Estimates Committee request for a list of the relevant correspondence between Ministers and the ILC Chair in relation to the acquisition of the Ayers Rock Resort in 2010 and the potential for an ANAO audit which was raised in 2013.

	ACQUISITION OF AYERS ROCK RESORT	
	Date	**Details of letter**
A	19 August 2009	Letter from The Hon Jenny Macklin MP to Shirley McPherson
B	22 September 2010	Letter from The Hon Jenny Macklin to Ms Shirley McPherson
C	23 September 2010	Letter from Shirley McPherson to The Hon Jenny Macklin
D	29 September 2010	Letter from Senator the Hon Penny Wong to Shirley McPherson
E	30 September 2010	Letter from Shirley McPherson to Senator the Hon Penny Wong
F	1 October 2010	Letter from Shirley McPherson to Senator the Hon Penny Wong
G	8 October 2010	Letter from Senator the Hon Penny Wong to Shirley McPherson
H	5 November 2010	Letter from Shirley McPherson to Senator the Hon Penny Wong
I	1 February 2011	Letter from Senator the Hon Penny Wong to Shirley McPherson
	ANAO AUDIT	
J	14 May 2013	Letter from ILC Chair Dr Dawn Casey to The Hon Jenny Macklin MP
K	14 May 2013	Letter from ILC Chair Dr Dawn Casey to Senator the Hon Penny Wong
L	5 June 2013	Letter from The Hon Jenny Macklin MP to ILC Chair, Dr Dawn Casey

The Hon Jenny Macklin MP
Minister for Families, Housing, Community Services and Indigenous Affairs

Parliament House
CANBERRA ACT 2600

Telephone: (02) 6277 7560
Facsimile: (02) 6273 4122

MN09-002462

19 AUG 2009

Ms Shirley McPherson
Chair
Indigenous Land Corporation
PO Box 586
CURTIN ACT 2605

Dear Ms McPherson

Thank you for providing a copy of your letter dated 29 May 2009 to Dr Harmer, Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs, regarding the Indigenous Land Corporation's (ILC) proposal to purchase and manage the Ayers Rock Resort in the Northern Territory.

As you would be aware, under section 15(1) of the *Commonwealth Authorities and Companies Act 1997*, the ILC must provide me, as the responsible Minister, with the written particulars of any proposal to participate in a significant partnership, to acquire or dispose of a significant business, and to commence or cease a significant business activity.

I would appreciate you providing me with the written particulars of the ILC proposed purchase and management arrangements for Ayers Rock Resort including but not limited to:

- details of the proposed financial arrangements for the purchase and the impact on ILC's operations and debt levels, including details relating to the projected profit or loss anticipated from the new business activity in coming years and the ongoing financial liability or benefit expected for the ILC; and
- details of the proposed benefits to the local Indigenous people including the particulars of the proposed lease-back arrangement and anticipated training and employment opportunities.

I would also appreciate being advised at your earliest convenience once a deal to purchase the Ayers Rock Resort has been finalised.

Thank you for your assistance with this matter.

Yours sincerely

JENNY MACKLIN MP

The Hon Jenny Macklin MP
Minister for Families, Housing, Community Services and Indigenous Affairs

Parliament House
CANBERRA ACT 2600

Telephone: (02) 6277 7560
Facsimile: (02) 6273 4122

MN10-001682

22 SEP 2010

Ms Shirley McPherson
Chair
Indigenous Land Corporation
PO Box 586
CURTIN ACT 2605

Dear Ms McPherson

The General Manager of the Indigenous Land Corporation (ILC) wrote to me on 10 August 2010 advising of the proposed acquisition of the Ayers Rock Resort by the ILC. You might recall that I wrote to you on 19 August 2009 about this matter.

There is no question that we share a commitment to pursuing robust economic development for Indigenous people and that the Uluru area is an iconic cultural site where innovative tourism opportunities which show case Aboriginal achievements and culture should be supported. You would be aware that increasing Indigenous employment is a key priority for the Government and that the tourism and hospitality sectors provide important opportunities in this regard.

I also fully appreciate that the ILC Board is responsible for making investment decisions on behalf of the Corporation. However, as the responsible Minister for the ILC, I need to share with you my concerns about the impact of such a significant investment on the ILC's ability to deliver outcomes across Australia for Indigenous people.

Firstly, I am unclear as to how the Board proposes to meet its statutory obligations under the *Aboriginal and Torres Strait Islander Act 2005* (ATSI Act) to acquire interests in land for the purpose of granting those interests to Aboriginal and Torres Strait Islander corporations within a reasonable timeframe. Consistent with these obligations I am interested in how the Board intends to divest itself from this significant purchase.

I am also interested to ensure that a purchase of this type, which would be a major focus for the Board, would not limit the ILC's capacity to carry out its functions more broadly. I am concerned that the ILC continue to address Indigenous disadvantage in a variety of locations and continue the important work in relation to the native title settlements. It would be essential to ensure that such a significant purchase does not hinder future strategic investment opportunities that may arise.

I also seek your assurance that the ILC has been clear in dealing with all lenders or potential lenders that the Commonwealth does not guarantee any borrowings the ILC may make.

I am sure you will appreciate that the Government places a high priority on its financial management. The ILC's borrowings to fund the purchase would have a budgetary impact on the Commonwealth's accounts such that the Minister for Finance and Deregulation would also take a keen interest in the proposal.

The scale of the potential acquisition of the Ayers Rock Resort draws attention to the nature of ILC's borrowing powers under Section 193L of the ATSI Act. I would expect you to have regard to the upcoming review of those powers when considering this acquisition and the borrowing arrangement it entails.

As the responsible Minister for the ILC, in accordance with subsection 16(1) of the *Commonwealth Authorities and Companies Act 1997* (CAC Act), I would appreciate your advice on the matters I have raised as well as the information requested in my 2009 letter prior to ILC finalising the agreement. In accordance with subsection 16(2) of the CAC Act, I request that you provide this information to me within 14 days, or at least 7 days before the ILC enters any relevant agreements.

I have copied this letter to the Minister for Finance and Deregulation, Senator the Hon Penny Wong on the basis that she is responsible for ensuring compliance with directors' duties under the CAC Act.

I look forward to your urgent advice and assistance with this matter.

Yours sincerely

JENNY MACKLIN MP

Letter

Thank you for letter. enthus[illegible] of
& Acquisition to # of land acquired.
2 Investment → reasonableness
- Indigenous emp[illegible]
- long term
- reasonable [illegible]
- [illegible]
- WA proponent group - possible [illegible]
Flagged clearly: [illegible] corp. - [illegible]
[illegible] obligations
ILC is of the view this reasonable [illegible].
Traditional owners of the area - traditional ownership issues. CLC
No PBS →

Australian Government

Indigenous Land Corporation

CH2010/57

23 September 2010

The Hon Jenny Macklin MP
Minister for Families, Housing, Community
Services and Indigenous Affairs
Parliament House
CANBERRA ACT 2600

Commercial-in-Confidence

Dear ~~Minister~~ Jenny

Thank you for your letter of 22 September 2010 regarding the ILC's proposed acquisition of Ayers Rock Resort (ARR).

The ILC Board and I share your strong commitment to the economic development of Indigenous people and the aim of substantially increasing Indigenous employment. The purchase of ARR will be a catalyst for both of these aims, not only at Yulara and the surrounding communities, but also Australia wide. It is the ILC's vision that ARR and Uluru will become the hub for Indigenous tourism across Australia. With this objective in the minds of Directors, an enormous amount of due diligence and care has been undertaken to ensure that the proposed purchase of ARR is compliant with the *Aboriginal and Torres Strait Islander Act 2005 **(the ATSI Act)*** and the *Commonwealth Authorities and Companies Act 1997.*

On referral in late 2008 from Mr Mike Dillon of your Office and Ms Donna Moody from your Department, the ILC has been working closely with Wana Ungkunytja (WU—an Aboriginal corporation representing communities that surround Uluru). WU proposed to the ILC that we work in partnership to purchase ARR to achieve significant benefits for local Anangu people.

It is unfortunate to note that out of the 670 people currently employed at the Resort, only one is Indigenous. To address this unacceptable situation, the ILC proposes to establish a National Indigenous Tourism and Hospitality Academy at ARR, which will see Indigenous employment grow to 250 by the end of 2015 and to 340 by the end of 2018. The ILC will also work with major hotel operators to place graduates from the Academy into employment, as well as enhance their own Indigenous employment programs, which they advise will boost overall Indigenous employment across Australia by 300 by the end of 2015. The ILC will partner with Nyangatjatjara College (a WU affiliate) at Yulara to provide work experience and school-based traineeships and apprenticeships. It will also work with WU to increase Indigenous employment and economic development through its company Anangu Tours, which is based at ARR, and offer contracting opportunities at ARR to further WU's employment and economic development objectives. The ILC plans a genuine, interactive Indigenous experience at ARR, in partnership with WU, that will in itself provide Indigenous employment for members of the local communities. Additionally, senior executives of the ILC recently met with Mr John Borghetti, Virgin Blue

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Chief Executive Officer, who advised that, if the ILC purchased ARR, Virgin Blue will commit to continue flying to Yulara for the long term and noted that Virgin Blue's inaugural flight to Yulara on 3 August 2010 was staffed by an all-Indigenous crew.

I note your concerns about the impact the proposed purchase may have on the ILC's ability to provide outcomes across Australia for Indigenous people. I can assure you that in all aspects of due diligence, planning and financial forecasting the ILC Board is ensuring that there will be no adverse impact on the delivery of the ILC's existing operations, including work in relation to native title settlements, further strategic purchases, or expenditure on existing programs as contained in the Portfolio Budget Statements 2010/11. Income received from the Aboriginal and Torres Strait Islander Land Account will continue to be used to fund new and existing land acquisition and land management projects for Indigenous organisations. Indeed, based on conservative cash flow projections, ARR, after ten years of operation, is predicted to provide additional net income to the ILC of over $25 million per year, which will enable expansion of the ILC's programs across Australia. These results have been confirmed by extensive due diligence and expert consultants.

To effect the transaction, the ILC proposes to use a wholly owned subsidiary, ILC Tourism Pty Limited (***ILC Tourism***), as the operating entity. There will be a formal arrangement put in place pursuant to section 191G(1) of the ATSI Act. The ILC understands that ILC Tourism is bound by the same statutory rights and obligations as bind the ILC and ILC Tourism cannot act beyond the ILC's powers. It is proposed that ILC Tourism hold title to the land. The current divestment proposal would see the land granted to an appropriate Indigenous title holding body, consisting of traditional owners, when the secured and unencumbered title is available through discharge of the relevant loan and security. The grant would occur with a lease-back arrangement to ensure the ongoing operation of ARR. This is consistent with the Commonwealth Government's previous grant of ownership and 99-year lease-back model over Uluru-Kata Tjuta National Park. Such a grant fulfils the ILC's obligations under section 191D.

ILC Tourism's board will be independent and contain outstanding Indigenous (including representatives of WU) and non-Indigenous members experienced in business and tourism,. As part of the acquisition, ILC Tourism will acquire the Voyages platform, which currently operates ARR. This will ensure a seamless transition of ownership to ILC Tourism, retention of experienced staff and operation of the businesses without interruption during the purchase period. It is planned that ILC Board Director, Mr David Baffsky AO, will be the chair of ILC Tourism. Mr Baffsky has unparalleled experience in the Asia-Pacific tourism industry as the former Executive Chairman of Accor Asia Pacific and was awarded the Asia-Pacific Hotelier of the Year in 2004. The ILC has attracted one of the foremost hotel executives in the world, a recipient of the Asia-Pacific Hotelier of the Year in 2007, to the project. The ILC expects to appoint him to the role of CEO of ILC Tourism (subject to the purchase proceeding). This appointment will also enhance the operations of the ILC's tourism ventures at Home Valley in WA and Mossman Gorge in Queensland, which is planned to be opened next year.

With regard to the ILC's borrowing powers, the ILC is in the fortunate position that the vendor has assisted the ILC to ensure that any external borrowings are minimised. In all dealings with prospective lenders, they have been advised that the ILC is an independent statutory authority and that the ILC is the only guarantor of borrowings.

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The ILC will ensure that eventual lenders are formally advised that the Commonwealth does not guarantee any borrowings that the ILC makes.

The ILC Board is aware of the upcoming review of its borrowing powers and notes the current limit of $303 million. Having regard to this, the ILC's proposed total direct borrowings for ARR will peak at $96 million. The ILC will also guarantee the balance of the purchase price of ARR through a deferred payment arrangement negotiated with the vendor. Accordingly the ILC's combined borrowing and guarantee will peak at $260 million in the first year and reduce to $100 million in year five.

I have attached for your information a more detailed brief, which includes the ILC's ten-year cash flow projections for ARR, prepared by expert consultants, which underpin a number of the above points.

Finally, it is noted that when you wrote to me on 19 August 2009, the ILC had suspended all negotiations on the purchase of ARR. Consequently, there was no advice that I could provide to you at that time and the ILC's General Manager, Mr David Galvin, informed Mr Dillon of this. On 25 June 2010 Mr Galvin met with Mr Dillon and advised him that the ILC had recently reopened negotiations on the purchase of ARR and provided him with an overview of the purchase. You should note that Mr Galvin wrote to Dr Jeff Harmer on 27 August 2010 offering to meet with either Dr Harmer or yourself on 7 September 2010 to provide a full briefing on ARR.

I wish to advise that the ILC is likely to agree to purchase ARR next Friday, 1 October 2010, and enter into a contract of sale shortly thereafter. I will keep your office informed of these developments. If you require further details I am happy to meet with you.

Yours sincerely

SHIRLEY McPHERSON
Chairperson

Commercial in confidence

Ayers Rock Resort: an opportunity to acquire enterprises and create sustainable jobs for some of Australia's most disadvantaged Indigenous people

Purpose

To illustrate the opportunity to acquire Ayers Rock Resort (ARR) and its businesses to create sustainable jobs for Indigenous Australians.

Background

In late 2008, Wana Ungkunytja (WU—an Aboriginal corporation representing communities around Uluru) approached the Indigenous Land Corporation (ILC) regarding the opportunity to acquire ARR to achieve significant benefits for local Indigenous people.

Mutitjulu and other neighboring communities have been identified as communities in extreme need by Australian Government departments. Around 70% of adults in Mutitjulu receive welfare payments. Unemployment and dependency on passively derived income have been identified as the fundamental cause of many of the problems and the social dysfunction facing the community.[1] Not one Anangu resident of Mutitjulu currently works at ARR.

ARR has been unsuccessful at employing Indigenous people and providing them with the flow-on socio-economic benefits that come with employment. Currently ARR and its operating businesses employ 670 people, of which we understand only one is Indigenous.

The ILC Board's vision

* **Acquisition of world-renowned tourism destination**
* **Creation of Indigenous jobs**
* **Provision of world-class cultural tourism**
* **Development of Indigenous tourism leadership and capacity**
* **Promotion of Indigenous excellence in tourism**
* **Successful granting of the land to an Indigenous organisation**

[1] G. Andrews (2006). Mutitjulu Tjungu Waakaripayi Project 'Working Together' Discussion Paper
G. Phelps and T. Linn (2002). Indigenous Employment and Training at the Alice Springs Desert Park

The ILC Board believes this is a once-in-a-lifetime opportunity for Indigenous people to own this land and establish a major Indigenous enterprise employing significant numbers of Indigenous staff.

The ILC will create a national Indigenous Tourism and Hospitality Training Academy that produces accredited Indigenous graduates and transitions them to employment at ARR and mainstream tourism and hospitality industries across Australia. Partnerships with Mutitjulu and other local Indigenous communities will focus on educating and training Indigenous youth to facilitate their employment at ARR.

Uluru is viewed as an iconic Indigenous attraction yet there is little to no Indigenous experience for visitors. Australia has failed to deliver high-quality cultural tourism, despite market desire for this product. The ILC plans a genuine, interactive Indigenous experience at ARR, in partnership with WU. This project will ensure that visitors to ARR and Uluru have a significant Indigenous experience.

Indigenous benefits

* **Acquisition of ARR on 104,000 Ha of land, including areas of cultural and environmental value**
* **Acquisition of:**
    - **8 accommodation choices—five-star to backpackers to camping**
    - **Visitor's centre**
    - **Shopping centre and businesses**
    - **Conference facilities**
    - **Petrol station**
    - **Spa and recreation facilities**
    - **Lease of airport**
* **670 jobs at ARR, of which only one is currently Indigenous**
    - **200 Indigenous jobs by end 2015**
    - **340 Indigenous jobs by end 2018**
* **300 Indigenous jobs by the end of 2015 with major hotel operators elsewhere in Australia**
* **Creation of National Indigenous Tourism and Hospitality Training Academy**
* **Nationally accredited Indigenous graduates**
* **School-based apprenticeships**
* **Transition to employment**
* **Indigenous tourism leadership capability**

The ILC aims to employ 200 Indigenous people by 2015 and 340 by 2018. Through the Academy, the ILC would be a source of recruits for the Australian tourism industry's demand for work-ready and trained Indigenous employees. It will develop an Indigenous tourism leadership capability and provide a platform for increased Indigenous participation in the tourism industry across Australia. The Indigenous workforce for ARR will be sourced from across Australia, but special attention will be given to recruitment of local Indigenous people.

The project will provide real, sustainable jobs and contribute significant flow-on economic, environmental, social and cultural benefits for Indigenous people in regions that severely lack economic development opportunities and that suffer chronic social disadvantage. This will contribute to 'closing the gap' in employment.

The 104,000 Ha of land where ARR and the Yulara township are situated include areas of cultural and environmental value, which will be protected through the acquisition.

Grant of land to an Indigenous corporation

The 104,000 Ha of land will be acquired to grant to an appropriate Indigenous titleholding body. This grant will occur when secured and unencumbered title is available through discharge of the ILC's financial and security obligations. The grant will occur with a lease-back arrangement to ensure the ongoing successful operation of ARR. There is already an ownership and 99-year leaseback and management arrangement with Traditional Owners over Uluru-Kata Tjuta National Park. This Commonwealth Government model will be the starting point for discussions between Traditional Owners and the ILC.

Financial arrangements

Details of the proposed financial arrangements

Acquisition of ARR	$300m[2]
Capital expenditure for infrastructure/modernisation	$ 45.0m
Delivery of the employment and training model (capital)	$ 2.5m
Delivery of the employment and training model (operational)	$ 1.3m pa
Delivery of school based apprenticeships	$ 0.2m pa

The ILC, with the vendor's support of the ILC's vision for ARR, has been able to minimise the amount of external borrowings required to fund the acquisition. The ILC, through a wholly-owned subsidiary, will acquire ARR through a tailored program of guaranteed deferred payments to the vendor for the purchase price. The ILC subsidiary will become the owner of ARR on contract completion (the vendor will not retain any equity interest).

The acquisition, capital expenditure on infrastructure, and modernisation will be funded through a combination of the guaranteed deferred payments to the vendor, the ILC's existing cash reserves and bank finance.

As at 30 June 2010 the ILC had $158m in cash reserves. The ILC will use these cash reserves, where not required for ILC normal operations, to minimise external borrowings. Three of the four major banks have provided credit approval for the bank finance.

[2] This is an indicative purchase price only—a final purchase price has yet to be settled

External borrowings and guarantees will peak at $260m at year one and reduce to $100m by year five, with the profit being approximately $25m per annum. Borrowings are expected to be fully extinguished prior to the end of year 10 of operations.

After the repayment of borrowings, ARR will provide an income of approximately $25m to the ILC enabling it to significantly expand the benefits it will be able to deliver to Indigenous people, beyond the income it will receive from the Aboriginal and Torres Strait Islander Land Account.

Delivery of the employment and training model and school-based apprenticeships at ARR will be funded from the income derived from ARR. The ILC has had favourable discussions with DEEWR to fund capital infrastructure for the training and employment model.

No adverse impact on ongoing ILC operations

There will be no adverse impact on the delivery of the ILC's existing operations, including work in relation to native title settlements, further strategic purchases, or expenditure on existing programs as contained in the Portfolio Budget Statements 2010/11. Income received from the Land Account will continue to be used to fund new and existing land acquisition and land management projects for Indigenous organisations.

Table 1 - ARR and ILC Consolidated Cash-flow Forecast

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Operating Cash Flows										
ILC (as per Portfolio budget statements)										
Income from Land Account	45.0	45.9	47.1	48.2	49.6	51.9	52.6	55.8	57.5	59.2
Other Income	10.5	9.9	8.1	8.1	8.3	8.3	8.3	8.3	8.3	8.3
Program and admin expenditure	-54.1	-54.4	-53.7	-54.7	-56.4	-58.7	-59.4	-62.6	-64.5	-6.0
ILC EBITDA	**1.4**	**1.4**	**1.5**	**1.6**	**1.5**	**1.5**	**1.5**	**1.5**	**1.3**	**1.5**
ARR										
Operating Revenue	109.2	111.5	124.4	136.4	151.6	164.5	168.6	173.3	178.1	183.1
Operating Expense	-72.9	-74.9	-80.2	-85.4	-92.1	-98.0	-100.7	-103.7	-106.7	-109.9
Head Office	-9.0	-9.5	-9.8	-10.1	-10.4	-10.7	-11.0	-11.3	-11.7	-12.0
Indigenous E&T	-1.0	-1.1	-1.2	-1.3	-1.5	-1.6	-1.8	-1.9	-2.1	-2.4
FF&E Expenditure	-1.0	-1.0	-1.1	-1.1	-1.1	-1.2	-1.2	-1.2	-1.3	-1.3
ARR EBITDA	**25.3**	**25.0**	**32.1**	**38.5**	**46.5**	**53.0**	**53.9**	**55.2**	**56.3**	**57.5**
Net Interest	-2.8	-1.1	-1.7	0.3	2.8	-3.2	1.6	6.3	8.2	11.3
Tax Expense							-1.9	-4.1	-4.9	-5.3
Total operating cash flows	**23.9**	**25.3**	**31.9**	**40.4**	**50.8**	**51.3**	**55.1**	**57.9**	**60.9**	**65.0**
Investing Cash Flows										
Contribution to Capital Expenditure	4.0	8.0	8.0	3.0	2.0					
Purchase (incl deferred payments)	-81.0	-81.0			-155.0					
Capital expenditure ARR	-18.3	-16.9	-4.7	-2.1	-2.3	-5.0	-5.0	-5.0	-5.0	-5.0
Total investing cash flows	**-95.3**	**-89.9**	**3.3**	**0.9**	**-155.3**	**-5.0**	**-5.0**	**-5.0**	**-5.0**	**-5.0**
Financing Cash Flows										
Debt Raised	18.3	16.9	4.7	2.1	54.0					
Debt Repaid						-45.0	-48.0	-3.0	-	-
Interest on deferred payments	-13.9	-8.6	-8.6	-8.6	-8.6					
Total financing cash flows	**4.4**	**8.3**	**-3.9**	**-6.5**	**45.4**	**-45.0**	**-48.0**	**-3.0**		
Net change in cash	**-67.0**	**-56.3**	**31.3**	**34.8**	**-59.1**	**1.3**	**2.1**	**49.9**	**55.9**	**60.0**
Cash Balance										
Opening cash balance	128.2	61.2	4.9	36.2	71.0	11.9	13.2	15.3	65.2	121.1
Net change in cash	-67.0	-56.3	31.3	34.8	-59.1	1.3	2.1	49.9	55.9	60.0
Closing cash balance	61.2	4.9	36.2	71.0	11.9	13.2	15.3	65.2	121.1	181.1

Table 2 - Financing/ Borrowing Forecast ARR ($ millions)

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Financing/ Borrowing										
ILC*	48.7	39.4	-36.0	-36.9	5.1			-20.3		
Bank Finance*	18.3	16.9	4.7	2.1	54.0	-45.0	-48.0	-3.0	-	-
Total cash requirements	**67.0**	**56.3**	**-31.3**	**-34.8**	**59.1**	**-45.0**	**-48.0**	**-23.3**	**-**	**-**
Accumulative Bank Finance	**18.3**	**35.2**	**39.9**	**42.0**	**96.0**	**51.0**	**3.0**	**-**	**-**	**-**
Accumulative Funding from the ILC	**48.7**	**88.1**	**52.1**	**15.2**	**20.3**	**20.3**	**20.3**	**0.0**	**0.0**	**0.0**

*Repayment = -ve

Table 3 – Due diligence conducted

Grant Samuel	Coordination of due diligence and business structure proposal
Business analysis, accounting and financial modeling	Grant Samuel Horwath HTL Beachfame
Property and capital expenditure	Planned Property Management BeachFame
Airport and aviation	Aspirion
Legal due diligence and compliance – including structure, properties and businesses	Baker and McKenzie Solicitors Corrs Chambers Westgarth Lawyers
Environmental due diligence	URS Australia
Hotel management and systems review	Simon Barlow Koos Klein E Horner and Associates
IT and Communications due diligence	E Horner & Associates
Human resources due diligence	HR Strategies
Sales and marketing due diligence	Marlene Poynder

SENATOR THE HON PENNY WONG

Minister for Finance and Deregulation
Senator for South Australia

REF:B10/1251

Ms Shirley McPherson
Chair
Indigenous Land Corporation
PO Box 586
CURTIN ACT 2605

Dear Ms McPherson

I refer to the letter to you from the Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, dated 22 September 2010 and your reply of 23 September 2010, concerning the proposal by the Indigenous Land Corporation (ILC) to acquire the Ayers Rock Resort.

As the Minister responsible for the *Commonwealth Authorities and Companies Act 1997* (CAC Act), and for the Commonwealth's budget position more generally, I am concerned about financial and other risks that could arise from the proposal, and request additional information urgently.

Your reply raises some concerns that the proposal to acquire the Ayers Rock Resort could place the directors of ILC in a situation where they have not complied with their duties under the CAC Act to, among matters, act with care and diligence and act in good faith in the best interests of the ILC and for a proper purpose. I am concerned about the robustness of the financial model as this may affect both the ILC's ability to divest the property and its ability to carry out its statutory functions.

As such, in accordance with paragraph 16(1)(c) of the CAC Act, I would appreciate you providing me with the following reports, documents or information:

(a) advice supporting ILC's opinion that it can establish a subsidiary to purchase the resort consistent with section 29 of the CAC Act (activities of subsidiaries);

(b) advice on how the proposed acquisition is consistent with subsection 191D(1) of the *Aboriginal and Torres Strait Islander Act 2005* (ATSI Act), given that no grant of land to an ATSI corporation is proposed until the land is financially unencumbered, which could be many years (potentially 2019 on ILC projections for when the debt will be repaid) or indefinite (if, for example, the Ayers Rock Resort does not generate enough income to repay the debt);

(c) the latest due diligence report prepared by ILC on the proposed purchase;

(d) independent sensitivity analysis of the projected revenue and cost projections for ILC;

(e) information as to how ILC will meet its other statutory obligations if the financial projections are not achieved; and

(f) an opinion from the directors, and any advice supporting that opinion, as to how the proposed purchase meets ILC's obligations under the ATSI Act and complies with the directors' and officers' duties under the CAC Act generally.

In accordance with subsection 16(2) of the CAC Act, I request that the directors of ILC provide this information with sufficient time for me to consider the information and seek clarification on any issue raised by the information prior to proceeding with the proposed purchase.

I understand that this may require a delay of the proposed purchase date and request that this receive your favourable consideration given the issues of concern.

Should you wish to discuss these issues further the contact in my Department is Mr Marc Mowbray-d'Arbela, Assistant Secretary, Legislative Review Branch, who is available on telephone 02 6215 3657, facsimile 02 6267 3200 or email LRB@finance.gov.au.

I have copied this letter to the Prime Minister, the Treasurer, the Minister for Regional Australia, Regional Development and Local Government, the Minister for Tourism and Ms Macklin, for their information.

cc
cc
Marc
Arbela

Yours sincerely

Penny Wong

29 SEP 2010

Emailed 30/9/10

Australian Government
Indigenous Land Corporation

CH2010/59
Your ref: B10/1251

Commercial-in-Confidence

30 September 2010

Senator the Hon Penny Wong
Minister for Finance and Deregulation
Parliament House
CANBERRA ACT 2600

Dear Minister

Thank you for your letter of 29 September 2010 regarding the ILC's proposed acquisition of Ayers Rock Resort (ARR).

It is of some concern that the Government has been aware of the proposal for almost two years and it is only now that these questions have been raised.

All of the Directors of the ILC Board share a commitment to assisting Indigenous economic development through the ILC's functions and of substantially increasing Indigenous employment. Indeed, the ILC has an enviable record and I enclose some information for you, including our Annual Report.

The purchase of ARR will be a catalyst for both of these aims, not only at Yulara and the surrounding communities, but also across Australia. It is the Board's vision that ARR and Uluru will become the hub for Indigenous tourism across Australia and lead the way in realising genuine Indigenous economic development.

The vision is also shared by Wana Ungkunytja (WU—an Aboriginal corporation representing communities that surround Uluru). WU first approached the ILC in 2008 proposing that the ILC work in partnership to purchase ARR to achieve significant benefits for local Anangu people.

It is unfortunate to note that out of the 670 people currently employed at the Resort, only one is Indigenous. To address this unacceptable situation, the ILC proposes to establish a National Indigenous Tourism and Hospitality Academy at ARR, which is anticipated to see Indigenous employment grow to 250 by the end of 2015 and to 340 by the end of 2018. The ILC will also work with major hotel operators to place graduates from the Academy into employment, as well as

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enhance their own employment programs, which they advise will boost overall Indigenous employment across Australia by 300 by the end of 2015. The ILC will partner with Nyangatjatjara College (a WU affiliate) at Yulara to provide work experience and school-based traineeships and apprenticeships. It will also work with WU to increase Indigenous employment and economic development through its company Anangu Tours, which is based at ARR, and offer contracting opportunities at ARR to further WU's employment and economic development objectives. The ILC plans a genuine, interactive Indigenous experience at ARR, in partnership with WU, that will in itself provide Indigenous employment for members of the local communities. Attached is a more detailed summary for your further information.

With these objectives in mind, an enormous amount of due diligence and care has been undertaken to ensure that the proposed purchase of ARR is compliant with the ILC's obligations under the *Aboriginal and Torres Strait Islander Act 2005* (the ATSI Act) and the *Commonwealth Authorities and Companies Act 1997* (the CAC Act). My fellow Directors and I are also particularly conscious of our individual and joint responsibilities as directors under the CAC Act.

It is an additional assurance that an outstanding group of individuals who are recognised leaders in their respective fields (including tourism and finance) and relevant to this proposal have agreed to join the board of the operating entity. They are fully aware of the challenges, obligations and expectations and share the passion of the ILC and WU for what is the single biggest opportunity of its nature for Indigenous people in Australia.

The Board has not yet met to consider the final negotiated position on the purchase of ARR or formally resolved to proceed with the acquisition. It will meet this Friday to consider the matter, noting that it has considered the most recent due diligence reports as they have become available at meetings in June and August this year. I am happy to table your letter and this response at the meeting for careful consideration by the Board.

I am also happy to provide the further information you have requested pursuant to section 16(1)(c) of the CAC Act. However, I note your request under section 16(2) to delay the purchase date until you have had time to consider the information and seek further clarification on any issue. The Board will need to carefully weigh that timing request against the statutory independence of the ILC as set out in section 191L of the ATSI Act and the position of the vendor being a public listed company. In this regard, I note the information is voluminous and the commercial sensitivities of the transaction are such that any ongoing delay may jeopardise this unique opportunity for Indigenous Australians.

Ultimately, it is the responsibility of each ILC Director to reach his or her own view as to whether they have acted with the appropriate care and diligence and in good faith and in the best interest of the ILC and for a proper purpose and consistent with the reason for the creation of the ILC as so clearly stated in the Second Reading Speech. Indeed, the ILC is considering using its powers for those

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very purposes. As Chairperson, I am satisfied that I have so acted in relation to the matter in question. I am confident that my fellow Directors hold a similar view. I am equally confident you will see from the following responses to your questions that those obligations have been fulfilled.

a) The ILC proposes to establish a wholly-owned subsidiary, ILC Tourism Pty Limited (ILC Tourism), as the operating entity. It is proposed that ILC Tourism hold title to the land until it is divested to an appropriate Indigenous organisation representing traditional owners. There will be a formal arrangement put in place pursuant to section 191G(1) of the ATSI Act. The ILC understands that ILC Tourism is bound by the same statutory rights and obligations as bind the ILC and ILC Tourism cannot act beyond the ILC's powers. Accordingly, the ILC is satisfied that the establishment of ILC Tourism and its operation of Ayers Rock Resort will be in compliance with section 29 of the CAC Act.

   I attach the following advices from the ILC's external legal advisors confirming that the project is compliant with both the ATSI Act and the CAC Act:

   - Letter of Advice of Corrs Chambers Westgarth of 13 August 2010
   - Memorandum of Advice from Counsel of 11 August 2010 through Baker & McKenzie

   These legal advices attract legal professional privilege and were provided on a *commercial-in-confidence* basis and should be treated accordingly.

b) The ILC recognises its obligation to acquire land for the purpose of making grants to Aboriginal and Torres Strait Islander corporations in a reasonable time. The current divestment proposal would see the land granted to an appropriate Indigenous titleholding body, consisting of traditional owners, when the secured and unencumbered title is available through discharge of the relevant loan and security. The grant would occur with a lease-back arrangement to ensure the ongoing operation of ARR. This is consistent with the Commonwealth Government's previous grant of ownership and 99-year lease-back model over Uluru-Kata Tjuta National Park.

   The ILC is mindful of its obligation to make the grant within a *reasonable time*. This particular provision has previously been the subject of consideration by the Federal Court both by a single Judge (*Bidjara Aboriginal Housing & Land Co Ltd v Indigenous Land Corporation* [2000] FCA 1501) and then by the Full Bench of the Federal Court (*Bidjara Aboriginal Housing & Land Co Ltd v Indigenous Land Corporation* [2001] FCA 138). While those judgements were strictly speaking confined to the facts of the case, it was the unanimous view of all four Justices that the expression *reasonable time* does not prescribe a specifically defined time but must be interpreted by reference to the statutory context and purpose. Justice Kiefel, at first instance, tested the issue against the relevant ILC policies, which she found to be reasonable and found that the ILC had not breached its obligation under section 191D(3). On appeal, the Full

Bench unanimously endorsed Justice Kiefel's approach and stated, *"The reasonableness of any deferral of a grant will have to be assessed from time to time in the light of all the relevant circumstances."*

The ILC is of the view that its proposed divestment strategy is reasonable having regard to the following three issues:

(i) The first issue is to identify an Indigenous corporation with capacity to successfully become the landowner of the property. This has been a recurring issue for the ILC since its establishment and many properties have suffered from being divested prematurely to groups who did not have the capacity to sustainably own them.

The ILC has a number of properties that it has held now in excess of ten years, but it continues to work with the relevant traditional owner groups towards divestment. The ILC considers it will have the same issues in relation to this divestment given the complexities of the land ownership issues.

The fact that the ILC has not yet identified a specific corporation is in no way an impediment to the ILC presently acquiring the land and having a *bona fide* intention to divest to an Aboriginal corporation in the future.

(ii) The second issue is the fact that the ILC has been able to obtain very favourable terms for a deferred purchase price and will therefore have to grant certain securities over the land component. The ILC considers it reasonable that the land should be granted without encumbrances to an Aboriginal corporation and that it will not be possible to so grant the land until the ILC has had the opportunity to repay the loans and secure unencumbered title.

(iii) Overriding all of the above, WU, whose Directors and members are largely traditional owners, also support this course of action.

Taking into account the above considerations, the ILC notes that such a divestment proposal fulfils the ILC's obligations under sections 191D(1) and (3) of the ATSI Act.

c) Due diligence activities have been ongoing over the last two years at a cost of $3.7 million or 1% of the proposed purchase price. The following independent consultants have provided due diligence reports within their areas of expertise:

- Business and financial analysis and transition of business—Howarth HTL and Grant Samuel
- Legal—Baker & McKenzie
- Legal—Corrs Chambers Westgarth
- Valuation of ARR—CBRE and Colliers
- Airport lease and compliance—Aspirion Consulting

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- Sales and marketing—Marlene Poynder
- Environmental issues—URS Australia
- Human resource issues and strategies—HR Strategies
- Property physical condition and capex requirements—Property Planned Management Pty Ltd
- Information and Communication Systems—E Horner and Associates

I enclose a copy of the relevant reports for your information.

d) I have attached for your information a financial model, which includes the ILC's ten-year cash flow projections for ARR, prepared by Grant Samuel and the ILC, which illustrate projected revenue and expenses. Over the two years of consideration of this matter the ILC has developed a number of financial models that are akin to a sensitivity analysis. Like other similar situations, ARR has just gone through the Global Financial Crisis, which has had a significant adverse affect on the tourism industry, and reported EBITDA of $26 million for the year ended 31 December 2009 and expected EBITDA of $24 million for the year ending 31 December 2010. The final financial model has utilised this period of trading as its base. It is noted that actual July and August 2010 tourist numbers have increased substantially above ILC and the vendor estimates.

Please note that three of Australia's leading banks have provided credit approval, after thoroughly examining the cash flow projections and financial model, to provide a $60 million cash advance facility future capital expenditure, if needed. It should be further noted the model assumes that the ILC may utilise $45 million of this facility.

e) All aspects of due diligence, planning and financial forecasting for ARR have had a parallel focus of assuring the ILC Board that there will be no adverse impact on the delivery of the ILC's existing programs and operations, including work in relation to native title settlements, further strategic purchases, or its estimated expenditure on programs as contained in the Portfolio Budget Statements 2010/11.

Income received from the Aboriginal and Torres Strait Islander Land Account will continue to be used to fund new and existing land acquisition and land management projects for Indigenous organisations. Indeed, based on conservative cash flow projections, ARR, after ten years of operation, is predicted to provide additional net income to the ILC of over $25 million per year, which will enable expansion of the ILC's programs across Australia.

The external borrowings and guarantees are secured by a fixed and floating charge over the assets of ARR, the shares of ILC Tourism, the airport lease and a Sydney office lease. The ILC will provide no other security and accordingly its cash and other assets are not put at risk by this transaction.

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There is no evidence from our extensive due diligence that the financial projections will not be achieved. However if a worst case scenario did occur the Board could:

- scale back its capital works program
- renegotiate the external finance arrangements
- renegotiate the final payment terms with the vendor
- sell the property

f) The attached advice from Corrs Chambers Westgarth illustrates that the proposed purchase meets the ILC's obligations under the ATSI Act and complies with the directors' and officers' duties under the CAC Act.

Finally, the ILC Board is aware of the proposed review of its borrowing powers and notes the current limit of $303 million. Having regard to this, the ILC's proposed total direct borrowings for ARR will peak at $96 million. The ILC will guarantee the balance of the purchase price of ARR through a deferred payment arrangement negotiated with the vendor. Accordingly the ILC's combined borrowing and guarantee will peak at $260 million in the first year and reduce to $100 million in year five. The ILC Board believes that its proposed responsible use of its borrowing powers is consistent with the very purpose of those powers, namely to operate effectively in the land market to achieve benefits for Indigenous Australians.

Yours sincerely

SHIRLEY McPHERSON
Chairperson

cc: The Hon Julia Gillard MP, Prime Minister of Australia

The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs

The Hon Wayne Swan MP, Treasurer

The Hon Simon Crean MP, Minister for Regional Australia, Regional Development and Local Government

The Hon Martin Ferguson MP, Minister for Tourism

Senator the Hon Mark Arbib, Minister for Indigenous Employment and Economic Development

Commercial in confidence

Ayers Rock Resort: an opportunity to acquire enterprises and create sustainable jobs for some of Australia's most disadvantaged Indigenous people

Purpose

To illustrate the opportunity to acquire Ayers Rock Resort (ARR) and its businesses to create sustainable jobs for Indigenous Australians.

Background

In late 2008, Wana Ungkunytja (WU—an Aboriginal corporation representing communities around Uluru) approached the Indigenous Land Corporation (ILC) regarding the opportunity to acquire ARR to achieve significant benefits for local Indigenous people.

Mutitjulu and other neighboring communities have been identified as communities in extreme need by Australian Government departments. Around 70% of adults in Mutitjulu receive welfare payments. Unemployment and dependency on passively derived income have been identified as the fundamental cause of many of the problems and the social dysfunction facing the community.[1] Not one Anangu resident of Mutitjulu currently works at ARR.

ARR has been unsuccessful at employing Indigenous people and providing them with the flow-on socio-economic benefits that come with employment. Currently ARR and its operating businesses employ 670 people, of which we understand only one is Indigenous.

The ILC Board's vision

* Acquisition of world-renowned tourism destination
* Creation of Indigenous jobs
* Provision of world-class cultural tourism
* Development of Indigenous tourism leadership and capacity
* Promotion of Indigenous excellence in tourism
* Successful granting of the land to an Indigenous organisation

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[1] G. Andrews (2006). Mutitjulu Tjungu Waakaripayi Project 'Working Together' Discussion Paper
G. Phelps and T. Linn (2002). Indigenous Employment and Training at the Alice Springs Desert Park

The ILC Board believes this is a once-in-a-lifetime opportunity for Indigenous people to own this land and establish a major Indigenous enterprise employing significant numbers of Indigenous staff.

The ILC will create a national Indigenous Tourism and Hospitality Training Academy that produces accredited Indigenous graduates and transitions them to employment at ARR and mainstream tourism and hospitality industries across Australia. Partnerships with Mutitjulu and other local Indigenous communities will focus on educating and training Indigenous youth to facilitate their employment at ARR.

Uluru is viewed as an iconic Indigenous attraction yet there is little to no Indigenous experience for visitors. Australia has failed to deliver high-quality cultural tourism, despite market desire for this product. The ILC plans a genuine, interactive Indigenous experience at ARR, in partnership with WU. This project will ensure that visitors to ARR and Uluru have a significant Indigenous experience.

Indigenous benefits

- **Acquisition of ARR on 104,000 Ha of land, including areas of cultural and environmental value**
- **Acquisition of:**
  - **8 accommodation choices—five-star to backpackers to camping**
  - **Visitor's centre**
  - **Shopping centre and businesses**
  - **Conference facilities**
  - **Petrol station**
  - **Spa and recreation facilities**
  - **Lease of airport**
- **670 jobs at ARR, of which only one is currently Indigenous**
  - **200 Indigenous jobs by end 2015**
  - **340 Indigenous jobs by end 2018**
- **300 Indigenous jobs by the end of 2015 with major hotel operators elsewhere in Australia**
- **Creation of National Indigenous Tourism and Hospitality Training Academy**
- **Nationally accredited Indigenous graduates**
- **School-based apprenticeships**
- **Transition to employment**
- **Indigenous tourism leadership capability**

The ILC aims to employ 200 Indigenous people by 2015 and 340 by 2018. Through the Academy, the ILC would be a source of recruits for the Australian tourism industry's demand for work-ready and trained Indigenous employees. It will develop an Indigenous tourism leadership capability and provide a platform for increased Indigenous participation in the tourism industry across Australia. The Indigenous workforce for ARR will be sourced from across Australia, but special attention will be given to recruitment of local Indigenous people.

The project will provide real, sustainable jobs and contribute significant flow-on economic, environmental, social and cultural benefits for Indigenous people in regions that severely lack economic development opportunities and that suffer chronic social disadvantage. This will contribute to 'closing the gap' in employment.

The 104,000 Ha of land where ARR and the Yulara township are situated include areas of cultural and environmental value, which will be protected through the acquisition.

Grant of land to an Indigenous corporation

The 104,000 Ha of land will be acquired to grant to an appropriate Indigenous titleholding body. This grant will occur when secured and unencumbered title is available through discharge of the ILC's financial and security obligations. The grant will occur with a lease-back arrangement to ensure the ongoing successful operation of ARR. There is already an ownership and 99-year leaseback and management arrangement with Traditional Owners over Uluru-Kata Tjuta National Park. This Commonwealth Government model will be the starting point for discussions between Traditional Owners and the ILC.

Financial arrangements

Details of the proposed financial arrangements

Acquisition of ARR	$300m[2]
Capital expenditure for infrastructure/modernisation	$ 45.0m
Delivery of the employment and training model (capital)	$ 2.5m
Delivery of the employment and training model (operational)	$ 1.3m pa
Delivery of school based apprenticeships	$ 0.2m pa

The ILC, with the vendor's support of the ILC's vision for ARR, has been able to minimise the amount of external borrowings required to fund the acquisition. The ILC, through a wholly-owned subsidiary, will acquire ARR through a tailored program of guaranteed deferred payments to the vendor for the purchase price. The ILC subsidiary will become the owner of ARR on contract completion (the vendor will not retain any equity interest).

The acquisition, capital expenditure on infrastructure, and modernisation will be funded through a combination of the guaranteed deferred payments to the vendor, the ILC's existing cash reserves and bank finance.

As at 30 June 2010 the ILC had $158m in cash reserves. The ILC will use these cash reserves, where not required for ILC normal operations, to minimise external borrowings. Three of the four major banks have provided credit approval for the bank finance.

[2] This is an indicative purchase price only—a final purchase price has yet to be settled

External borrowings and guarantees will peak at $260m at year one and reduce to $100m by year five, with the profit being approximately $25m per annum. Borrowings are expected to be fully extinguished prior to the end of year 10 of operations.

After the repayment of borrowings, ARR will provide an income of approximately $25m to the ILC enabling it to significantly expand the benefits it will be able to deliver to Indigenous people, beyond the income it will receive from the Aboriginal and Torres Strait Islander Land Account.

Delivery of the employment and training model and school-based apprenticeships at ARR will be funded from the income derived from ARR. The ILC has had favourable discussions with DEEWR to fund capital infrastructure for the training and employment model.

No adverse impact on ongoing ILC operations

There will be no adverse impact on the delivery of the ILC's existing operations, including work in relation to native title settlements, further strategic purchases, or expenditure on existing programs as contained in the Portfolio Budget Statements 2010/11. Income received from the Land Account will continue to be used to fund new and existing land acquisition and land management projects for Indigenous organisations.

Table 1 - ARR and ILC Consolidated Cash-flow Forecast

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Operating Cash Flows										
ILC (as per Portfolio budget statements)										
Income from Land Account	45.0	45.9	47.1	48.2	49.6	51.9	52.6	65.8	67.5	59.2
Other Income	10.6	9.9	8.1	8.1	8.3	8.3	8.3	8.3	8.3	8.3
Program and admin expenditure	-54.1	-54.4	-53.7	-54.7	-56.4	-58.7	-59.4	-62.6	-64.5	-6.0
ILC EBITDA	1.4	1.4	1.5	1.6	1.5	1.5	1.5	1.5	1.3	1.5
ARR										
Operating Revenue	109.2	111.5	124.4	136.4	151.6	164.5	168.6	173.3	178.1	183.1
Operating Expense	-72.9	-74.9	-80.2	-85.4	-92.1	-98.0	-100.7	-103.7	-106.7	-109.9
Head Office	-9.0	-9.5	-9.8	-10.1	-10.4	-10.7	-11.0	-11.3	-11.7	-12.0
Indigenous E&T	-1.0	-1.1	-1.2	-1.3	-1.5	-1.6	-1.8	-1.9	-2.1	-2.4
FF&E Expenditure	-1.0	-1.0	-1.1	-1.1	-1.1	-1.2	-1.2	-1.2	-1.3	-1.3
ARR EBITDA	25.3	25.0	32.1	38.5	46.5	53.0	53.9	55.2	56.3	57.5
Net Interest	-2.8	-1.1	-1.7	0.3	2.8	-3.2	1.6	5.3	8.2	11.3
Tax Expense							-1.9	-4.1	-4.9	-5.3
Total operating cash flows	23.9	25.3	31.9	40.4	50.8	51.3	55.1	57.9	60.9	65.0
Investing Cash Flows										
Contribution to Capital Expenditure	4.0	8.0	8.0	3.0	2.0					
Purchase (incl deferred payments)	-81.0	-81.0			-155.0					
Capital expenditure ARR	-18.3	-16.9	-4.7	-2.1	-2.3	-5.0	-5.0	-5.0	-5.0	-5.0
Total Investing cash flows	-95.3	-89.9	3.3	0.9	-155.3	-5.0	-5.0	-5.0	-5.0	-5.0
Financing Cash Flows										
Debt Raised	18.3	16.9	4.7	2.1	54.0					
Debt Repaid						-45.0	-48.0	-3.0	-	-
Interest on deferred payments	-13.9	-8.6	-8.6	-8.6	-8.6					
Total financing cash flows	4.4	8.3	-3.9	-6.5	45.4	-45.0	-48.0	-3.0		
Net change in cash	-67.0	-56.3	31.3	34.8	-59.1	1.3	2.1	49.9	55.9	60.0
Cash Balance										
Opening cash balance	128.2	61.2	4.9	36.2	71.0	11.9	13.2	15.3	65.2	121.1
Net change in cash	-67.0	-56.3	31.3	34.8	-59.1	1.3	2.1	49.9	55.9	60.0
Closing cash balance	61.2	4.9	36.2	71.0	11.9	13.2	15.3	65.2	121.1	181.1

Table 2 - Financing/ Borrowing Forecast ARR ($ millions)

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Financing/ Borrowing										
ILC*	48.7	39.4	-36.0	-36.9	5.1			-20.3		
Bank Finance*	18.3	16.9	4.7	2.1	54.0	-45.0	-48.0	-3.0	-	-
Total cash requirements	**67.0**	**56.3**	**-31.3**	**-34.8**	**59.1**	**-45.0**	**-48.0**	**-23.3**	**-**	**-**
Accumulative Bank Finance	**18.3**	**35.2**	**39.9**	**42.0**	**96.0**	**51.0**	**3.0**	**-**	**-**	**-**
Accumulative Funding from the ILC	**48.7**	**88.1**	**52.1**	**15.2**	**20.3**	**20.3**	**20.3**	**0.0**	**0.0**	**0.0**

*Repayment = -ve

Table 3 – Due diligence conducted

Grant Samuel	Coordination of due diligence and business structure proposal
Business analysis, accounting and financial modeling	Grant Samuel Horwath HTL Beachfame
Property and capital expenditure	Planned Property Management BeachFame
Airport and aviation	Aspirion
Legal due diligence and compliance – including structure, properties and businesses	Baker and McKenzie Solicitors Corrs Chambers Westgarth Lawyers
Environmental due diligence	URS Australia
Hotel management and systems review	Simon Barlow Koos Klein E Horner and Associates
IT and Communications due diligence	E Horner & Associates
Human resources due diligence	HR Strategies
Sales and marketing due diligence	Marlene Poynder

Commercial in Confidence

Volume 1	Tab
Corrs Chambers Westgarth – opinion – dated 13 August 2010	1
Through Baker and McKenzie – Memorandum of Advice from Counsel – dated 11 August 2010	2
Financial Model	3
Horwath HTL – Due Diligence Report August 2010	4
Horwath HTL – Additional Due Diligence February 2009 ACY08vs ABCY09	5
Horwath HTL – Additional Due Diligence February 2009 ACY08vs ABCY08	6
Volume 2	
Baker and McKenzie –Legal Due Diligence Report – Supplementary Volume 2	7
Baker and McKenzie –Legal Due Diligence Report – Supplementary Volume	8
Baker and McKenzie –Legal Due Diligence Report – December 2008	9
CBRE Valuation – dated 26 May 2009	10
Colliers Valuation – dated 1 December 2008	11
Volume 3	
Aspiron - Airport Compliance Assessment dated 29 September 2010 and 11 March 2009	12
Marlene Poynder – Sales and Marketing Due Diligence – August 2010	13
URS – Environmental Issues Report – 11 March 2009	14
HR Strategies – Human Resources Review – 12 August 2010	15
Planned Property Management Pty Ltd – Capital Expenditure Review July 2010 and February 2009	16
E Horner & Associates – Technology Report – August 2010 and March 2009	17

Australian Government
Indigenous Land Corporation

1 October 2010

Senator the Hon Penny Wong
Minister for Finance and Deregulation
Parliament House
CANBERRA ACT 2600

Dear Minister

Ayers Rock Resort

Further to my letter of 30 September 2010, I advise that the Board of the Indigenous Land Corporation met today and resolved to proceed with the acquisition of Ayers Rock Resort.

However, having regard to our correspondence, the Board proposes to delay implementation for seven days in the event that you wish to raise any further appropriate, substantial issues regarding Directors' duties under the *Commonwealth Authorities and Companies Act 1997*.

The Board has asked that I, as Chairperson, have regard to any appropriate, substantial issues.

Yours sincerely

SHIRLEY McPHERSON
Chairperson

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Rec'd 8/10/10

SENATOR THE HON PENNY WONG

Minister for Finance and Deregulation
Senator for South Australia

REF:B10/1374

Ms Shirley McPherson
Chair
Indigenous Land Corporation
PO Box 586
CURTIN ACT 2605

Dear Ms McPherson

Thank you for your letters of 30 September 2010 and 1 October 2010 concerning the Indigenous Land Corporation's (ILC) proposed acquisition of Ayers Rock Resort . I am particularly grateful for the ILC's promptness in responding to my letter of 29 September 2010, and the information provided to the Department of Finance and Deregulation.

While the information provided by the ILC addresses the matters of interest to me, I continue to be concerned with the potential financial viability of the proposed purchase and its impact on ILC's ability to perform its broader obligations. The due diligence report produced by Howath HTL identified some key risks facing the Resort in the medium to long term, which could potentially result in continued poor occupancy rates.

I do note that it is a matter for the Board to act with care and diligence in making a business judgement on the acquisition, and also note from your correspondence that considerable work has been undertaken by the Board prior to reaching a decision to acquire the Ayres Rock Resort. However, as advised in my letter of 29 September 2010 I do see the benefit of undertaking an independent sensitivity analysis, to further test the assumptions of the financial viability of the resort.

I note that following a meeting between the ILC's General Manager, Mr David Galvin, and officials from my Department, it was agreed that, should the acquisition proceed, quarterly meetings will be held between the ILC, the Department of Finance and Deregulation and the Department of Families, Housing, Community Services and Indigenous Affairs to monitor the performance of the Resort against the ILC's financial projections. I welcome this initiative.

Parliament House, Canberra ACT 2600 – Telephone: (02) 6277 7400 – Facsimile: (02) 6273 4110

Based on information to hand, I understand that the ILC subsidiary is likely to be classified by the Australian Bureau of Statistics as being outside the General Government Sector (GGS), but only as long as it is a going concern. However, regardless of whether the subsidiary is inside or outside the GGS, there will be broader implications for the Budget and this is a further reason for ongoing discussions with ILC.

In the event you proceed with the purchase, in accordance with paragraph 16(1)(c) of the *Commonwealth Authorities and Companies Act 1997* (CAC Act), I ask that you develop and provide me with:

- an independent detailed sensitivity analysis;
- a detailed contingency plan on actions the Board intends to take under various revenue and expense scenarios; and
- quarterly information on the Resort's performance, including comparisons to projected performance data.

In accordance with subsection 16(2) of the CAC Act, I ask that the directors of ILC please provide this information to me within 28 days from the date of this letter.

I have copied this letter to the Prime Minister, the Minister for Families, Housing, Community Services and Indigenous Affairs, the Treasurer, the Minister for Regional Australia, Regional Development and Local Government, the Minister for Tourism, and the Minister for Indigenous Employment and Economic Development, for their information.

Yours sincerely

Penny Wong

Commercial-in-Confidence

Australian Government
Indigenous Land Corporation
ABN 59 912 679 254

Your ref: B10/1374
CH2010/61

5 November 2010

Senator the Hon Penny Wong
Minister for Finance and Deregulation
Parliament House
CANBERRA ACT 2600

Dear Minister

On 29 September 2010 you wrote expressing concern that the Indigenous Land Corporation's (ILC) proposal to purchase Ayers Rock Resort (ARR) may place ILC Directors in a situation where they had not complied with their duties under the *Commonwealth Authorities and Companies Act 1997* (CAC Act). I replied to you on 30 September 2010 providing you with more comprehensive information on the proposed acquisition including details of the significant due diligence that had been undertaken, and responding to your specific questions.

I wrote to you again on 1 October 2010 advising that the ILC Board had met and resolved to proceed with the acquisition of ARR, after satisfying themselves they would be acting with appropriate care and diligence, in good faith, in the best interest of the ILC and for a proper purpose as required by the CAC Act.

On 8 October 2010 you wrote seeking the following:

1. An independent sensitivity analysis
2. A detailed contingency plan on actions the Board intends to take under various revenue and expense scenarios
3. Quarterly information on ARR's performance, including comparisons to projected performance data

The ILC engaged the respected Grant Samuel Corporate Finance to conduct the independent sensitivity analysis, which is at Attachment A. The contingency plan is at Attachment B.

Office of the Chairperson (Canberra Office)
PO Box 586, Curtin, ACT 2605
Freecall 1800 818 490 Telephone 02 6269 2500 Facsimile 02 6260 3899 Email ilcinfo@ilc.gov.au

The ILC will be pleased to meet with officers of your Department on a quarterly basis and provide details of ARR's performance, after settlement has taken place (expected in early to mid 2011).

Should you have any queries regarding the enclosed, please do not hesitate to contact the ILC's General Manager, Mr David Galvin, on 02 6269 2500.

Yours sincerely

SHIRLEY McPHERSON
Chairperson

cc: The Hon Julia Gillard MP, Prime Minister of Australia

The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs

The Hon Wayne Swan MP, Treasurer

The Hon Simon Crean MP, Minister for Regional Australia, Regional Development and Local Government

The Hon Martin Ferguson MP, Minister for Tourism

Senator the Hon Mark Arbib, Minister for Indigenous Employment and Economic Development

ATTACHMENT A

Independent Sensitivity Analysis—Conducted by Grant Samuel Corporate Finance (October 2010)
Purchase of Ayers Rock Resort (ARR)

The ILC requested that Grant Samuel Corporate Finance undertake a sensitivity analysis on the financial model for the purchase of ARR. The results of the sensitivity analysis are summarised below.

Base Case

Over the two years of consideration of the acquisition the ILC and Grant Samuel Corporate Finance have developed a number of financial models that are akin to a sensitivity analysis. Like other similar businesses, ARR has just gone through the Global Financial Crisis, which has had a significant adverse affect on the tourism industry. However, ARR reported EBITDA of $28.6 million for the year ended 31 December 2009 and expected EBITDA of $23.0 million for the year ending 31 December 2010. The final financial model has utilised this period of trading as its base case but assumed a more conservative second half resulting in a lower expected EBITDA of $21.2 million for the year ending 31 December 2010.

The ten-year financial forecasts prepared to analyse the proposed acquisition are conservative.

- Occupancy levels in the forecasts only recover to the 2008 level of 58% in 2014 and the 2007 level of 63% in 2015 following $52 million of capital expenditure
- Occupancy remains unchanged at 67% after 2016 (occupancy levels in the three years until 2001, the year Ansett collapsed, was in excess of 77%)
- Room rates remain around $260 until 2013. The room rate in 2006 was $258 and in 2009 was $257
- Forecast EBITDA does not exceed 2006 EBITDA of $38.5 million until 2015

Base Case	Forecast 2011	Forecast 2012	Forecast 2013	Forecast 2014	Forecast 2015	Forecast 2016	Forecast 2017	Forecast 2018	Forecast 2019	Forecast 2020
Occupancy	53.2%	52.9%	55.7%	59.3%	64.7%	67.4%	67.4%	67.4%	67.4%	67.4%
Room Rate	$256	$262	$280	$297	$307	$317	$327	$336	$347	$357
Turnover	$108.4m	$110.5m	$123.0m	$135.6m	$151.9m	$163.3m	$167.7m	$172.8m	$178.0m	$183.3m
EBITDA	$23.3m	$23.5m	$30.5m	$37.3m	$46.1m	$51.8m	$53.0m	$54.6m	$56.3m	$58.0m

[1] EBITDA has been revised to take into account the actual current cost of the Voyages platform.

Scenario 1

The sensitivity analysis under Scenario 1 assumes that EBITDA for Full Year 2011 (FY11) (first year of trade by the ILC) is $21.8 million, which is only 3% higher than the financial model EBITDA for FY10 (ie, assumes that EBITDA for FY11 remains the same as FY10 in real terms).

Earnings and other assumptions thereafter are assumed to maintain the same growth profile as the base case. The logic for this is that capital expenditure under this Scenario would remain the same as the base case. The capital expenditure is a significant driver for increased occupancy levels and increased room revenues.

To change the EBITDA for FY11 from $23.3 million to $21.8 million, two assumptions were independently changed:

Scenario 1A - Average Room Rates remain the same. The base case's occupancy levels change:

Occupancy	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual/Forecast 2010	Forecast 2011	Forecast 2012	Forecast 2013	Forecast 2014	Forecast 2015	Forecast 2016	Forecast 2017	Forecast 2018	Forecast 2019	Forecast 2020
Base Case	63.1%	63.1%	58.3%	51.2%	51.7%	53.2%	52.9%	55.7%	59.3%	64.7%	67.4%	67.4%	67.4%	67.4%	67.4%
Scenario 1A						52.3%	51.9%	54.7%	58.2%	63.6%	66.2%	66.2%	66.2%	66.2%	66.2%
Difference						*0.9%*	*0.9%*	*1.0%*	*1.1%*	*1.2%*	*1.2%*	*1.2%*	*1.2%*	*1.2%*	*1.2%*
Refinancing requirement in 2015															
Base Case										$43.7m					
Scenario 1A										$53.0m					

Scenario 1B - Occupancy levels remains the same. The base case's average room rates change:

Room Rates	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual/Forecast 2010	Forecast 2011	Forecast 2012	Forecast 2013	Forecast 2014	Forecast 2015	Forecast 2016	Forecast 2017	Forecast 2018	Forecast 2019	Forecast 2020
Base Case	$258	$242	$250	$257	$255	$256	$262	$280	$297	$307	$317	$327	$336	$347	$357
Scenario 1A						$245	$250	$267	$283	$293	$303	$312	$321	$331	$341
Difference						*$12*	*$12*	*$13*	*$13*	*$14*	*$14*	*$15*	*$15*	*$16*	*$16*
Refinancing requirement in 2015															
Base Case										$43.7m					
Scenario 1A										$53.1m					

It should be noted that output of these sensitivities in Scenario 1 show:

- under Scenario 1A occupancy levels do not exceed the 2008 levels (just prior to the GFC) until 2015
- under Scenario 1B the average room rate assumptions are very conservative on the basis that average room rates do not exceed the 2009 levels (shortly after the GFC) until 2013
- under both Scenario 1A and Scenario 1B significant capital expenditure would have been undertaken so there should be considerable improvement in performance during this period
- the refinancing requirement for the final payment to the vendor in year 5 under Scenarios 1A and 1B increases by less than $10 million

Scenario 2

The analysis under Scenario 2 looks at the sensitivity of either occupancy declines by 5% from the base case or average room revenue decline by 5% from the base case.

Scenario 2A - 5% relative decline in forecast occupancy with room rates remaining the same:

Occupancy	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual / Forecast 2010	Forecast 2011	Forecast 2012	Forecast 2013	Forecast 2014	Forecast 2015	Forecast 2016	Forecast 2017	Forecast 2018	Forecast 2019	Forecast 2020
Base Case	63.1%	63.1%	58.3%	51.2%	51.7%	53.2%	52.9%	55.7%	59.3%	64.7%	67.4%	67.4%	67.4%	67.4%	67.4%
Scenario 2A						50.6%	50.2%	53.9%	56.3%	61.5%	64.0%	64.0%	64.0%	64.0%	64.0%
Difference (absolute)						*2.7%*	*2.6%*	*2.8%*	*3.0%*	*3.2%*	*3.4%*	*3.4%*	*3.4%*	*3.4%*	*3.4%*
Turnover															
Base Case						$108.4m	$110.5m	$123.0m	$135.6m	$151.9m	$163.3m	$167.7m	$172.8m	$178.0m	$183.3m
Scenario 2A						$103.4m	$105.4m	$117.2m	$129.2m	$144.7m	$155.5m	$159.8m	$164.6m	$169.5m	$174.6m
Difference						*$5.0m*	*$5.1m*	*$5.8m*	*$6.4m*	*$7.2m*	*$7.8m*	*$7.9m*	*$8.2m*	*$8.5m*	*$8.7m*
EBITDA															
Base Case						$23.3m	$23.5m	$30.5m	$37.3m	$46.1m	$51.8m	$53.0m	$54.6m	$56.3m	$58.0m
Scenario 2A						$19.1m	$19.2m	$25.6m	$32.0m	$40.1m	$45.3m	$46.4m	$47.8m	$49.2m	$50.7m
Difference						*$4.2m*	*$4.3m*	*$4.8m*	*$5.3m*	*$6.0m*	*$6.5m*	*$6.6m*	*$6.8m*	*$7.0m*	*$7.2m*
Refinancing requirement in 2015															
Base Case										$43.7m					
Scenario 2A										$69.9m					

Scenario 2B -5% relative decline in average room rates and occupancy remaining the same:

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Base Case	$258	$242	$250	$257	$255	$256	$262	$280	$297	$307	$317	$327	$336	$347	$357
Scenario 2B						$243	$249	$266	$282	$292	$301	$310	$320	$329	$339
Difference (absolute)						*$13*	*$13*	*$14*	*$15*	*$15*	*$16*	*$16*	*$17*	*$17*	*$18*
Turnover															
Base Case						$108.4m	$110.5m	$123.0m	$135.6m	$151.9m	$163.3m	$167.7m	$172.8m	$178.0m	$183.3m
Scenario 2B						$106.4m	$108.5m	$120.7m	$133.1m	$149.0m	$160.2m	$164.6m	$169.5m	$174.6m	$179.8m
Difference						*$2.0m*	*$2.0m*	*$2.3m*	*$2.5m*	*$2.9m*	*$3.1m*	*$3.1m*	*$3.3m*	*$3.4m*	*$3.5m*
EBITDA															
Base Case						$23.3m	$23.5m	$30.5m	$37.3m	$46.1m	$51.8m	$53.0m	$54.6m	$56.3m	$58.0m
Scenario 2B						$21.7m	$21.8m	$28.6m	$35.2m	$43.7m	$49.2m	$50.4m	$51.9m	$53.5m	$55.1m
Difference						*$1.7m*	*$1.7m*	*$1.9m*	*$2.1m*	*$2.4m*	*$2.6m*	*$2.7m*	*$2.7m*	*$2.8m*	*$2.9m*
Refinancing requirement in 2015															
Base Case										$43.7m					
Scenario 2B										$54.0m					

In Scenario 2A it is assumed occupancy is a further 1.7%-2.2% lower than Scenario 1A.

It should be noted that output of these sensitivities in Scenario 2 show:

- under Scenario 2A occupancy rates do not exceed 2008 levels (just prior to the GFC) until 2015
- under Scenario 2B the average room rate does not exceed 2009 levels until 2013
- under Scenario 2 the refinancing requirement in 2015 is more sensitive to a 5% fall in occupancy than a 5% fall in the average room rate

Again significant capital development expenditure should result in a considerable improvement in performance over the period. Accordingly a decline of the magnitude in Scenario 2 would be considered unlikely.

The analysis indicates that:

- over the first five-year period that an ~1% absolute decline in occupancy rates equates to a total of $8.8m decline in EBITDA over the five year period
- a 5% relative decline (or ~2.5%-3.4% absolute decline) in occupancy rates increases the refinancing requirement by $26.2 million (to $69.9 million)
- a 5% relative decline (or $13-$18 absolute decline) in average room rates increases the refinancing requirement for the final payment to the vendor in year 5 by $10.4 million (to $54.1 million)

This supports the ILC emphasis on improving occupancy as a key driver in the contingency plan rather than seeking increases in room rates immediately.

Refinancing of these levels (ie, $69.9 million under Scenario 2A) in 2015 would be easily achievable on an asset such as ARR with its earnings profile and no other senior debt obligations, particularly given ILC Tourism was able to obtain credit approval for a $60 million debt facility recently with a third party bank with significant vendor financing outstanding.

Grant Samuel Corporate Finance has indicated that both Scenarios 1 and 2 are based on very conservative assumptions.

ATTACHMENT B

Key Performance Drivers and Contingency Plan
Purchase of Ayers Rock Resort (ARR)

The ILC is acutely aware that the performance at ARR has deteriorated over a ten-year period. This has been due to the following:

- Occupancy has fallen from 81% in 2000 to 51% in 2009
- Qantas airfares have been high, if not prohibitive, since competition was eliminated with the collapse of Ansett in 2001
- Airline capacity into ARR is fundamental to visitation and this has declined substantially over recent years
- ARR has had limited access to capital and, consequently, facilities have become tired and require refurbishment—new facilities are required
- The visitor experience is limited – there is little exposure to Indigenous culture and activities
- Average stay at the resort is only 1.8 days
- ARR has been on the market for two years
- Tourism activities were not core business for the owner

In order to improve performance at ARR, the ILC has identified (with the assistance of expert consultants) the following key performance drivers and activities.

Key Driver	*Plan*	*Specific Activity*
Increase occupancy	Accommodation experiences are commensurate with star rating and considered value for money	A consistent theme from consumer feedback was that ARR is an expensive destination. This includes cost to travel to ARR.
		Refurbishment of existing facilities (in particular Sails in the Desert) and the addition of new facilities (in particular the conference centre) is critical
		Develop activities to deliver on guest expectation of Indigenous cultural experience
	Cheaper air access with more airline capacity	Virgin commenced flying from Sydney seven days a week from 3 August 2010 (104 seats per day) and has given ILC Management a commitment to retain flights to ARR Occupancy at ARR in August 2010 was 22% higher than in August 2009 — 68% versus 56% — and air fares have fallen significantly from approximately $800 pp to approximately $400 pp
		Focus on developing and maintaining relationships with Qantas and Virgin to keep capacity increasing and fares competitive.

Key Driver	*Plan*	*Specific Activity*
	Effective marketing and promotional strategy	Marketing activities for the last two years have been reactive. Focus on developing a proactive marketing and promotion strategy
		Develop strong linkages to domestic and overseas travel companies and Government tourism authorities
		Increase focus on the conference and incentives market
		Retain the branding and reputation of Voyages
		Voyages travel agency has a good reputation that has been impacted as a result of ARR being on the market for two years. Build on travel agency reputation and performance.
		"Once in a lifetime" visit aspiration means minimal repeat visitation. Seek opportunities to promote repeat visitation.
		In low season the large number of empty rooms erodes profits due to high holding costs. Develop and promote low season activities.
Increase average length of stay	*Increase experiences for the visitor*	Development of *out of room experiences including tours, Indigenous culture* and art, entertainment and dining experiences.
		Maintain relationship and arrangements with Wana Ungkunytja and further develop relationships with local Indigenous communities.
		Work with National Parks regarding its plans for the management of Uluru Kata Tjuta National Park.
		Work with National Parks to promote walks at Kata Tjuta.
		Develop capital expenditure plan for increased experiences associated with the resort (eg, wild life park, golf course)
Business operations	The ILC recognises that there are challenges in operating a destination resort, particularly in a remote location. Therefore, a quality board and management team will be required.	Mr David Baffsky, former Chairperson of Accor Asia Pacific and Asia-Pacific Hotelier of the Year 2004, will be the Chairperson of the ARR operating company and an extremely experienced Board of directors will be appointed to the company.
		Mr Koos Klein, former President of Hilton Hotels, Asia Pacific and Middle East, and Asia-Pacific Hotelier of the Year 2007, has been consulting to the ILC and has agreed to be ARR's CEO for three years.

Key Driver	Plan	Specific Activity
		The acquisition of the Voyages platform gives access to an experienced management team and will ensure a seamless transition of ownership to ILC Tourism, retention of experienced staff and operation of the businesses without interruption during the purchase period.
		The ILC can, if it so chooses, enter into a franchising arrangement with an international hotel group for services, marketing and personnel
	Improve staff turnover	Through an Indigenous Employment and Training Strategy, develop a five-year program at ARR.
		Develop a cohesive recruitment and selection process with tools that ensure the employer brand can attract and retain talent.
		Enterprise Bargaining Agreement expires in 2011 and will be renegotiated. Consider employee retention strategy as part of this process.
		Review and potentially re-structure the HR team and practices
	Manage expenditure	Voyages Corporate Office is larger than required for management of ARR only. Consider further downsizing and office subleasing options
		Remote location entails high operating costs. Consider the opportunities for partnering relationships for key services to ARR. Test the market as existing commercial contracts expire.
		Nature of ARR and location requires large and ongoing repairs and maintenance costs. Establish ongoing maintenance program.

Obviously the focus for the ILC will be on increasing the profitability of ARR so that it can successfully deliver Indigenous training and employment outcomes. However, the ILC's contingency plan also includes the following if the profitability does not improve:

Re-scheduling capital expenditure program.

The ILC has forecast and prioritised its capital expenditure program for the first five years on essential repairs and maintenance and upgrading of accommodation facilities so they again meet international standards. Accordingly, it has sought a cash advance facility to assist with the capital expenditure program for the first five years. The ILC has a contractual undertaking from the vendor that it will contribute $25m in total to that capital expenditure program for the first five years. Should ARR not meet the forecast profit and cashflow, then the ILC would in the first instance look at the program of capital expenditure.

Re-negotiate external financing arrangements.
The ILC will not require external bank finance to fund the acquisition until the final payment to the vendor is required at the end of year 5 (described above as refinancing requirements). The ILC has been advised that the amount currently forecast to be required at that time would be easily achievable on an asset such as ARR with its earnings profile and no other senior debt obligations. This is particularly so given the ILC was able to secure a $60 million debt facility recently with a third party bank with significant vendor financing outstanding. Should ARR not meet the forecast profit and cashflow then the ILC would seek to negotiate with external bankers support for a higher refinancing total.

Re-negotiate the final payment terms with the vendor.
The ILC has negotiated a deferred payment arrangement for the purchase price of ARR with the vendor. The final payment is required on the fifth anniversary of the completion date. Under this arrangement, the ILC pays the vendor 6.5% interest on the deferred payments and the vendor takes security over the assets of ILC Tourism Pty Ltd. Should the ILC not be in a position to make the final payment in full, the vendor may call on that security. Accordingly, should ARR not meet the forecast profit and cashflow, the ILC would seek to work with the vendor to negotiate a mutually acceptable arrangement that avoids the need for the vendor to commence a process to sell the assets.

Sell the Airport
During the due diligence process for the purchase of ARR the ILC considered on-selling the lease on the Airport. Valuations sought indicated that the ILC could sell the Airport for $45m-$70m (there is still strong interest in its purchase). The ILC decided not to on-sell the Airport, as it is one of the best performing operations of ARR. On-selling will also dilute the relationship between ARR and the airlines. However, should ARR not meet the forecast profit and cashflow then the ILC could seek to sell the Airport.

Sell ARR
The ILC has entered into agreement to purchase ARR to:

- Acquire a world-renowned tourism destination
- Create Indigenous employment, including through an Indigenous Tourism Training Academy
- Provide world class cultural tourism
- Develop Indigenous tourism leadership and capacity
- Promote Indigenous excellence in tourism
- Grant the land to an Indigenous organisation

Therefore, for the ILC, increasing the profitability of ARR is a means to an end. However, should ARR not meet the forecast profit and cashflow, as well as not meet its long-term objectives, then as a last resort the ILC could seek to sell ARR.

SENATOR THE HON PENNY WONG

Minister for Finance and Deregulation

Indigenous Land Corporation
Office of the GM
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Ms Shirley McPherson
Chair
Indigenous Land Corporation
PO Box 586
CURTIN ACT 2605

Dear Ms McPherson

Thank you for your letter dated 5 November 2010, which provided a sensitivity analysis and contingency plan for the purchase of Ayers Rock Resort by the Indigenous Land Corporation (ILC) in response to my letter of 8 October 2010.

I note your assurances that the ILC Board is continuing to monitor the financial performance of the Ayers Rock Resort in the period leading up to the expected settlement of the purchase.

I ask that you continue to work closely with the Department of Finance and Deregulation regarding the parameters in the sensitivity analysis and ongoing risk management strategies.

I thank you again for the willingness of ILC to provide information in response to my requests, and for working cooperatively with the Department of Finance and Deregulation and the Department of Families, Housing, Community Services and Indigenous Affairs, regarding the purchase of Ayers Rock Resort.

I have copied this letter to the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP, for her information.

Yours sincerely

Penny Wong

Parliament House, Canberra ACT 2600 ~ Telephone: (02) 6277 7400 ~ Facsimile: (02) 6273 4110

Australian Government
Indigenous Land Corporation

14 May 2013

The Hon Jenny Macklin MP
Minister for Families, Community Services and Indigenous Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

The purpose of this letter is to draw to your attention a number of significant issues that have arisen in relation to the Indigenous Land Corporation's (ILC) Ayers Rock Resort (ARR) project, being managed through Voyages Indigenous Tourism Pty Ltd (Voyages) that give rise to serious questions about the decision to acquire ARR and establish Voyages.

This correspondence outlines both the issues and responses being initiated by the current ILC Board to address them. It also proposes that you secure agreement with the Minister for Finance and Deregulation to jointly request the Australian National Audit Office (ANAO) to undertake a forensic audit of the adequacy of the due diligence undertaken by the then ILC Board in relation to the $300m acquisition of ARR, and the establishment of Voyages.

This latter request results from a resolution accepted at the latest ILC Board meeting of 17 April 2013. This resolution was made following Board consideration of both the findings of a recently completed independent review of ILC governance commissioned from Deloitte, and the latest financial projections for the ARR project, provided by Voyages to the ILC Board.

By way of background, in October 2010 the then ILC Board resolved to proceed with the $300m acquisition of ARR with a view to establishing it 'as a world renowned Indigenous tourism enterprise that employs significant numbers of Indigenous staff'.

Prior to this occurring, in January 2009 the ILC's then CEO, David Galvin provided a written briefing to FAHCSIA seeking in-principle agreement to secure $272m loan funds from the Land Fund Account towards the purchase of this property. Whilst this loan proposal did not proceed (the then ILC Board ultimately secured vendor finance from GPT), in the same briefing Mr Galvin included a table 'prepared by Grant Samuel in conjunction with other due diligence consultants and particularly Howath HTL', (that) 'assumes extremely conservative and realistic financial projections for ARR based on the current world economic crisis'. These projected total EBITDA of ARR assets in 2011, 2012 and 2013 respectively of $30.2m, $33.6m and $37.1m.'

Prior to the final settlement proceeding (in May 2011) there was a significant amount of correspondence between yourself, the Minister for Finance and the then ILC Board Chairperson regarding the ARR purchase. Both your and Minister Wong's correspondence raised a number of specific concerns. These included seeking advice as to how the ILC would meet its other statutory obligations if the financial projections for the project were not achieved, the independent sensitivity of the projected revenue and cost projections prepared for the ILC, and the importance of ensuring other ILC programs were not going to be adversely affected.

The then Chairperson, Ms Shirley McPherson responded to these concerns, including in separate letters to both you and Minister Wong of 23 September and 30 September 2010. In both responses Chairperson McPherson forecast reduced revenues (compared to the projections in Mr Galvin's 2009 briefing) with projected EBITDA for the ARR project over 2011, 2012 and 2013 respectively, being $25.3m, $25m and $32.1m.
Ms McPherson also stated that 'I can assure you that in all aspects of the due diligence, planning and financial forecasting, the ILC Board is ensuring there will be no adverse impact on the delivery of ILC's existing operations'..... 'Indeed, based on conservative cash flow projections, ARR after ten years of operations, is predicted to provide additional net income to the ILC of $25m a year, which will enable expansion of ILC's programs across Australia'.

In May 2011, the ILC's purchase of ARR settled. The detailed arrangements included in the settlement are summarised in the attached. Beyond the ILC's initial injection of equity in the first year, the ILC underwriting model assumed that the operating cash flow of ARR would be sufficient to fund both the interest costs of the GPT and ANZ loans and ongoing capital expenditure. To date this has been the case with Voyages having directly funded the interest rates on the ANZ loan since it was drawn down, and on the GPT loan since 2012.

I have previously written to you outlining the current ILC Board's concerns in relation to the financial exposure of the ILC to the ARR project, including its deteriorating financial performance relative to acquisition forecast performance.

Voyages most recent forecasts most 'likely scenario' projects a reduction in EBITDA to $12.7m in 2012-13 and to $12.6m in 2013/4 With debt service obligations totalling more than $11m per annum, Voyages advises that under the most 'likely scenario' Voyages will not be in a position to fund any capital expenditure in 2013-4 (currently required to be maintained at a minimum of $5m per annum). Under an alternative 'downside scenario' Voyages argues 'it would need some assistance to meet its current debt service obligations'. The Board was also advised that 'it may be increasingly difficult for Voyages, in the light of their financial circumstances to contribute $1.35m in 2013/4 and $1.38m in 2014/5 towards Indigenous employment and training program costs'.

In response to these latest financial projections the existing Board agreed at its April 17 meeting to move promptly to commission a comprehensive independent review of the Voyages financial projections for ARR.

This will include:

- Identifying short term strategies to improve ARR financial performance across a wide range of ARR operations;
- Review of longer term risks associated with ownership and operations of ARR;
- Identification of contingency plans to address identified risks;
- Detailed projections of capital requirements;
- Identification of potential alternative sources of funding or equity injection/ partners; and
- Alternative debt funding arrangements.

However, this has led to the Board questioning the fundamental quality of the original due diligence undertaken and when joined with the results of a Board initiated independent review of ILC corporate governance, had led to this request for you and Minister Wong to request an ANAO forensic audit of the Voyages acquisition.

The Deloitte report identifies a number of shortcomings in relation to the Ayers Rock acquisition. I have previously written to you about these issues.

The issues include:

- The services provided by Grant Samuel. The Deloitte report indicated there is no evidence to indicate that good practice procurement policy was employed in the direct appointment of this party to provide services, ultimately valued at over $3m;
- The practice of declaration of interests had weaknesses including inconsistent practice for documenting declarations of interest and poor practice in recording why Directors left Board meetings at certain times; and
- The manner in which the Board acquisition decision was ultimately taken, involving two abstentions by individual Board members with their reasons for not doing so not being recorded.

These findings and the poor financial performance of ARR as against the original Grant Samuel model projections, gives rise to serious questions about the decision to acquire ARR and establish Voyages.

With these issues in mind I have attached suggested draft terms of reference for the undertaking of a forensic audit by the ANAO and request that both you and Minister Wong give due consideration to requesting ANAO to undertake this task as a matter of urgency.

I have written in similar terms to the Minister for Finance and Deregulation, Senator Wong.

Yours sincerely

Dr Dawn Casey PSM FAHA
Chair

Encl.

- Attachment A: Proposed Draft Terms of Reference for ANAO Audit
- Attachment B: ARR Settlement Arrangements

Attachment: A

Proposed Draft Terms of Reference

Forensic Audit –Acquisition of Ayers Rock Resort (ARR) and establishment of Voyages Indigenous Tourism Pty Ltd (Voyages)

Examine all matters pertaining to the adequacy of the due diligence undertaken directly or on behalf of by the previous Indigenous Land Corporation Board in relation to the acquisition of the ARR and the establishment of Voyages. In particular:

- Did the purchase represent value for money paid to the vendor, taking into account the GPT CAPEX contribution and uplift payment?
- Were the projections regarding capital refurbishment and maintenance requirements over the immediate, medium and longer terms realistic and appropriate?
- Were the projections regarding profitability and return on the investment appropriate and realistic given financial returns previously generated by previous owners of the ARR and the then current and projected international and domestic tourism market across Australia and in Central Australia in particular?
- Were the loan arrangements negotiated with the vendor and the ANZ bank appropriate and undertaken at arm's length?
- The extent to which all consultancies commissioned by the previous ILC board were consistent with ILC purchasing guidelines?
- Was the advice and the valuation (s) provided by consultants realistic? (including by seeking access and reviewing relevant working papers held by the consultants)
- Was the advice provided by consultants followed by the previous ILC Board and reflected in the negotiations with the vendor and other relevant parties?
- Were the negotiations conducted in the best interests of the ILC Corporation?
- Was the establishment of Voyages, selection of Directors, their length of appointment and setting of remuneration in accordance with normal practice for a Commonwealth statutory body, and in particular the arrangements made in relation to then ILC Directors and the then CEO?;
- Comment on the extent to which a transparent audit trail was established that records ILC Board decisions and their implementation;
- Confirm that appropriate declarations and recording of conflicts of interest by Directors and consultants were made consistent with Commonwealth statutory guidelines ; and
- Examine any other matters deemed relevant to providing that this purchase in the best interest of the ILC and Indigenous people, including via eventual divestment.

Attachment: B

Attachment: ARR Settlement Arrangements

In May 2011 the ILC's purchase of ARR settled, and in accordance with the sale agreement was immediately on-sold to the ILC's wholly owned subsidiary, ILC Tourism Ltd (now renamed Voyages). The consideration of the sale from the ILC was two million $1shares and the balance as a loan to the ILC ($300m in total). The ILC purchase occurred through a combination of ILC equity and vendor finance from the GPT Group (GPT) repayable over 5 years at 6.5% per annum. The ILC funded the settlement payment of $81m (drawing on its then cash reserves) in May 2011 and also funded interest payments to GPT on the GPT loan for the first year after settlement. The second payment of $81m was paid in May 2012 by the draw-down of a $60m ANZ five year term loan held by Voyages, with the balance directly paid by the ILC (again from its cash reserves). A further $138m is scheduled to be paid on the fifth anniversary of completion.

Through terms included in the sale agreement, the ILC and Voyages guarantee to GPT that all payments for the acquisition will be paid in full when due. This was based on calculations provided to the previous Board that 'external borrowings and guarantees will peak at $260m in year one and reduce to $100m in year five, with profit being approximately $25m per annum. Borrowings are estimated to be fully extinguished prior to the end of year ten of operations'.

In recognition of the fact that GPT had starved the ARR of capital maintenance and improvements during the sale process GPT agreed to contribute $25m to capital improvements through the payment of staggered instalments over five years. Through agreement reached with GPT this total payment was brought forward at a discounted rate of $22m in 2012, given the need to undertake significant capital improvements to ARR accommodation and conference facilities.

In addition, in the original sale agreement the ILC agreed to pay GPT an additional amount on the fifth anniversary of completion, calculated at 46% of the amount by which the value of ARR exceeds $300m at the time (or a minimum of $17m).

Beyond the ILC's initial injection of equity in the first year, the ILC underwriting model assumed that the operating cash flow of ARR would be sufficient to fund both the interest costs of the GPT and ANZ loans and ongoing capital expenditure. To date this has been the case with Voyages having directly funded the interest rates on the ANZ loan since it was drawn down, and on the GPT loan since 2012.

Australian Government
Indigenous Land Corporation

14 May 2013

Senator the Hon Penny Wong
Minister for Finance and Deregulation
Parliament House
CANBERRA ACT 2600

Dear Minister

The purpose of this letter is to draw to your attention a number of significant issues that have arisen in relation to the Indigenous Land Corporation's (ILC) Ayers Rock Resort (ARR) project, being managed through Voyages Indigenous Tourism Pty Ltd (Voyages) that give rise to serious questions about the decision to acquire ARR and establish Voyages.

This correspondence outlines both the issues and responses being initiated by the current ILC Board to address them. It also proposes that you secure agreement with the Minister for Families, Housing, Community Services and Indigenous Affairs (FAHCSIA) Jenny Macklin, to jointly request the Australian National Audit Office (ANAO) to undertake a forensic audit of the adequacy of the due diligence undertaken by the then ILC Board in relation to the $300m acquisition of ARR, and the establishment of Voyages.

This latter request results from a resolution accepted at the latest ILC Board meeting of 17 April 2013. This resolution was made following Board consideration of both the findings of a recently completed independent review of ILC governance commissioned from Deloitte, and the latest financial projections for the ARR project, provided by Voyages to the ILC Board.

By way of background, in October 2010 the then ILC Board resolved to proceed with the $300m acquisition of ARR with a view to establishing it 'as a world renowned Indigenous tourism enterprise that employs significant numbers of Indigenous staff'.

Prior to this occurring, in January 2009 the ILC's then CEO, David Galvin provided a written briefing to FAHCSIA seeking in-principle agreement to secure $272m loan funds from the Land Fund Account towards the purchase of this property. Whilst this loan proposal did not proceed (the then ILC Board ultimately secured vendor finance from GPT), in the same briefing Mr Galvin included a table 'prepared by Grant Samuel in conjunction with other due diligence consultants and particularly Howath HTL', (that) 'assumes extremely conservative and realistic financial projections for ARR based on the current world economic crisis'. These projected total EBITDA of ARR assets in 2011, 2012 and 2013 respectively of $30.2m, $33.6m and $37.1m.'

Prior to the final settlement proceeding (in May 2011) there was a significant amount of correspondence between yourself, the Minister for FAHCSIA and the then ILC Board

Chairperson regarding the ARR purchase. Both your and Minister Macklin's correspondence raised a number of specific concerns. These included seeking advice as to how the ILC would meet its other statutory obligations if the financial projections for the project were not achieved, the independent sensitivity of the projected revenue and cost projections prepared for the ILC, and the importance of ensuring other ILC programs were not going to be adversely affected.

The then Chairperson, Ms Shirley McPherson responded to these concerns, including in separate letters to both you and Minister Macklin of 23 September and 30 September 2010. In both responses Chairperson McPherson forecast reduced revenues (compared to the projections in Mr Galvin's 2009 briefing) with projected EBITDA for the ARR project over 2011, 2012 and 2013 respectively, being $25.3m, $25m and $32.1m.

Ms McPherson also stated that 'I can assure you that in all aspects of the due diligence, planning and financial forecasting, the ILC Board is ensuring there will be no adverse impact on the delivery of ILC's existing operations'..... 'Indeed, based on conservative cash flow projections, ARR after ten years of operations, is predicted to provide additional net income to the ILC of $25m a year, which will enable expansion of ILC's programs across Australia'.

In May 2011, the ILC's purchase of ARR settled. The detailed arrangements included in the settlement are summarised in the attached. Beyond the ILC's initial injection of equity in the first year, the ILC underwriting model assumed that the operating cash flow of ARR would be sufficient to fund both the interest costs of the GPT and ANZ loans and ongoing capital expenditure. To date this has been the case with Voyages having directly funded the interest rates on the ANZ loan since it was drawn down, and on the GPT loan since 2012.

I have previously written to Minister Macklin outlining the current ILC Board's concerns in relation to the financial exposure of the ILC to the ARR project, including its deteriorating financial performance relative to acquisition forecast performance.

Voyages most recent forecasts most 'likely scenario' projects a reduction in EBITDA to $12.7m in 2012-13 and to $12.6m in 2013/4 With debt service obligations totalling more than $11m per annum, Voyages advises that under the most 'likely scenario' Voyages will not be in a position to fund any capital expenditure in 2013-4 (currently required to be maintained at a minimum of $5m per annum). Under an alternative 'downside scenario' Voyages argues 'it would need some assistance to meet its current debt service obligations'. The Board was also advised that 'it may be increasingly difficult for Voyages, in the light of their financial circumstances to contribute $1.35m in 2013/4 and $1.38m in 2014/5 towards Indigenous employment and training program costs'.

In response to these latest financial projections the existing Board agreed at its April 17 meeting to move promptly to commission a comprehensive independent review of the Voyages financial projections for ARR.

This will include:

- Identifying short term strategies to improve ARR financial performance across a wide range of ARR operations;
- Review of longer term risks associated with ownership and operations of ARR;
- Identification of contingency plans to address identified risks;
- Detailed projections of capital requirements;
- Identification of potential alternative sources of funding or equity injection/
- partners; and
- Alternative debt funding arrangements.

However, this has led to the Board questioning the fundamental quality of the original due diligence undertaken and when joined with the results of a Board initiated independent review of ILC corporate governance, had led to this request for you and Minister Macklin to request an ANAO forensic audit of the Voyages acquisition.
The Deloitte report identifies a number of shortcomings in relation to the Ayers Rock acquisition. I have previously written to Minister Macklin about these issues.

The issues include:

- The services provided by Grant Samuel. The Deloitte report indicated there is no evidence to indicate that good practice procurement policy was employed in the direct appointment of this party to provide services, ultimately valued at over $3m;
- The practice of declaration of interests had weaknesses including inconsistent practice for documenting declarations of interest and poor practice in recording why Directors left Board meetings at certain times; and
- The manner in which the Board acquisition decision was ultimately taken, involving two abstentions by individual Board members with their reasons for not doing so not being recorded.

These findings and the poor financial performance of ARR as against the original Grant Samuel model projections, gives rise to serious questions about the decision to acquire ARR and establish Voyages.

With these issues in mind I have attached suggested draft terms of reference for the undertaking of a forensic audit by the ANAO and request that both you and Minister Macklin give due consideration to requesting ANAO to undertake this task as a matter of urgency.
I have written in similar terms to the Minister for Families, Community Services and Indigenous Affairs, The Hon Jenny Macklin.

Yours sincerely

Dr Dawn Casey PSM FAHA
Chair

Encl.

- Attachment A: Proposed Draft Terms of Reference for ANAO Audit
- Attachment B: ARR Settlement Arrangements

Attachment: A

Proposed Draft Terms of Reference

Forensic Audit –Acquisition of Ayers Rock Resort (ARR) and establishment of Voyages Indigenous Tourism Pty Ltd (Voyages)

Examine all matters pertaining to the adequacy of the due diligence undertaken directly or on behalf of by the previous Indigenous Land Corporation Board in relation to the acquisition of the ARR and the establishment of Voyages. In particular:

- Did the purchase represent value for money paid to the vendor, taking into account the GPT CAPEX contribution and uplift payment?
- Were the projections regarding capital refurbishment and maintenance requirements over the immediate, medium and longer terms realistic and appropriate?
- Were the projections regarding profitability and return on the investment appropriate and realistic given financial returns previously generated by previous owners of the ARR and the then current and projected international and domestic tourism market across Australia and in Central Australia in particular?
- Were the loan arrangements negotiated with the vendor and the ANZ bank appropriate and undertaken at arm's length?
- The extent to which all consultancies commissioned by the previous ILC board were consistent with ILC purchasing guidelines?
- Was the advice and the valuation (s) provided by consultants realistic? (including by seeking access and reviewing relevant working papers held by the consultants)
- Was the advice provided by consultants followed by the previous ILC Board and reflected in the negotiations with the vendor and other relevant parties?
- Were the negotiations conducted in the best interests of the ILC Corporation?
- Was the establishment of Voyages, selection of Directors, their length of appointment and setting of remuneration in accordance with normal practice for a Commonwealth statutory body, and in particular the arrangements made in relation to then ILC Directors and the then CEO?;
- Comment on the extent to which a transparent audit trail was established that records ILC Board decisions and their implementation;
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The Hon Jenny Macklin MP
Minister for Families, Community Services and Indigenous Affairs
Minister for Disability Reform

Parliament House
CANBERRA ACT 2600

Telephone: (02) 6277 7560
Facsimile: (02) 6273 4122

MN13-000888

- 5 JUN 2013

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

Dear Dr Casey

Thank you for your letter of 11 April 2013 enclosing the final report by Deloitte Touché Tohmatsu (Deloitte) regarding the results of an independent review of the Indigenous Land Corporation's Board governance arrangements. I also refer to your letter of 14 May 2013 regarding the decision in 2010 of the Board of the Indigenous Land Corporation to purchase the Ayers Rock Resort (Resort). I understand you have also written in similar terms to the Minister for Finance and Deregulation, Senator the Hon Penny Wong, about the Resort. I am also replying on behalf of Minister Wong.

As you know, I respect the statutory independence of the Corporation. However, I expect that all agencies in my portfolio uphold the highest standards of governance and practice. In your letter of appointment from me on 19 October 2011, I stated my expectation that you would oversee a period of strengthened governance at the Corporation. I am pleased that, as part of this work, you commissioned an independent review of the Corporation's governance arrangements.

I note that the review acknowledges the positive steps you and the Board have already taken to improve governance and provide enhanced strategic direction to the Corporation. However, the review also identifies a number of serious issues which require action and makes recommendations that go to strengthening the overall governance and operations of the Board and the Corporation.

I support the Board's acceptance of the review findings and its decision to implement all the report recommendations. I understand the Board is developing a detailed action plan to assist in implementing the recommendations, and expect that you will work with my Department to finalise this plan. Once complete, I also expect that you will provide me with the final plan, and regular updates on progress in implementing the agreed actions in an appropriate and timely manner.

I understand the Corporation is currently considering publication of the Deloitte governance review. I ask that you release the review publicly as a matter of priority to ensure proper transparency and accountability arrangements for all stakeholders of the Corporation, including Indigenous Australians.

I trust that implementation of the recommendations will enhance the accountability and transparency of the Corporation and will support the Board in its role to improve the lives of Indigenous Australians.

Further, in the interests of improving the operations and governance of the Corporation, I provide you with my Statement of Expectations for the Indigenous Land Corporation. This Statement outlines the Government's expectations regarding the operations and performance of the Corporation.

The Statement of Expectations has been prepared in consultation with the Corporation's Chief Executive Officer and other staff, and I understand the Corporation's Board has also had the opportunity to provide comments on a draft. I have included an additional clause regarding implementation of the governance review recommendations to ensure this is carried through.

I look forward to receiving the action plan and regular reports on your progress in implementing the governance review recommendations. I also look forward to receiving a Statement of Intent, outlining how the Corporation will implement the Statement of Expectations, within two months.

Regarding the decision that was taken by the Board to purchase the Ayers Rock Resort in 2010, I recognise this decision was taken prior to your appointment as Chair.

I note in your letter that you have outlined concerns about how the Board arrived at this decision, including matters that go to proper due diligence and governance of the Corporation's decision-making, as outlined in the Deloitte governance review.

Minister Wong and I have carefully considered your request to ask the Australian National Audit Office (ANAO) to conduct a forensic audit of the purchase decision. You may be aware that, at the time, both Minister Wong and I wrote to your predecessor expressing concerns about the proposed acquisition. In particular, I was concerned that an acquisition as large and financially and operationally complex as the Resort could limit the Corporation's ability to deliver on its business objectives and take up other opportunities that would benefit Indigenous people.

Noting the Resort's current and projected financial outlook, in addition to the review findings about the acquisition process, Minister Wong and I consider that rather than a retrospective ANAO review, a more comprehensive, independent, end-to-end review is required. This review should examine the purchase decision, in addition to the current performance and longer-term operational and financial forecast for the Resort, and make appropriate recommendations in all three areas.

To this end, I ask that you and the Board work with my Department to expand the Terms of Reference for the independent review that the Board agreed to commission on 17 April 2013 into the Resort's forward operations, to an all-encompassing review covering the purchase decision, current performance and future outlook for the Resort.

I request that this comprehensive, end-to-end review also include consideration of long-term strategies regarding ownership of the Resort, the potential financial and broader implications

of these strategies on the Corporation; and advice on when the Board should consider divestment of the Resort in the financial interests of the Corporation.
I would also expect that the final report would be made public, consistent with the requested release of the governance review and in the interests of accountability and transparency.

I would ask that the Board keep me informed about the progress and outcomes of the proposed review, which should focus on maximising the benefits to Indigenous Australians from investment in the resort.

In addition, I have been advised that there are quarterly financial performance monitoring meetings between my Department, the Department of Finance and Deregulation (Finance) and the Corporation. Minister Wong and I have asked our departments to elevate these meetings to a more senior level.

In cooperation with my Department, and as a result of these meetings, I ask that the Corporation keep Minister Wong and myself regularly appraised of the financial position of the Resort.

If you have any questions regarding these matters, the Department's contact is Ms Tracey Carroll, Acting Branch Manager, Cross Portfolio & Information Branch on (02) 6146 2861 or email tracey.carroll@fahcsia.gov.au.

Thank you again for writing.

Yours sincerely

JENNY MACKLIN MP

Encl.

Indigenous Land Corporation

Statement of Expectations

The Indigenous Land Corporation (ILC) is an independent statutory authority established under Part 4A of the *Aboriginal and Torres Strait Islander Act 2005* (ATSI Act). The ILC was established in June 1995 to assist Aboriginal and Torres Strait Islander people to acquire and manage land to achieve economic, environmental, social or cultural benefits. The National Indigenous Land Strategy outlines the strategies, policies and priorities which guide the ILC's land acquisition and land management functions. I encourage any future revisions to clearly set out the ILC's strategy for achieving measurable benefits through its land acquisition and land management programs.

While recognising the independence of the ILC, the Australian Government will be looking to the ILC Board to support the Council of Australian Governments (COAG) Closing the Gap targets, including through work to complement the Indigenous Economic Development Strategy, the Remote Jobs and Communities Program and the National Partnership on Remote Service Delivery.

The Australian Government is working to achieve constructive and flexible resolution of native title claims. To progress this priority, the Australian Government will be looking to the ILC to actively contribute to native title settlements as part of its land acquisition and land management functions. This will involve active consultation with State and Territory Governments and Native Title Representative Bodies, which should be conducted in a sensitive manner in accordance with appropriate consideration of statutory functions while maintaining the highest standards of corporate governance.

In order to successfully achieve the required outcomes under this Statement of Expectations, I expect the ILC will continue to:

- assist Aboriginal and Torres Strait Islander people to acquire and manage Indigenous-held land so as to provide economic, environmental, social or cultural benefits for Aboriginal and Torres Strait Islander people including assisting native title claimants and holders to build their capacity to manage land and establish viable, land-based enterprises through training, education and other means;

- initiate strategic land acquisitions and land management projects having regard to broader Commonwealth policy initiatives including; Closing the Gap priorities and investments, such as the COAG National Partnership on Remote Service Delivery, the Urban and Regional Service Delivery Strategy, investment in housing and infrastructure and the Indigenous Economic Development Strategy;

- maximise employment and education and training benefits having regard to the COAG targets for Closing the Gap in employment outcomes and educational attainment;

- actively contribute to making the ILC's programs and resources more accessible to native title claimants to facilitate and support resolution of native title claims and implementation of settlement agreements, and report progress to me with a copy to the Attorney-General's Department and my Department;

- develop an active land grant plan and to progress land grants consistent with the ILC's legislative brief, including maintaining and developing appropriate land grant plans which include detailed property-specific divestment strategies for all properties owned by the ILC. I encourage the ILC to monitor and progress such strategies in a timely and reasonable manner to ensure sustainable benefits;

- implement the recommendations of the governance review and keep me informed of progress;

- brief me regularly on progress by the ILC in the performance of its statutory functions and of key business issues faced by the Board, including:

  - prior notification of an event or issue, including land acquisition, if in the Board's judgement, the event or issue could be particularly significant;
  - where the event or issue relates to land acquisition the notification should include the intended benefits for Indigenous people and the proposed divestment strategy and timeframes;
  - prior notification of any proposal over $1 million for the ILC or a subsidiary to use the borrowing powers and guarantee limits;
  - regular reports on the ILC's financial position and on any events or issues. These reports could be provided quarterly, or timed to suit the Board meeting schedule. However, I would expect to be notified promptly of any decision or event that may result in a significant impact on the operations of the ILC or the services it provides.

In performing its role and pursuing the priorities outlined above, I expect that the ILC will:

- continue to operate in accordance with all relevant legislation (including the *Aboriginal and Torres Strait Islander Act 2005*; *Auditor-General Act 1997*; *Corporations Act 2001*; *Commonwealth Authorities and Companies Act 1997* (CAC Act)) and Australian Government guidelines covering responsibilities to:
  - provide me with regular and timely reports on significant events;
  - ensure timely preparation of Annual Reports and proper financial management and accountability, including financial statements for the ILC's subsidiaries;
  - comply with General Policy Orders and best practice standards for audit committees;
  - ensure timely and quality answers to Questions on Notice in accordance with Parliamentary timeframes and reasonable Departmental timeframes.

- manage budgets in a fiscally responsible manner and being mindful of any potential impact on the Commonwealth more broadly;
- maintain best practice standards of corporate governance by:
  - having regard to the ANAO's Public Sector Governance Better Practice Guides;
  - ensuring transparency in the use of funds and a high level of financial accountability in accordance with the legislative requirements;
  - ensure there are appropriate processes in place that facilitate the directors being kept informed about the operations and performance of subsidiaries so they are able to fulfill their legislative responsibilities as CAC Act authority directors;
  - ensuring Board members remain aware of their roles and responsibilities and discharge their duties impartially with a high degree of diligence, care and skill and at all times act in a manner that promotes the highest level of corporate governance in Board operations.
- building organisational and workforce capabilities to meet current future demands and expectations; and
- developing a protocol with my Department that sets out mechanisms for achieving effective communication over the longer term. I have asked my Department to work with the ILC on the development of an appropriate protocol.