledge that one of the things that are working out there in Indigenous governance is the program that my office delivers in the Indigenous training space. It said that it is one of the things that are working really well, and it recommended that that be rolled out further.

To summarise, for me our major focus is on capacity development and providing support services to Indigenous organisations that mainstream regulators probably would not provide, but at the end of the day we see our role as being successful if Indigenous organisations move out of our environment and into the mainstream sector. We acknowledge that there is a change of focus in how Indigenous organisations will need to operate in relation to what their key activities and core roles will be and that there will be a move away from delivery of government services to more of a focus on economic development in those communities and to taking advantage of the changes that may be coming along for communities. In summary, that is what I would like to say.

CHAIR—Thank you. Do you have an opening statement, Mr Boyle?

Mr Boyle—No, we are together.

CHAIR—No worries. I have a couple of questions, but we ran this in a pretty fluid way in our other hearings, so if anybody else wants to jump in and ask questions then do not hesitate. There are 2,600 corporations on your books?

Mr Beven—That is right.

CHAIR—I take it that number is growing.

Mr Beven—It is growing. There was real growth in the late seventies, when the legislation was first introduced, and again in the eighties there was a real peak. It has plateaued to some extent now. We are aiming, for this year, to see an increase of about 15 per cent in corporation numbers, but we acknowledge that of those 2,622 organisations registered with us there will be a number that are defunct.

CHAIR—I was going to ask that. Do organisations ever get deregistered?

Mr Beven—Yes, they do. Last financial year we deregistered about 18 corporations, and the year before I think we deregistered about 130 corporations.

CHAIR—Is that by virtue of them being defunct and you initiating that, or is that people coming to you and saying, ‘We want to deregister our organisation’?

Mr Beven—About 99 per cent of the deregistrations are initiated by my office. Where we identify that an organisation is defunct—it may not be holding annual general meetings; it may

not have lodged financial information with my office for some time—we determine that they are not carrying on business and therefore we will initiate the deregistration process. But there are a small number where the organisation will actually approach us and say: ‘We’re defunct; we no longer require the organisation. Can you please deregister it.’

CHAIR—Do you, then, keep stats on which organisations are active and which you think or suspect may not be active?

Mr Beven—That is right.

CHAIR—On that basis, I guess the question I am trying to get to is: do you feel as if the number of active organisations is growing?

Mr Beven—Yes, it is. As I said, we are anticipating about a 15 per cent increase in registrations this financial year. The key answer to your question is not so much whether the numbers are growing but what the activities are that they are involved in. When we look at what activities Indigenous organisations registered with us are involved in we are seeing a real shift away from the delivering of government services to being more mainstream organisations, more profit oriented bodies.

CHAIR—This is, in a sense, a redundant question because we could look at the legislation, but can you be a for-profit entity under this act?

Mr Beven—That is right. Under the legislation, you can establish a one director one member organisation up to no limits. You can be not-for-profit or you can be for-profit so you can distribute profits to members.

Dr STONE—We noted that you said you do a major training effort—that is great. I am sure that is very much needed, not just in the Indigenous sector but in the non-Indigenous sector as well. I have had representation in my own electorate about how the requirements for Indigenous organisations to comply with the corporations requirements is far more onerous than for non-Indigenous in terms of reporting arrangements, the volume and times that they must report and so on. We possibly collected evidence on this when I have not been there, but there is a strong sense.

A lot of the services being delivered are on behalf of government agencies like CDEP, legal services for the Attorney-General’s for domestic violence and safety and so on, but you have also mentioned that you have more corporations moving towards mainstreaming themselves. When they want to mainstream or go for-profit they tend to remove themselves from under this act’s sphere of influence into mainstream. Are we at a stage yet where we can say these Indigenous organisations would be better off just simply mainstreamed with the same requirements for compliance but with training available—training that is also available to non-Indigenous people? Many argue that the extra burden of proof, the extra scrutiny of Indigenous organisations, is not fair and leads a lot of them to actually fail because of the very dense requirements that is put on them by this act.

Mr Beven—I am glad you raised that because it is a very good question that is quite often raised with us. Regarding the first part of your question about the reporting requirements, under

the CATSI Act—the legislation that I administer—the reporting requirements are based very much on the Corporations Act. So they are very similar to those for mainstream organisations. The only difference is that last financial year there were some changes made to the Corporations Act which raised the limits as to who had to lodge financial reports with ASIC. When the legislation I am operating on was drafted, it was based on what the Corporations Act limits were at that particular time. So the percentage of organisations registered with ASIC that have to lodge financial reports has now decreased as a result of those changes. The proposal is that my legislation will be changed down the track to match that. So yes, there is a little bit of mismatch there.

But it is important to note that there are reporting requirements under my legislation but there are also reporting requirements that funding bodies have which are not in my legislation. So whether you are an Indigenous or a non-Indigenous organisation and you apply for funding from FaHCSIA or the Attorney-General's Department, there are reporting requirements in the funding agreements between the department and the organisations. There is some confusion out there in the community about these mandatory reporting requirements: are they under the legislation or are they pursuant to funding agreements? The majority of the reporting burdens that people are referring to are under the reporting agreements and there are more regular requirements for those. Under my legislation there is only a requirement to lodge reports with us once a year, which is similar to ASIC's requirement.

CHAIR—You did say, in answering that, that the reporting requirements under this legislation are now higher than the Corporations Law.

Mr Beven—Yes, the thresholds are mismatched with the changes that have been introduced into the Corporations Act, which has much higher thresholds. But the intention is that amendments will be made to our legislation down the track to raise the limits in our legislation so that it does keep track with the Corporations Act.

Dr STONE—You mentioned 60 to 80 rolling examinations—I think that is what you called them—

Mr Beven—That is right.

Dr STONE—out there they call them 'raids'. You can imagine what they feel when suddenly there is a knock on the door and you walk in. They have had no warning and some of them feel quite threatened. Is that regime of a similar sort of proportion, or percentage, to that which the non-Indigenous corporations law imposes? It is not, is it?

Mr Beven—No.

Dr STONE—That is another difference. Indigenous people feel somewhat put upon with that particular rolling examination, as you called it. I have had instances of people talking to me—and it was reported in the media that this had happened—and the implication was that perhaps there was some fraud going on, or something untoward. Given it is an additional role that you perform, have you got a view—of course, it will put you out of business—about moving towards mainstreaming all this Corporations Law, with the additional training specifically for non-Indigenous people as well, in order to take away what might be seen as a race based requirement

or a suggestion that they are more likely to defraud or will come adrift compared to other groups in Australia?

Mr Beven—That was the second part of your question—I am sorry I did not get to it initially—around the mainstreaming. The reason the CATSI Act was enacted as a special measure is that, at the moment, there are 1.4 million organisations registered with ASIC, and it was recognised that Indigenous organisations—particularly in those remote and very remote areas—do need a lot more assistance. If they became mainstream organisations registered with ASIC, ASIC just would not have the resources or the capacity to actually do the hands-on assistance that we provide to those organisations. It is not their role. ASIC looks after mainstream organisations and their role is providing that regulatory regime for those types of organisations.

The intention of the legislation, the CATSI Act, is about having a special measure for Indigenous organisations so there is a separate regulator that has the resources and the capacity to actually provide that assistance. We provide legal advice to corporations and we provide a 1800 advice service. The training package that we provide is one that, as I said, is focused on the remote and very remote areas. Yes, there are training opportunities for all types of organisations throughout Australia, but we do find that the most difficult type of training, and the most expensive and time-consuming, is for the remote and very remote areas.

Dr STONE—Even though just over half of your customer load is remote. As you said, only 58 per cent is remote; the others are not remote.

Mr Beven—But, as I said, the major focus of that training program is on the remote areas. We look at where the needs are, and our view is that that is where the needs are. We also look at whether there are alternative service providers. For Indigenous organisations based in Sydney, Brisbane and Melbourne, there are a lot of other registered training organisations that they can access, whereas if you are in Balgo, in the middle of the Great Sandy Desert, there are not a lot of registered training organisations that will take the time to go and deliver services there. The population base in those communities does not have a lot of disposable income that they can use to pay for training fees. The training we provide is free of charge to the participants, and we do see our role as filling that gap where there are no other registered training organisations available to deliver the services.

Getting back to your question about mainstreaming: yes, we would love to see our office becoming redundant and all Indigenous organisations moving into the mainstream sector, but at this stage I think there is still a need for a special measure where you have got a special body that is set up just to provide those additional services to Indigenous people, to build up their capacity. As I said in my introduction, we see ourselves as being successful when a Indigenous organisation deregisters from our regulatory environment and moves over to ASIC in the mainstream.

Mr Boyle—We have all the native title claim holders coming under us as the prescribed bodies corporate. We certainly recognise that that is a very unique area of corporate governance requirements. One avenue for the registrar's office is to provide support to that very particular area, and we are certainly recognised as a body that can do that. Those skills lie not just around the specific area of native title but also in making sure there is a cultural match between the

constitution of a corporation with a governing structure. That is a unique framework of our legislation. From dealing with clients, we recognise the frustrations with the regulation. One benefit has been proving that there is no more or less corruption in Indigenous or non-Indigenous corporations. Some of our work is testing that. We also give certainty to funding bodies and governments by saying, 'These corporations are healthy, they are performing well and they are not corrupt.' That gives certainty to the Australian government or other states in order to say that you can fund them and they are doing well.

CHAIR—I am interested in matching the Indigenous circumstances to the corporate structure. How does that work in practice? When somebody comes to register, do you interview them about the particular structure they want and the cultural way in which things are being done?

Mr Beven—With mainstream organisations such as ASIC, you pay \$400, fill in the form, ASIC processes it and that is it. With the way our legislation is established, we still do the old pre-vet process where we sit down and go through the corporation's constitution, and there are specific requirements that are built into all organisations' constitutions that are registered with us. They must have mandatory dispute resolution processes that meet the cultural and traditional requirements of that particular Indigenous organisation. We go through the constitution line-by-line and, if we see that there is something that does not meet the requirements of the act or maybe we have a suggestion of going a different way, we then go back to the organisation and suggest that.

We also have what we call a 'doorway service' where, if we are requested by an Indigenous group that is looking for incorporation, we will sit down with them and say, 'Should you be registered with ASIC, should you be registered with my office or maybe registered with the state as an association?' We go through that process with them and make sure that they are registering in the right environment and also for the right reasons.

CHAIR—Is there a standard form of the constitution?

Mr Beven—Yes, we have standard form model rules that people can use.

CHAIR—Do have a sense of how many of the organisations that are incorporated use that?

Mr Beven—The majority of them do use the shell of the model rules. But, unlike the experience we have seen with state bodies where most state associations will just change the name at the top and not do a lot of changes, we do find that most organisations fiddle around with the model rules. Particularly important to Indigenous organisations is the membership. They do put a lot of work into who can be a member of their organisation and who can be a director of their organisation. They do a lot of work around structuring it so you have to be a member of this tribal group or this particular family from this particular region or married to someone. So I would say, yes, the majority do use the model rules but the majority also do play around with it to ensure that it does meet their needs.

CHAIR—In that customising process, I assume a lot of what you do is provide advice and assistance in how to customise?

Mr Beven—That is right. We do that pre-vet where we go through the constitutions line-by-line.

CHAIR—Picking up on Sharman's question about the rolling examinations, how do you choose the 60 to 80?

Mr Beven—I may not have answered that question—I apologise. Last year we conducted 60 examinations. We have a program where a certain percentage are driven by complaints or intelligence that an organisation may be struggling in its governance. We also have a number that are just on a preprogrammed program where, for our top 100, we will make sure that they get examined at least once every three years. Last year there were 60 examinations; this year we are planning on doing 80 examinations.

CHAIR—Top 100 by what measure?

Mr Beven—Assets, liabilities, turnover and those sorts of things. The majority are based on the preprogrammed work, but about 25 per cent of the program is complaint or intelligence driven.

Dr STONE—You can see, given there is no clear reason why they are being examined, that word is out there: 'It is because there has been a complaint'. You can see how there is great confusion and concern when one of these occurs, because it is not clear whether they have been randomly selected or whether it is because of some disgruntled board member who has just been voted off.

Mr Beven—The program that we run is unique to Indigenous organisations and we do a far greater percentage than ASIC.

Dr STONE—That is the point I was making before as well. I think we need to examine that.

Mr Beven—I should just point out that ASIC also does have a rolling program where it goes out and looks at the accounts and governance of mainstream organisations. The majority of that is also complaint and intelligence driven. To pick up on your earlier point, before we go out and conduct an examination we always give notice to the corporation. We tell them when we are coming and what we are going to do. We never just rock up on their doorstep and say, 'We're here. Show us all your books and records.' We have to give them formal notice that we are coming. Regarding the case that you mentioned of just rocking up on the doorstep, it may not have been my office, and I would say that it was not my office.

Dr STONE—I will talk to you about that; it was, in fact.

CHAIR—Do you keep stats of how many of the organisations transition into being mainstream and registered by ASIC?

Mr Beven—At this stage it is only a very small number. At this stage, we have currently got three applications to transfer from our legislation across to ASIC or a state based regime. There are only three on the books at the moment.

CHAIR—Fifty-eight per cent of the corporations are in remote Australia, which does not match up with the Indigenous population. Why is there a skewing of those things?

Mr Beven—To go back to my earlier point, I think that those Indigenous people who are based in the capital cities or the eastern seaboard do have a lot more access to Aboriginal legal aid services, private solicitors and business consultants, so they get the support they need. They may say, ‘I just want to be a mainstream organisation. I don’t need all these other services’, which my office provides, whereas the remote and very remote organisations do not have the access to those services. So, anecdotally, I would say that that would be the main factor.

CHAIR—We are on a tight time frame so we might need to call it a day now, but we might also leave it open for the secretariat to follow up on a couple of those issues with you. Thank you very much for giving us your time today.

[12.48 pm]

ALTMAN, Professor Jon Charles, Private capacity

JORDAN, Ms Kirrily, Private capacity

CHAIR—Although the committee does not require you to speak under oath, you should understand that these hearings are formal proceedings of the Commonwealth parliament and that the giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. Having got that out of the way, would either or both of you like to make an opening statement, and then we will fire some questions at you?

Prof. Altman—I will make a brief opening statement, which I prepared. There is a growing and increasingly dominant policy discourse advocating a monolithic solution to the Indigenous economic development problem, to join the mainstream. There is also an overarching goal to close the gap. While the enterprise gap is not identified as a specific target, clearly economic equality will require equality in this domain as well. Both the discourse and the goal pay lip service to Indigenous diversity of circumstances but provide little practical assistance.

In our submission we seek to challenge the emerging view that Indigenous economic futures are predominantly in the mainstream and off the Indigenous estate, a view given considerable credence by the Prime Minister's support for the so-called Forrest plan to create 50,000 full-time jobs in the private sector within two years.

Our focus is primarily on enterprise opportunities on the Indigenous estate that are almost entirely located in remote and very remote Australia. We note that in remote Australia in 2001, Indigenous people were 15 times less likely to be self-employed than non-Indigenous people, a proxy for enterprise engagement—and obviously there might be some statistical problem with the census there—compared to a ratio of three times less likely to be self-employed than non-Indigenous people in metropolitan Australia.

Our focus is on the most difficult of circumstances. Our focus is also principally on enterprise opportunities and natural and cultural resource management. We note that a similar focus is only evident in a few other published submissions to this inquiry to date. We make the case based on considerable research that there is a national interest in recognising the value of Indigenous and local knowledge which is utilised in managing the considerable, environmentally intact Indigenous estate. The competitive advantage enjoyed by Aboriginal landowners needs to be recognised, respected and properly remunerated. We see some evidence of this emerging in the Working on Country program introduced by the Howard government in May 2007 that pays Indigenous community rangers proper wages for provision of environmental services on the land and in the coastal zone.

Realism and statistics indicate that business opportunities exist in somewhat unusual hybrid economies on the Indigenous estate—economies that encompass market, state and customary sectors. Such business opportunities will need to be supported with unconventional approaches. We provide information about the Bawinanga Aboriginal Corporation, an organisation that I

have collaborated with for nearly 30 years. This organisation has successfully established myriad commercial and other enterprises that have been underwritten, in large measure, by the CDEP scheme. I note that the Bawinanga Aboriginal Corporation has not been in a position to provide a submission to this inquiry, but they have allowed me to present five of their most recent annual reports which I would like to table, which will give you a feel for some of the things that they do. They are very caught up with making a submission in relation to the NTER review at the moment.

This exemplary case has many features that can, in combination, explain its success—organisational longevity and sound governance, scale of operations, a development philosophy that reflects diverse regional aspirations and excellent, entrepreneurial management. We are concerned that organisations like BAC, which have incubated many enterprises, are currently operating under considerable uncertainty because the CDEP scheme is being vilified for no particularly sound theoretical or empirical reason. It has been wrongly conflated with passive welfare, when it is active workfare, or a wages subsidy scheme and it is being blamed for cost shifting by governments probably for decades.

In relation to successful business models we identify three. First, community-based arts centres whose success has been recognised for decades and who received some increased funding support from the Rudd government earlier this month. Second, CDEP organisations that are currently under various forms of review and face much uncertainty that is hardly conducive to sound business planning. Third, out-station resource agencies are currently hamstrung by an absence of any coherent policy at federal and state/territory levels and by no clear support framework.

It is these organisations that support the 500-plus small, remote communities whose members provide many important environmental services on the Indigenous estate. Each of these models is a form of Indigenous enterprise that fosters individual productive employment and income generation in the most difficult of circumstances. These are unusual enterprises because they are often community controlled incorporated entities—some of the entities that you have just been talking about. But statistics tell us that they are successful and sustainable but require some ongoing government support.

In our view there is too much focus at present on what has failed in Indigenous affairs and so we set out to reorientate the discussion on what has succeeded historically, what is currently succeeding and what could make a major difference to Australia, especially in ameliorating carbon emissions and the impacts of climate change.

We note that, 23 years ago, the very comprehensive Miller inquiry into Aboriginal employment and training programs advised the then Hawke government to invest in building an economic base in remote Australia. This advice was largely ignored or underresourced. We seek to reiterate that what is succeeding accords with local landowner aspirations, is in the national interest and should be appropriately supported by both public and private sectors to reflect public and private benefits.

We end by noting that, at a time of uncertainty, it makes sense for the Australian nation to invest in diversity as a risk minimisation strategy. This is a major option that Indigenous enterprises on the Indigenous estate offer. The challenges facing Indigenous enterprises

everywhere in Australia are immense. We suggest that any instruments that have a proven track record be supported.

Ms Jordan—I would like to reiterate what I think are some of the key points. In looking at Indigenous aspirations, it is a common aspiration to stay on country, particularly for people in remote areas. One of the other things I have been working on recently is looking at the notion of Indigenous well-being. There have been several studies about Indigenous wellbeing and how Indigenous people perceive wellbeing both here and overseas. Often at the top of the list is connection to country, culture and family. There are two things here: there is the aspiration for people to stay on country and there is also the opportunity for enterprise in natural resource management. Linking those two things together makes sense and that can be done in a number of ways like the Working on Country program, enterprise support and things like outstation resource agencies and CDEP underpinning wages in Indigenous enterprise. It is a great opportunity, particularly, as John mentioned, in response to climate change. That is an opportunity that is going to increase with things like changes to biodiversity. The spread of invasive weeds is going to bring more and more opportunity and need for environmental management.

CHAIR—Help me understand the thesis that you are putting forward. Am I right in saying that you are confining your comments to the non-urban Indigenous population?

Prof. Altman—We certainly are.

CHAIR—So you are not talking about the three-quarters of Indigenous Australians who are living in cities?

Prof. Altman—No, we are focusing on the approximately 20 to 25 per cent of the population who live on the 20 per cent of Australia—1.5 million square kilometres—that constitutes the Indigenous estate.

CHAIR—Fair enough.

Prof. Altman—Our colleagues, I think, will talk more about urban and metropolitan situations.

CHAIR—I thought that was what you were saying; I just wanted to understand that. You made a comment about Andrew Forrest. Are you saying that that proposal is good or bad? I know it is probably not as simple as that.

Prof. Altman—I am saying that that proposal is wishful thinking. I could go into that in quite a bit of detail, but I will put forward two statistics. Firstly, in the last five years, while the Australian labour market has been at its most robust historically ever, 20,000 jobs have been created for Indigenous people in public, private, part-time and full-time jobs, so we have to look at this proposal in the right context. Secondly, if you translate that into what you would be looking to do in the Australian population proportionately, you are looking at creating over a million jobs in two years. I have already said that publicly. What I am also saying is that these sorts of schemes, given the size of the Indigenous population and the fact that there are only 25,000 Indigenous people registered as unemployed, have implicit in them an emptying of the

Indigenous estate. Some of these people will have to come off Aboriginal land. We have recently had a lot of discussion about labour migration for seasonal employment—in the agricultural sector, for example—and the implication there is that these people come from remote areas. Part of what we are saying is that these people are actually needed on the 1.5 million square kilometres of relatively environmentally intact Australia, not just to undertake jobs in the provision of environmental services but also to retain viable, robust communities on the Indigenous estate.

CHAIR—I am glad you said that, because that makes it a lot clearer for me. As I understand your thesis going on from that, you are saying that the idea that the solution to this problem is to simply mainstream Indigenous economies and employment is simplistic.

Prof. Altman—That is right. It is much more complex than we sometimes wish to say publicly and, again, I try and cast that in terms of the notion of closing the gaps. Again, some of my colleagues and I have done research on closing the gaps, looking historically at what has happened over the last 35 years statistically, and what might happen in the next 35 years. We would be concerned if there was any view that in parts of Australia, particularly remote Australia, you will be closing the gaps in the next few decades.

CHAIR—There is a focus in what you are saying about participating in environmental management and employment which is culturally comfortable and relevant—if I am using the right terms. When we were in Kununurra, we heard evidence from the Argyle Diamonds people who were seeking to have a program where they were attempting to have a much greater involvement of the Indigenous population in their work which is, in a sense, a very mainstream part of the economy conducted in remote Australia. What is your view about that? Does that meet the paradigm you are describing? Does it have a role?

Prof. Altman—The paradigm I have looks for employment diversity. I am well aware of the operations of ADM. I am also aware that we have done work with ADM Rio Tinto that shows that even if all the mine workers were Indigenous you would still have an enormous employment problem in the Kimberley. We are saying that you need to create employment opportunity in the private sector, in situations like the Argyle Diamond Mine, but also you need to recognise that you will have to create employment opportunity in the customary sector and in the state sector. You will have to recognise that there is a whole range of employment opportunities out there and try and meet them all.

CHAIR—Sure, but on its own terms is it a contribution?

Prof. Altman—Of course it is a contribution, absolutely.

CHAIR—The point I am really trying to make is: it would seem to me to meet the idea of trying to keep Indigenous Australia on the Aboriginal estate, as you described it.

Prof. Altman—One question that really has to be asked in the context like ADM and other mines in remote Australia is: how many of the people who work at those mines are actually local Aboriginal people from the region and how many are migratory labour? But that aside, if people aspire to mainstream employment of course everything possible should be done to make that opportunity available to them.

CHAIR—Available locally?

Prof. Altman—Available locally, most definitely.

Ms Jordan—It is important to recognise that Indigenous aspiration is also very diverse. While we are saying that we should make opportunities available for people to work on country, we are not saying that people have to work on country. If there are other opportunities elsewhere, fantastic, but make opportunities available wherever they are needed.

CHAIR—It feels to me like you are qualifying it—which is fine if that is the evidence—but I just want to be clear about what is going on with Argyle Diamonds. You have made a good point about finding economic and employment opportunities on country. It seemed to me, when we spoke to Argyle Diamonds, that they wanted to localise their workforce. Maybe they are not achieving that but, to the extent that it is their aspiration, isn't that an example of what you are hoping for?

Prof. Altman—It is an example of people who live in the region working at a mine site. But you probably also took evidence from the Miriuwung Gajerrong Corporation who are looking to do something different in the same region. Insofar as you may only have a certain level of skilled labour force, there is a possibility that Rio Tinto could be competing with the Miriuwung Gajerrong Corporation for skilled labour. What I would be concerned about is a view that the interests of Rio Tinto should take precedence over the interests of Australia in terms of managing the Kimberley environment.

CHAIR—Fair enough, I think that answers what I was trying to get at.

Mr TURNOUR—Thanks for coming along and presenting to the committee today. I just want to go to your example of Bawinanga Aboriginal Corporation: how long have they been in operation.

Prof. Altman—Since 1979.

Mr TURNOUR—Since 1979. How many Indigenous people are employed within the corporation?

Prof. Altman—It depends on how you define employment. The Bawinanga Aboriginal Corporation has approximately 550 CDEP participants. It also has approximately 60 or 70 of what they call staff positions.

Mr TURNOUR—Are they all topped up by CDEP?

Prof. Altman—No, a lot of those are staff positions either created from their operating surplus or funded under the Working on Country program. They are actually government-funded salaried positions. What the Bawinanga Aboriginal Corporation does in relation to its 550 CDEP participants is turn somewhere in the region of 250 to 300 of those into CDEP plus top up positions which approximate jobs that are somewhere between 30 and 40 hours per week. Again, they use their enterprises to generate income that is then ploughed back into enterprises to create employment for CDEP participants.

Mr TURNOUR—Thank you for bringing your financial statements and your annual report—I always find them useful. Does the grant income in the financial statements include CDEP too?

Prof. Altman—Yes.

Mr TURNOUR—It is not just government grants. A lot of the income from the trading expenditure is, effectively, churning back because local people are spending in their own shops?

Prof. Altman—Absolutely.

Mr TURNOUR—Okay.

Prof. Altman—To amplify that, I should say that there are also people in that region who are not on CDEP, who are getting welfare payments. That, too, is generated through local stores. But it is important to recognise that the Bawinanga Aboriginal Corporation is not a monopolist in that region. There are other enterprises where people also shop.

Mr TURNOUR—Do they do contract work to the local council?

Prof. Altman—They do, yes—now the shire.

Mr TURNOUR—Good and you are putting that forward as a model. I suppose this comes to the crux of the matter in some of the recent debate about CDEP. What is the life expectancy in that region? What are the school attendance rates? What are some of the basic social indicators in that area?

Prof. Altman—The social indicators in that region are typical of Indigenous remote Australia. The Bawinanga Aboriginal Corporation is not empowered to address all the social problems in the Maningrida region. But the statistics tell us that in relation to its membership, it provides them with better employment opportunities, income supplementation, training opportunities, and opportunity to work in enterprises. Certainly, the operations of BAC, which have really only morphed into being a development agency since the 1990s, do not have the capacity to—again, using that language I used before, ‘close the gaps’—for the regional population.

Mr TURNOUR—I think you said you had 500 on CDEP. It must be the biggest employer in the region, I would imagine?

Prof. Altman—Absolutely.

Mr TURNOUR—I suppose this goes to the crux of the argument about CDEP—I am the member for Leichhardt, so the whole of Cape York and the Torres Strait are in my electorate—

Prof. Altman—Yes.

Mr TURNOUR—so I travel to some remote Indigenous communities. One of the things that I have seen is that for a long time—too long—CDEP has been used as a supplement for doing basic government type work, whether it is as teachers’ aides, health workers or whatever. It could also be used to effectively crowd out any opportunity for a family that wanted to do a

stand-alone business. What are your views or comments in relation to that? From what I have heard from the evidence today, a sense of the arguments is that we should continue to use CDEP as a subsidy to allow these businesses to continue operating in the way that they are because, if we pull CDEP, they would not be able to function in the way that they do at the moment.

Prof. Altman—I would take that argument a step further and say that CDEP in this context needs to be enhanced, particularly if you are wanting to generate enterprise, because CDEP has a very minimal capital component, for example. I do not think CDEP does crowd out people who want to exit CDEP. Again, in the Maningrida region, under BAC's auspices, there are plenty of exits from CDEP into salaried work. There have been attempts to encourage people into small business on the back of CDEP, although it has not been particularly successful, but I do not think that is because of barriers created by CDEP; I think it is more to do with barriers created by the nature of social capital in that community. This is predominantly a kin based society and I think setting up individual business can be very difficult. But, again, you have individual business models that are quite unusual. Some Indigenous artists working through Maningrida Art and Culture, which is one of BAC's business arms, can actually have self-sufficient households based on the sale of their art. So they operate as small businesses and move off CDEP.

I do think that CDEP gets a lot of bad press because of some views about it from your constituency. I do not think it works as effectively as it has in other parts of Australia. I think there is also a strong conflation on Cape York between CDEP and passive welfare. What you see in places like Maningrida, where you have a robust organisation that polices a strong no-work no-pay rule, is that CDEP is fundamentally very different from passive welfare.

Dr STONE—I know Maningrida quite well and I have visited a lot of the facilities there. One of the things that I was particularly impressed by was the women's artwork—the screen printing and so on. It was quite clear that that work was generating very good returns, as it should, because it was of the highest quality. While I was there they were filling a contract to do curtains for a major government building. But it saddened me that those women were still on CDEP. These women were skilled, I understood that they were labouring most days, but they were still officially on what was invented 30 years ago as welfare—Work for the Dole, which remains a passive work for the dole type scenario. Given that BAC, as I will call it, does make an enormous profit—it has a very substantial turnover and profit—why wouldn't the organisation put those women and the other people on CDEP onto proper salaries, real salaries, with increments before them, professional development, superannuation, long service leave, maternity leave and all of those sorts of things rather than top up its own business success with subsidies from government? I guess that is one of the major concerns.

There are not many people—we have the statistics—who have transitioned through CDEP into real jobs and real salaries, not until the emergency response, where that was made an absolute focus, with \$70 million to do that. I pick up on Jim's point. There are people like teacher's aides, mostly women, who have been working for a very long time in schools and have never been taken seriously by the Northern Territory government as public servants. They have never been trained, never been given continuity of work and never been given a part-time or full-time permanent position because they are on CDEP, and CDEP is a means of cutting down their own government's investment in that workforce, the cost of that workforce. I could go on and on.

I am concerned that anyone could argue that an Indigenous worker who does a good job and is, in this case at Maningrida, highly skilled should not be given the opportunity to earn like any other Australian and be counted in the workforce statistics like any other Australian—because on CDEP you are not.

Prof. Altman—You are actually. You are counted as employed—

Dr STONE—Yes, you are counted as employed, but we know that of those on CDEP only about 20 per cent have active work.

CHAIR—I am sorry, but we have to go to a division in the chamber.

Dr STONE—Professor Altman, I will not be able to return after the division, but I am sure that your response will be recorded in the transcript and I will read it.

Proceedings suspended from 1.15 pm to 1.27 pm

CHAIR—Do you remember Dr Stone's question?

Prof. Altman—I do remember the question and I would like to respond because I am surprised at how poorly she understands how the CDEP scheme works, and the way BAC operates. The first thing I would say is that the profits that are generated by the organisation are relatively small, and vary from year to year, but they are actually ploughed back into enterprise development. If they were ploughed back into creating a handful of full-time jobs, the development infrastructure that is Bawinanga Aboriginal Corporation would disappear. That is of concern to me.

The other thing that Sharman Stone does not take into account is the option of working on CDEP, and having top up through the women's arts which, as she referred to, often suits people. Most of the women who work at the women's centre have children, and they are looking for flexible employment. CDEP provides them with that flexibility, as does the arts work that they do at the women's centre. So, again, from their perspective it is a very useful model.

She also referred to the issue of cost shifting, or substituting funding, with CDEP for government services. As I tried to highlight in my opening statement, I see that as being much more of a problem of governments, than of the CDEP scheme. The fact that governments will not provide proper employment for Indigenous people in remote communities is not a fault of the CDEP scheme, but it is a problem that hampers exit from CDEP into proper employment. We do have to remember that when the Howard government was going to abolish the CDEP scheme in the Northern Territory last year, it was going to abolish 8,000 CDEP positions, and was looking to replace those with 2,000 so-called 'proper' jobs. So, there was a gap there of 6,000 positions which was going to result in 6,000 people going from CDEP into welfare. My argument would be that it is much more positive and beneficial for people to be employed under CDEP, undertaking productive activity, and generating additional incomes for themselves than being thrown onto the dole because of a top-down government policy.

CHAIR—Okay. In answer to a question from Mr Turnour, you said that the social indicators at Maningrida are similar to other remote communities. I suppose the question is: what, then, should change to close the gap and does economic development have a role?

Prof. Altman—Economic development has a huge role in closing the gap, but what it has to be is development that accords with local aspirations and these will vary enormously. I would also say I made the qualifier that in the Maningrida region, according to standard social indicators, there has not been a closing of the gap. But I think, as Kirrily was hinting in her opening statement, wellbeing can be measured far more broadly. A role that BAC also plays in the Maningrida region is supporting outstations and allowing people to live on their ancestral lands. That has enormous positives for people's wellbeing, for people on outstations to actively engage in a range of customary and market economic opportunities. There is documented evidence that when people are on country, they are in better health and in better psychosocial condition than if they are unemployed and living in townships.

CHAIR—Is the implication of saying there are other measures of wellbeing than, perhaps, the traditional measures that you might see in a current Western market economy—which I think is the point you are making—that the aspiration of closing the gap is something that we have got wrong?

Prof. Altman—I think the aspiration of closing the gap is not so much wrong, as it is probably fraught—if it means eliminating the gap. If it means moving to closing an unacceptable gap, then I think it is admirable. But in remote Indigenous circumstances, we have to recognise that gap can be closed in many ways. Mainstream employment is not necessarily the way. For example, to close that gap you may need to see people migrating away from their land, and that will have negative consequences. I do want to emphasise that—getting back to the business of this committee—the point we are trying make is that there are productive enterprises in remote Australia, but they generally have not been given equitable support by the Australian state. What we need to do is focus on examples like BAC and look to replicate those. You might take a model like BAC and, for example, give them multi-year CDEP funding certainty; give them better capital support, and not have a welfare regime in Maningrida sitting alongside CDEP. In other words, it is difficult to implement a 'no work, no pay' rule when there is passive welfare in the township as well. Some thought needs to be given to that.

CHAIR—Okay. I am really conscious of time, but I would love to keep going with the conversation, so maybe what we will do is keep going with the conversation through the secretariat. There is one detail I do need to clarify: in our briefing notes, we have got you as the Director of the Centre for Aboriginal and Economic Policy Research at ANU.

Prof. Altman—Yes.

CHAIR—But you have said in your opening statement that you are appearing in a private capacity—so you are not here on behalf of CAEPR?

Prof. Altman—I am employed by the ANU and I am the director of CAEPR, but I am not representing a centre perspective. I make that point because, basically, individual academics at CAEPR have their own independent points of view, and sometimes in the public domain there is a view that we as a centre have a certain position, which we do not.

CHAIR—And you concur in that, Ms Jordan?

Ms Jordan—That is right.

CHAIR—Good. I need to clarify that. Thank you very much for giving us your time.

Prof. Altman—Thank you.

Ms Jordan—Thanks.

[1.35 pm]

FOLEY, Professor Dennis, Private capacity

HUNTER, Dr Boyd Hamilton, Private capacity

CHAIR—Although the committee does not require you to speak under oath, you should understand that these hearings are formal proceedings of the Commonwealth parliament and that the giving of false or misleading is a serious matter and may be regarded as a contempt of parliament—which is something I need to say but is not intended to scare the life out of you! Having said that, I ask: would either or both of you like to make an opening statement? Then we will fire questions at you.

Dr Hunter—Originally I was going to address term of reference 4 and Dennis was going to talk to the other three terms of reference, but we are running out of time. I have not written too much on Indigenous entrepreneurs, but I thought I could add value by talking about the theory and evidence in some way and also look at the US experience and literature. There were several theoretical influences identified in the literature since I last wrote: alternative opportunity structures, including discrimination from employers, consumers and other corporations, which we have to bear in mind; niche markets for Indigenous businesses; ethnic resources; personal motivation and family and communal support; social capital, particularly bonding social capital; class resources; business and family backgrounds and artisan skills; and bridging social capital, where the ability to link to other classes provides useful contacts. If you are being charitable, that is Andrew Forrest.

In the international literature, we just identify Garsombke and Garsombke, who wrote about the main barriers to start-up business for Native American business—which we are focusing on, obviously, because the American experience is in the terms of reference. The only thing in that that I am going to draw your attention to—you can obviously read it if you want—is that limited access to funding and capital does not vary between Native Americans and other US entrepreneurs. But, from my perspective, that might reflect the small sample size.

In the submission, we contrast that with the work by David Blanchflower, who said in contradistinction that capital constraints bind especially tightly for all minority self-employed in the US. That Blanchflower paper was interesting because it said there was no evidence of liquidity constraints for minorities in Australia, and a few other countries as well. So we have conflicting evidence as to the existence of constraints, but the definition of ‘minority’ in Blanchflower’s study was a bit problematic, so you might be able to discount that evidence as well.

Overall, the Australian literature—much of which comes from Dennis’s own experience of working; he can talk to you about that if he wants to—shows that Indigenous businesses have poor and variable access to capital markets. Indigenous entrepreneurs also have undeveloped business skills, experience and locational disadvantage. The incentives for Indigenous business are complex. There is some work by my esteemed colleagues, Jon Altman and Mike Dillon, on an income contingent loan scheme—a profit related investment scheme for communities in the

Indigenous estate, which builds on the work of Bruce Chapman and Ric Simes. I just want to draw your attention to the fact that the nature of property rights in the estate means that the issues there in remote areas are communal in nature and the investment decisions are inextricably linked with community development, as you talked about.

Our submission, in contrast to the earlier one, emphasised the need for urban Indigenous businesses to be considered separately. A number of issues are listed there. Rather than replicate that, I was going to talk about a workshop that we attended after the submission was drawn up, organised by Bruce Chapman, to talk about the efficacy of income-contingent loan schemes. They ranged across a range of areas. Professor Bob Gregory summed up the workshop by expressing his scepticism that such schemes could work in Indigenous settings on the grounds that Indigenous businesses had low expected rates of repayments and were much more likely to have substantial problems with what economists call ‘moral hazard and adverse selection’ in getting risky projects or selecting the wrong sort of entrepreneurs.

Many of Gregory’s concerns seem to be based on the fact that the Indigenous businesses he was thinking of involved broader social objectives, such as community development, which is in the remote areas. So one could easily argue that the probable conflicts between the public good and the strict business criteria will lower repayment rates and, hence, the viability of income-contingent loan schemes. In such circumstances, Gregory was arguing that you should consider grants rather than loans because of the extra cost of evaluating who you are giving the loan to and the value of the actual project in question.

Given the time constraints, I just wanted to draw your attention to that particular thing, and in urban areas we are not less likely to have the sort of issues that Gregory was constraining us with, so, even if you take them seriously, you should still consider those issues for urban areas.

Prof. Foley—I will approach the terms of reference as Nos 1, 2 and 3 because it is the way that I want to look at it, and I want to just summarise them very quickly. We provided a brief history of programs as per reference No. 1, but the things we raised there, which are worthwhile noting, are the element of policy frameworks and possibly separating commerce and culture, and we discussed land ownership. So that concept of commerce and culture is a contentious issue that we highlighted. Outside of corporate social responsibility programs, such as the NAB and ANZ banks’ programs and some mining company initiatives—which we did not elect to discuss because we thought it was better for them to discuss them rather than us—we discussed limited success by Indigenous Business Australia. When I say ‘limited’, it is very limited; it is a niche provider of programs. From an academic position and from a research of Indigenous entrepreneurship, it is important that we do not get consumed with the IBA and with their successes. I think we spelt that out statistically with the data that we provided, because people can get carried away with that, and it is important that they are a niche provider of funding.

We also highlighted the difference between the community enterprise and the stand-alone Indigenous entrepreneur. I think we were pretty succinct in pushing that wheelbarrow, that the Indigenous stand-alone entrepreneur appears to be invisible in government rhetoric, whether it is now, whether it is previously or whether it is in the terms of reference here.

In conclusion, we looked at existing programs that are not effective across the sphere of economic reform in building sustainable relationships. The reasons behind that are possibly

covered in term of reference No. 2. There we looked at Indigenous entrepreneurs in a myriad of industries. I come back to that statement again: we are not all community and we are not all in the outback. We need to understand that Aboriginal entrepreneurs are not all in the outback even though a lot of businesses are there, as you pointed out before in previous discussion. The strong expectations that are made in the areas as per this term of reference are obviously intellectual property, which includes and is not restricted to sustainable land use management and ecological management; the arts, whether it be performing, visual, TV et cetera; and tourism and related industries, which are often hampered by stereotypes and racial discrimination, very poor returns—which is the data that we are getting back from recent research in New Zealand—and high capital requirements. So, tourism, even though it is appealing as a general industry for Indigenous action, has a lot of negatives.

Aboriginal entrepreneurs, entrepreneurship and enterprise can be very successful in any industry. My research has shown that. However, we need education, we need business knowledge expertise and we need access to capital, exposure to second generation entrepreneurs, networking skills, the development of social capital and understanding discrimination within Australia. When I say ‘understanding discrimination’, that is the wider Australian population understanding discrimination.

And then Indigenous enterprises can be successful because the Indigenous enterprise, to be successful, is working within the dominant society. You do not have the situation of Maori working within Maori society or, in America, where you have the Hispanic communities working within Hispanic society or whatever. In Australia, the successful Aboriginal entrepreneur or enterprise is actually within the dominant society, which is the Anglo Caucasian Australia—the settler society. So you are working outside of your social comforts, and that is what is important to understand, which a lot of people do not.

CHAIR—So you are saying that is in contradistinction to what occurs in New Zealand and the Hispanic example?

Prof. Foley—Absolutely. Their networking and their networking skills and abilities, their development of social capital, is so strong that they can do that. In Australia we cannot, and that is categorised by our spread across the nation, the lack of skills, the lack of second-generation entrepreneurs et cetera. We just do not have that history. We have also shown comparatives with Maori. When we address term of reference No. 2, there is a lot of information on Maori comparatives. I do not have the time to go through that, but one thing comes out that New Zealand has done that is different to us. They have a thing called the global enterprise monitoring scheme, which is a way to look at Indigenous entrepreneurs. It also looks at the entrepreneurship activity throughout society in your country, and the GEM projects are a way of gauging entrepreneur activity. The research we have done in Australia is very negative. It is negligible when it comes to Indigenous entrepreneurs. In fact, it is nonexistent. We need empirical data. We particularly need you guys to make policy.

For No. 3, based on my Fulbright studies in 2001-02, I looked at the small business authority, the SBA, in Honolulu and also in California. I went through there. One of the things that came out in our research—I think it was Sonfield—was that it is not working. The SBA—

CHAIR—Can you explain what the SBA is?

Prof. Foley—The small business authority. That was the term of reference, which was ‘do we adopt the American model’—

CHAIR—Of minority business councils.

Prof. Foley—Yes.

CHAIR—All right.

Prof. Foley—Sorry, I am jumping too far ahead because I just realised what the time is. Sonfield was saying that it does not work, and it would appear it does not work. I have run through a lot of scenarios for you. Some of the things we need to address are: are we going to apply it to all minority businesses or just to Aboriginal businesses? If we apply it to all minority businesses, Aboriginal businesses will not be shown. They will disappear. If we apply it just to Aboriginal businesses, we are going to increase or inflame the racial tension that already exists. That is something that we really need to consider. We have to look at the definition of Aboriginality or the minority business. There are a lot of problems there. There are a lot of problematic applications.

Also one of the things I discussed in the submission was the Southern California business development council—the SCBDC. I used them as an example because, with the application of the American model, you are starting to create layers of bureaucracy. So, for the Indigenous entrepreneur or the Indigenous enterprise to be tacked on to, say, a tender grant et cetera, there is an immense amount of paperwork to be done. So you have this burgeoning industry over there in the States of these organisations that fill in the paperwork for you. I found one successful Hawaiian entrepreneur who had turned about one-third of his business into filling in these papers for other native Hawaiians. So it is a very lucrative business. And I found there are a lot of native Hawaiians who are getting paid and never do a project, because their name is on the tender and they are being paid a spin-off but are actually not being involved in the project. So it is not working from my own field experience.

Very quickly, as for the documentation, we talked about a 51 per cent ownership. In my research in Australia, in Hawaii and in New Zealand, a lot of cross-marriages occur in Aboriginal enterprises, which is a 50-50 split. So we cannot expect a 51 per cent ownership to be successful on these sorts of things—in the minority business. The Americans have recently dropped that to 30 per cent ownership to allow for capital increases and investment, so there are a lot of problems there too. It is very problematic. Anyway, they are some of the key issues that I wanted to raise. We are creating new layers of bureaucratic red tape where you put it in, and the key issue is: is it effective? In the States I would say it is not effective. Sorry, I have gone very fast and I have approached it—

CHAIR—That is all right, and it is unfortunate that we have had to do it this way. We will follow this up with you as well, so this will not be the end of it. I have a question to both of you: do you think that the minority business council model is the wrong tack? Are you saying it has issues that we need to be aware of, or are you saying that this is the wrong tack?

Prof. Foley—I can give you an example where one guy went from a turnover of half a million dollars to \$10.4 million because he looked at it, got involved with a Navy tender and realised

just how successful he could be. He got onto it, but he started to tender in his own right. That is a successful story. By and large, it would appear that the data tells us that it is not successful in America. However, we should not stop there. The Canadian indigenous business development model is a success story, and I think that is how things possibly could be looked at, but I think we could do it smarter. We do not want to create new levels of bureaucracy.

Dr Hunter—I just cannot see that there is much evidence that anything has changed in a positive sense from the introduction of it. In a macro sense you cannot detect that there has been more investment in businesses. The number of minority businesses has not increased over that period, so there is not a particularly good evidence base for saying it is successful.

CHAIR—We are looking at the Canadian one as well. There is a delegation of Canadian parliamentarians here right now, and that body has made a submission to this inquiry. Is the Canadian model not adding another level of bureaucracy?

Prof. Foley—It is, but it is indigenous driven, so there is a sense of autonomy there. There is an act of self-determination where, if they fail, they fail. It is not a government-built-up program. If you look at the way they are sponsored and the way they generate their own funding, it is generated internally. That is what is exciting.

CHAIR—You have talked about access to capital, but a lot of what has been described to us about Indigenous businesses needing to, as you quite rightly say, engage in the wider community is that there needs to be a helping hand, if you like, in terms of the creation of networks. It is not just about money but about having the contacts to be able to do the business, which is the thinking that leads down the path to having a minority business council, because one of its functions is really to assist in that networking. Do you think it has any role to play there?

Prof. Foley—Absolutely, yes. Where there is an Indigenous entrepreneur who has been successful, there are a lot of characteristics which are very similar amongst all of them, but one consistent element is the support of a non-Indigenous operator. Somewhere along the line they have had either the inspiration or the long-term support of a non-Indigenous operator. If they have an Indigenous operator supporting them, that is fine. In fact, John Moriarty now provides support to other Indigenous business operators, but a few years ago we did not have that long-term Aboriginal entrepreneur out there. Now Moriarty is a classic example of supporting other Aboriginal entrepreneurs. Gavin Flick at Gavala, down in Darling Harbour, is in tourism. He supports other Aboriginal businesses. So you are getting a slow build-up, which is the natural progression. But bear in mind that the majority of Aboriginal businesses are in a very nascent stage of development, so the guys out there who are successful usually have had a non-Indigenous person help them.

CHAIR—Is there room then to have some form of organised mentoring system, do you think?

Prof. Foley—Absolutely. The New South Wales government and the Queensland government tried to bring it in at a state level and it failed, or the results were negligible, because we needed that bigger structure. We needed that bigger involvement—and it has to come from industry. You can say government can do this and government can do that. It cannot; it has to come from

industry. That is where the expertise and the knowledge are. Do you provide a taxation incentive? Or is it a social conscience issue? But really the incentive must come from industry.

CHAIR—In terms of non-Indigenous industry, my sense—I do not have any direct evidence of this; it is just an anecdotal sense—is that there is a desire to engage with Indigenous Australia, but I wonder whether there is a sense of not knowing how to.

Prof. Foley—Exactly.

CHAIR—Do you agree with that?

Prof. Foley—My word. There is a fear of failure; there is a fear of saying the wrong thing; there is a fear of being racially incorrect. My answer to that is: you are never going to get there unless you have a go.

CHAIR—I am very interested that it does not appear to be working in America, but it seemed that, if non-Indigenous businesses want to engage with Indigenous Australia, a minority business council provides an avenue to do it.

Prof. Foley—We have an example in Australia that is wonderful, and that is the Koori Business Network in Victoria.

CHAIR—Yes, we heard from them. We are going to have to call it a day. Thank you very much. We will follow up with you.

Resolved (on motion by **Mr Trevor**):

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 1.55 pm