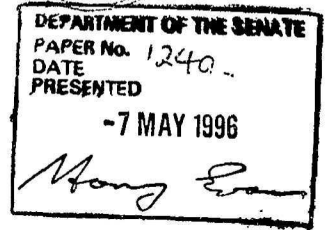
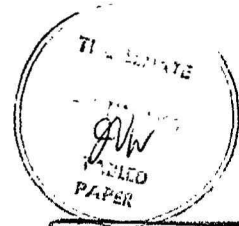


**NATIONAL
INDIGENOUS
LAND
STRATEGY
1996 - 2001**



INDIGENOUS LAND CORPORATION



INDIGENOUS LAND CORPORATION



Senator The Hon. John Joseph Herron
Minister for Aboriginal and Torres Strait Islander Affairs
Parliament House
Canberra ACT 2600



Dear Minister

In accordance with Section 191 N(6) of the ILC Act I am pleased to present the first National Indigenous Land Strategy of the Indigenous Land Corporation (ILC). It will guide the ILC in its land acquisition and land management functions for the period 1 May 1996 to 30 April 2001.

The ILC held discussions with ATSIC Commissioners and staff, ATSIC Regional Councils, Native Title Representative Bodies and major land councils in developing this National Strategy.

Yours sincerely

David Ross
Chairman
6 May 1996



Indigenous Land Corporation
National Indigenous Land Strategy 1996-2001

ISBN 0 642 24867 2

Published by the
Indigenous Land Corporation
Adelaide 1996

Printed in Australia by Largs Bay Press

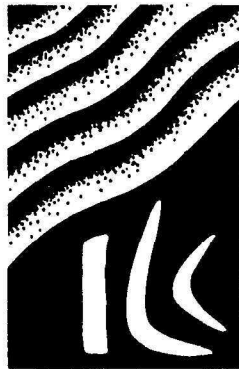
The ILC logo was developed by Aboriginal artist Leigh Harris. Leigh describes the logo in the following way:

“The top half represents the land, specifically sand dunes, found both in the desert and on coastal shores. The bottom – in blue, representing the sea and water – symbolises the peoples of Torres Strait and coastal Aboriginal people, as well as the importance of water resources, both inland and coastal, to all indigenous peoples.

The stylised instruments of a spear (I), a large boomerang (L), and a small boomerang (C) - placed as such spell the ILC. These items, used for centuries by Australia’s indigenous peoples to live on the land and sea, represent the knowledge that we have in developing, utilising and *maintaining the land and water for the benefit of all people.*

These items also represent the work that will be done by indigenous peoples and the ILC in achieving its goals”.

**NATIONAL
INDIGENOUS
LAND
STRATEGY
1996 - 2001**



INDIGENOUS LAND CORPORATION

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The Indigenous
Land Corporation — providing
Aboriginal peoples and Torres Strait
Islanders the opportunity to acquire and
manage land in a way that enhances social,
cultural and economic well-being.

CHAIRMAN'S INTRODUCTION

On behalf of the Board of Directors of the Indigenous Land Corporation (ILC) I am pleased to present our first National Indigenous Land Strategy 1996-2001 – the National Strategy.

The ILC came into existence on 1 June 1995 in recognition that many indigenous peoples who have been dispossessed of their lands would not be able to regain ownership to land through the *Native Title Act 1993*.

While there are general characteristics to the process of dispossession, each region has its own history, and the indigenous peoples of each region now suffer the effects of dispossession in their own particular way.

A major challenge for the ILC is to accommodate the wide regional variations that exist across Australia and to be flexible and responsive to these varying needs.

The purpose of the National Strategy is to inform indigenous peoples of the strategies, policies and priorities which will guide the ILC in its land acquisition and land management functions.

The National Strategy is the result of consultation with indigenous peoples in all the States and Territories of Australia and its preparation has provided the ILC with the opportunity to plan strategically.

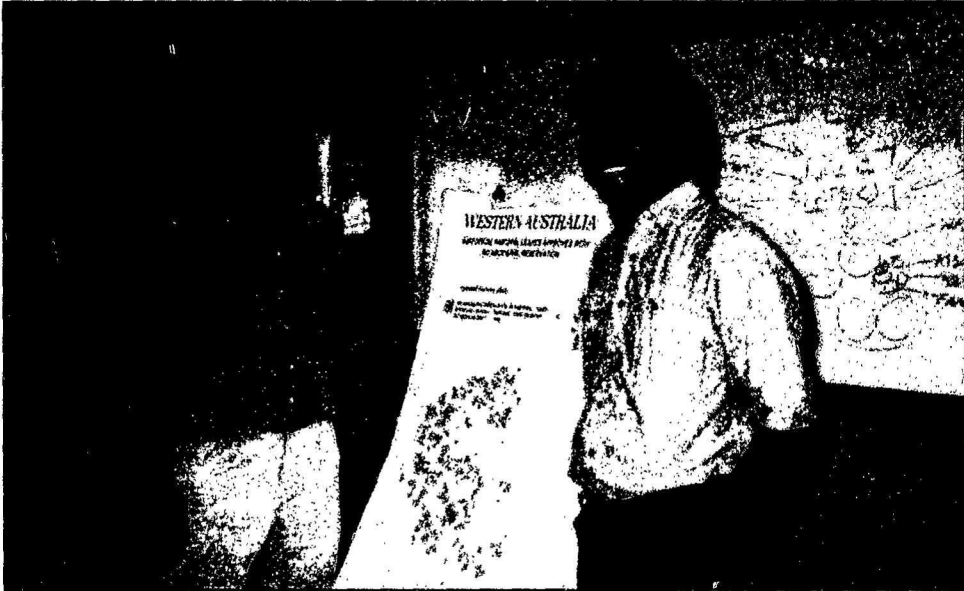
I hope you find this document informative, and a clear guide to the direction the ILC plans to take over the first five years of its operations. The National Strategy is not a fixed document. It will be reviewed regularly and updated when necessary, as the ILC gains more experience, and undertakes more consultation with indigenous peoples.



As part of the development of the National Indigenous Land Strategy, ILC Directors and staff held meetings with indigenous organisations to gain their views on land matters.

ILC Chairman David Ross with Ossie Cruse, Chairman of the NSW Aboriginal Land Council, after the ILC met with the Council in Dubbo.

Indigenous Land Corporation



Ngarda-Ngarli-Yarnou Regional Council Chairperson Adrian Brahim and ILC Deputy Chair Peter Yu discuss regional land needs.

The National Strategy and the related Regional Strategies are aimed at stimulating the development of strategic plans at the regional level. To help such regional planning, the ILC will also provide regional organisations with guidelines on the principles and priorities that the ILC has adopted for land acquisition and land management.

I invite all indigenous people and other interested people to provide constructive comment and feedback on this first National Strategy to the ILC.

There are many challenges ahead, and we look forward to assisting indigenous peoples regain their land and to manage their land in ways which bring the improvements and benefits that many indigenous peoples are seeking for themselves and their children.

David Ross, Chairman
May 1996

1. EXECUTIVE SUMMARY

The National Indigenous Land Strategy 1996-2001 (the National Strategy) is effective from 1 May 1996. The National Strategy is the key strategic plan of the Indigenous Land Corporation (ILC), and describes the policies and priorities that the ILC has adopted. It addresses land acquisition for dispossessed indigenous peoples, and land management, including environmental issues on indigenous-held land. The National Strategy is designed to provide indigenous people with an understanding of the way that the ILC will work and how the ILC can assist them. It also aims to assist indigenous people and their representative organisations to develop plans to address dispossession at the regional level, consistent with ILC policies. The National Strategy is not a static or fixed document. It will be subject to regular review and will be amended and updated as necessary.

1.1 ILC REGIONAL STRATEGIES

The ILC is also required to prepare Regional Indigenous Land Strategies (Regional Strategies). The Regional Strategies cover each of the seven ILC regional areas, which are based

on the borders of the six States and the Northern Territory.

Each State has different laws affecting land issues for indigenous peoples. Each of the Regional Strategies describes these laws within the region and how the ILC proposes to respond to those differences in its own policies and strategies.

The Regional Strategies also provide a broad description of the consultation process the ILC has undertaken and how the results of those consultations will be considered by the ILC in its land acquisition and land management functions.

ILC policies and priorities will promote equal access for dispossessed indigenous peoples and equal strategic benefit across all regions.

1.2 REGIONAL AREAS AND SUB-REGIONS

The ILC is aware that almost all regional organisations, including statutory bodies such as ATSIC Regional Councils and Native Title Representative Bodies (NTRBs), cover an area which is less than the whole State or Territory in which they are located.

ILC GUIDELINES

The Guidelines provide greater detail on ILC policies, operations and procedures. They also include criteria which the ILC will use to assess land needs. These are essentially:

- **Strategic Criteria** – to assess land needs and specific proposals, in terms of how they: demonstrate cultural significance; are a regional priority; and whether they can be addressed under the National Strategy and the Regional Strategy.
- **Specific Criteria** – to assess the viability and outcomes achievable through specific land proposals, in terms of how economic, environmental, social, or cultural benefits would be gained by the group seeking the land.
- **Regional Criteria** – to assess specific proposals, and consider other Commonwealth, State or Territory schemes which might be available to meet the land needs of regional groups.

The Guidelines will be reviewed regularly and amended as required.

Consequently, the ILC recognises that the complex pattern of indigenous attachment to country does not necessarily conform to State or Territory borders.

The ILC therefore recognises that within the boundaries of each of the ILC Regional areas that most strategic planning and regional information will be based around smaller area (or 'sub-regions'). The ILC regional areas are not formal administrative regions for the purpose of ILC land acquisition and land management functions.

In general, the ILC will respond strategically to the plans and priorities that indigenous people develop based on regions defined by indigenous peoples themselves. In many cases these regions or sub-regions will be the same as ATSIC Regional Council areas, NTRB boundaries, or both.

1.3 OPERATIONAL MATTERS

The ILC recognises that the identification of indigenous land needs based on cultural significance, and the development of strategic land needs planning in the regions, can be a lengthy process.

Under this National Strategy, the ILC will commence its land acquisition and land management functions, while it undertakes comprehensive analysis of the land needs of indigenous groups in all regions.

The Regional Strategies have been prepared in conjunction with the National Strategy, and the policies and priorities of the Regional Strategies are consistent with the perspective detailed in the National Strategy.

KEY PRINCIPLES

The demand for funding, for both new land acquisitions and land management on indigenous-held land, will exceed the funds available to the ILC. Consequently, the ILC has developed a strategy which would allow it to allocate its funds as effectively and as fairly as possible.

In developing policies to enable the ILC to meet its charter the ILC will be guided by these key principles which are the basis of the National Strategy. The ILC:

- recognises indigenous rights, the prior land ownership and the history of dispossession;
- will be independent, professional, and highly focused on land matters;
- will be a new type of organisation, working closely with indigenous organisations and the indigenous community;
- will aim for the maximum transparency and openness in respect of its decision-making principles and procedures;
- will operate strategically, both in terms of meeting land needs efficiently, and working commercially within the property market;
- will have strategy-based operations, and not an application-based system;
- in order to stay focused, will define land priorities after regional consultations, and talk about those priorities to the indigenous community;
- cannot address all the land needs of dispossessed people at once, and therefore will aim for equity over time; and
- will retain a flexible and responsive approach, in order to meet land needs based on regional priorities.

The National Strategy retains flexibility, so as to be able to accommodate regional differences where they impact on ILC functions.

The ILC must have regard to the National Strategy and the relevant Regional Strategies in performing its functions. In addition to the strategic direction provided in the Strategies, the ILC will publish guidelines on its policies and procedures, in order to assist regional indigenous organisations to undertake their planning and community consultations.

The ILC has considered a number of policy issues in preparing the National Strategy since it commenced operations on 1 June 1995. A range of stakeholders, including governments, government agencies, non-government organisations, and indigenous people have diverse views about what the role of the ILC should be, and how it should operate to address dispossession.

Neither the National Strategy nor the Regional Strategies contain information which is commercially sensitive.

1.4 KEY POLICIES – LAND ACQUISITION

During the term of the first National Strategy, the ILC will place priority on land acquisition, in recognition of the many unmet land needs of dispossessed people. This will have priority over addressing the broad commercial, economic, social and environmental development needs on indigenous-held land.

The ILC has set a priority on acquiring land of cultural significance for indigenous peoples. Cultural significance means land to which indigenous groups have:

- **traditional links** based on the customs and laws of the group;
- **historical links** which result from the impact of non-indigenous settlement of the country; or

- **contemporary links** based on more recent recognition of indigenous rights and indigenous identity.

Proposals in which the land is not a central component, such as commercial projects, accommodation for service organisations, and housing and infrastructure will not be given priority.

Indigenous people will be invited to tell the ILC about their land needs. Initially this will be through regional organisations which represent the indigenous community on land matters.

Information on land needs collected from regional organisations is part of a National Land Needs Survey. This information on land needs and other regional information will be registered in the Land Needs Database of the ILC, which is designed to build a comprehensive picture of dispossession, which the ILC can address in a systematic and strategic manner during the National Strategy.

The ILC has determined that, when it considers land acquisition proposals, initial and ongoing costs are accounted for. This is so that an integrated approach to economic development, maintenance and operational costs is achieved.

The ILC will also give priority to land where a native title claim has not been lodged, and where it is unlikely that a claim would be successful. Consideration will also be given to other land rights mechanisms available to assist indigenous people regain their land.

Wherever possible, the ILC will aim to ensure that traditional owners (or people with traditional links to the land) become the title-holders under a corporation.

Once land needs are identified in a region, and a strategic approach to addressing those needs has been applied, the ILC will operate as commercially as possible in order to take

advantage of opportunities that will arise in the property market.

1.5 KEY POLICIES – LAND MANAGEMENT

The ILC recognises that there are many complex issues facing indigenous landowners and land managers. The ILC is also aware that strategic and effective policies in the area of land management will require national consultation, analysis and research.

The aim of the ILC during the first National Strategy is to carefully and strategically formulate its long-term role in land management.

The ILC will set out its land management strategies under the broad heading of a National Land Management Response.

This will be completed during the first two years of the National Strategy to allow the ILC to investigate the most effective ways of performing its land management functions. This will include the feasibility of creating subsidiaries, working with regional indigenous organisations, co-operation with State and Local Government agencies, and working with the private sector.

The ILC is committed to providing a professional and focussed co-ordination role, so that it can assist indigenous land owners to gain access to the resources, advice and expertise required to manage their land in a sustainable way.

2. STRUCTURE OF THE ILC

2.1 LEGISLATIVE BASIS

The ILC is a statutory authority set up by the Commonwealth to assist indigenous peoples to acquire and manage land in a sustainable way, so as to provide economic, environmental, social or cultural benefits.

The ILC has been established in recognition that many indigenous peoples will not benefit from the *Mabo decision* and the *Native Title Act 1993* (Native Title Act) because their native title has been extinguished or, through dispossession of their land, they cannot demonstrate the continuous association necessary to prove native title.

The ILC came into existence on 1 June 1995 with the commencement of the *Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995* (the ILC Act).

The ILC receives its funding from the *Aboriginal and Torres Strait Islander Land Fund* (the Land Fund).

In its first ten years – until June 2004 – the Land Fund receives a fixed annual allocation from the Commonwealth Government. About 65 per cent of this allocation is to be invested to build the capital base of the Land Fund. The other portion is allocated to the ILC.

After ten years, the intention is that the Land Fund will be self-sustaining and the ILC allocation will be based on the interest gained by the fund.

The ILC will receive allocations totalling about \$253 million during the term of this National Strategy. This does not include returns on ILC investments. This will be available for ILC land

FUNDING UNDER THE ILC ACT

For the term of this National Strategy – up to 30 April 2001 – funding allocations in millions of dollars are:

	Land Fund investments	ILC ¹ allocation	ATSIC ² allocation	Total ³
1994-1995	175	25		200
1995-1996	76	24	21	121
1996-1997	76	24	21	121
1997-1998	76	45		121
1998-1999	76	45		121
1999-2000	76	45		121
2000-2001	76	45		121
TOTAL	\$631	\$253	\$42	\$926

Notes

1. The table includes the funding provided to the Land Fund in the financial year 1994-95, prior to the commencement of the ILC.
2. ATSIC receives \$21m per year of the ILC drawdown for two years, as part of a transitional arrangement prior to the full operation of the ILC.
3. All the figures are nominal, and will be indexed each year in order to maintain real value in 1994-95 dollar terms.

acquisition and land management functions, as well as ILC administration.

All funds drawn down by the ILC each financial year and not expended during that period may be rolled over into the next financial year. This capacity will assist the ILC to operate strategically, and be responsive to the changing circumstances of the property market.

2.2 POWERS OF THE ILC

The ILC Act provides the ILC with a flexible framework in which to undertake its land acquisition and land management functions.

The ILC's powers include the ability to make grants, loans and guarantees, to invest funds, to form partnerships, and to set up or buy shares in companies and other profit-sharing arrangements.

The ILC can establish subsidiaries to undertake some of its functions. This power could be particularly relevant in relation to the regional operations of the ILC, and to assist the ILC to work in association with regional indigenous organisations. It may also prove useful for the delivery of effective land management services on indigenous-held land.

2.3 ILC BOARD OF DIRECTORS

The ILC is administered by a Board of seven Directors:

- Mr David Ross (Chairman);
- Mr Peter Yu (Deputy Chair);
- Mr Noel Pearson;
- Ms Penelope Morris;
- Mr Lawrie Willett AO;
- Miss Lois O'Donoghue CBE AM (term as ATSIIC Chairperson); and
- Mr Stephen Gordon (term as ATSIIC Commissioner).

The ILC will operate with a national focus, and the Directors are not required to represent a particular State, Territory or region when performing their functions as Board members.

The Minister for Aboriginal and Torres Strait Islander Affairs makes appointments to the Board and can require the ILC to provide information about its activities. The Minister, however, does not have a general power of direction over the ILC.

2.4 ORGANISATION OF THE ILC

The ILC Head Office is located in Adelaide, with Divisional Offices located in Adelaide, Perth and Brisbane. The Divisional Offices have the following areas of responsibility:

- Perth – Western Australia;
- Adelaide – Northern Territory, South Australia, Victoria and Tasmania; and
- Brisbane – Queensland including the Torres Strait Islands, NSW and the ACT.

The ILC also has a small presence in Canberra. The inaugural General Manager is John Wilson, appointed for three years, and the Deputy General Manager is Murray Chapman, appointed for four years.

The ILC is committed to limiting its administrative costs. As part of this commitment, the ILC aims to provide the maximum opportunity for indigenous organisations to work with the ILC in the performance of its land acquisition and management functions at the regional level.

The ILC is independent of ATSIC and other representative organisations and will not have a formal regional structure for the allocation of funds or the administration of programs.

2.5 REGIONAL STRATEGIES

The ILC must prepare Regional Strategies and the ILC Board has determined the following seven regional areas for this purpose:

- Queensland, including the Torres Strait Islands;
- New South Wales (including the ACT);
- Victoria;
- Tasmania;
- South Australia;
- Western Australia; and
- Northern Territory.

The Queensland Regional Area excludes that part of the Mt Isa and Gulf ATSIC Region which extends into the Northern Territory.

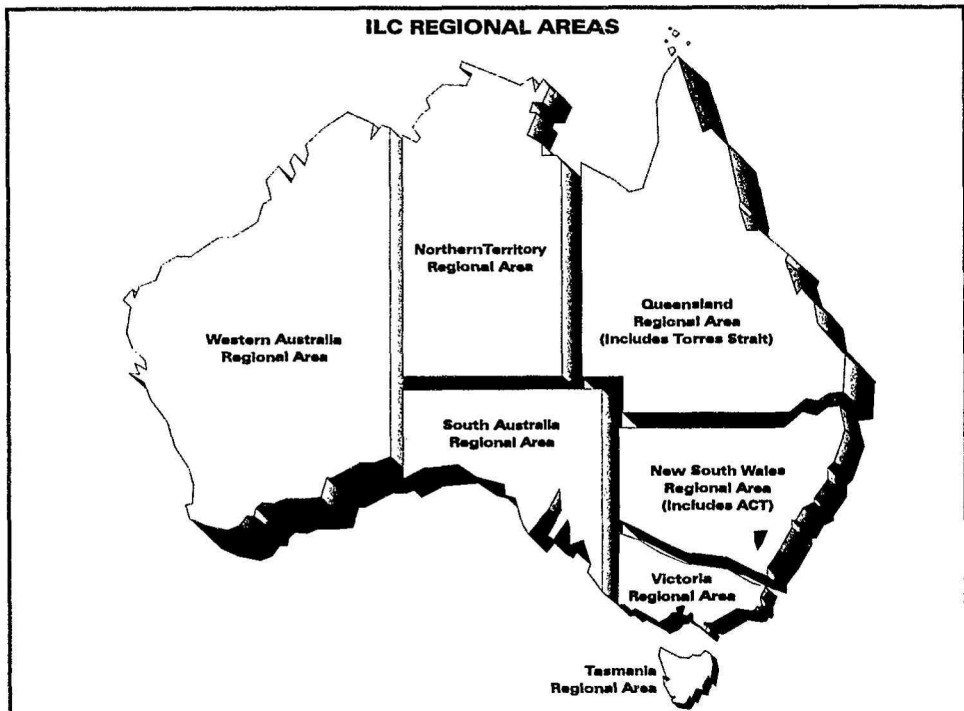
The Western Australia Regional Area excludes that part of the Kununurra ATSIC Region which extends into the Northern Territory.

The seven ILC regional areas have been defined by State and Territory borders, mainly because much of the legislation which will have an impact on the key ILC functions is State or Territory based. There are many key differences in land-related legislation in each of the States and Territories.

The seven Regional Strategies describe the land needs and land use issues relevant to each ILC regional area, and are based largely on ILC consultations with regional organisations.

The Regional Strategies also outline the varying land rights, land acquisition, land management, and conservation legislation that exists in each State and Territory.

Each of the Regional Strategies is intended to be read in conjunction with the policies and priorities outlined in the National Strategy.



3. THE CHALLENGE FOR THE ILC

3.1 RECOGNITION OF INDIGENOUS RIGHTS

The High Court Mabo decision of 1992 was an important milestone for indigenous peoples, because it established the existence of native title under Australia's common law. In rejecting the legal concept of *terra nullius*, the court recognised the prior ownership of Australia by its indigenous inhabitants.

In introducing the ILC Bill into the Parliament, the then Prime Minister Paul Keating, said:

The Native Title Act added huge symbolic weight to the Mabo decision. It announced that the Australian people supported the great principles of justice inherent in the court's decision and were determined to see them applied. But the application was limited to those people who were able to prove a continuing association with their land. Many indigenes were, of course, dispossessed of their land in earlier periods, and many remain on the margins of this country's economic, social and cultural life. The Native Title Act, though great in significance and utility, cannot by its nature solve the problems of dispossession and alienation.

***House of Representatives Hansard
28 February 1995, page 1108***

The Land Fund and the ILC have therefore been established to complement the Native Title Act. They are funding mechanisms through which land can be acquired for indigenous peoples who have had their native title legally extinguished, or for whom the historical processes of dispossession and displacement have prevented continuous association with, and cultural links to, their traditional lands.

In general terms, the Native Title Act recognises and protects native title, as it was

determined by the Mabo decision, and also validates past acts of extinguishment by governments, where there was a clear intention to extinguish native title.

The High Court's Mabo decision describes the historical factors which have led to the extinguishment of native title:

And there may be other areas of Australia where native title has not been extinguished and where an Aboriginal people, maintaining their identity and their customs, are entitled to enjoy their native title. Even if there be no such areas, it is appropriate to identify the events which resulted in the dispossession of the indigenous inhabitants of Australia, in order to dispel the misconception that it is the common law rather than the action of governments which made many of the indigenous people of this country trespassers on their own land.

***High Court Mabo decision 1992,
per Brennan J., at page 69***

For indigenous people, a successful determination of native title to land will require evidence of continuing association with the land, in accordance with the traditions and customs of the claimant group.

For many indigenous peoples in Australia, the issuing of freehold and other forms of title over their lands, or the loss of continuing association with their land, will mean that they will be unable to have their native title determined through the processes available under the Native Title Act.

The ILC is aiming to provide dispossessed indigenous people with a land base that may serve a range of purposes, and which will assist indigenous peoples to re-establish the social, cultural and economic structures they choose for themselves.

The ILC contribution to the reconciliation process includes the recognition of prior indigenous ownership of the land, the reality of dispossession over the last 200 years, and a clear commitment to the rights of indigenous peoples to negotiate and to participate fully in regional land issues.

3.2 THE INDIGENOUS RELATIONSHIP TO LAND

Land in its own right is central to the cultural heritage of indigenous peoples, and land provides the basis of the social, cultural and economic well-being of many indigenous peoples today.

In recognition of the centrality of land to indigenous peoples, the ILC was set up to be an agency with the sole purpose of focusing on acquiring land for indigenous peoples and assisting the sustainable management of indigenous-held land.

The ILC recognises that, for many indigenous peoples, a reclaimed land base may assist in the continuing survival (and in some cases, the revival) of a living, dynamic, indigenous culture.

The relationship of indigenous peoples to their land is not necessarily to obtain commercial advantage, although improved social, cultural and economic well-being will be achieved through land ownership. The Mabo decision referred to the central role of land to indigenous Australians:

Under the laws or customs of the relevant locality, particular tribes or clans were, either on their own or with others, custodians of the areas of land from which they derived their sustenance and from which they often took their tribal names. Their laws or customs were elaborate and obligatory. The boundaries of their traditional lands were likely to be long-standing and defined.

The special relationship between a particular tribe or clan and its land was recognised

by other tribes or groups within the relevant local native system and was reflected in differences in dialect over relatively short distances. In different ways and to varying degrees of intensity, they used their homelands for all the purposes of their lives: social, ritual, economic.

**High Court Mabo decision 1992
per Deane J. and Gaudron J.,
at pages 99-100**

The ILC recognises the centrality of the indigenous relationship to land as a defining principle in setting priorities in its land acquisition and land management functions.

3.3 THE NATURE OF DISPOSSESSION AND DISLOCATION

Most indigenous peoples believe that Australia is their country, and that they have never voluntarily given up their ownership and rights to land. Through a variety of legal and historical means, indigenous peoples have seen their land taken away, occupied, and otherwise alienated.

They were dispossessed by the Crown's exercise of its sovereign powers to grant land to whom it chose and to appropriate to itself the beneficial ownership of parcels of land for the Crown's purposes. Aboriginal rights and interests were not stripped away by operation of the common law on first settlement by British colonists, but by the exercise of a sovereign authority over land exercised recurrently by Governments.

To treat the dispossession of the Australian Aborigines as the working out of the Crown's acquisition of ownership of all land on first settlement is contrary to history. Aborigines were dispossessed of their land parcel by parcel, to make way for expanding colonial settlement. Their dispossession underwrote the development of the nation.

**High Court Mabo decision 1992,
per Brennan J., at pages 68-69**

The history of dispossession and disruption of most indigenous people in Australia has laid the foundation for the creation of non-indigenous wealth. As described in the Mabo decision:

An early flash point with one clan of Aborigines illustrates the first stages of the conflagration of oppression and conflict which was, over the following century, to spread across the continent to dispossess, degrade and devastate the Aboriginal peoples and leave a national legacy of unutterable shame.

***High Court Mabo decision 1992
per Deane J. and Gaudron J.,
at page 104***

As economically productive land was occupied by settlers, indigenous people were forced into marginal country and over-crowded reserves, where they suffered – and continue to suffer – powerlessness, deprivation and lack of control over their lives.

The extent of dispossession and displacement in most of the settled regions of Australia mean that many indigenous people have lost traditional attachment to their country, or are now living on land which is the traditional country of other tribal or clan groups.

The ILC will encourage comprehensive consultation where necessary, between traditional landowners and historically displaced peoples, in order to achieve an effective land acquisition strategy for the region.

This role will be particularly important in those regions and towns where the historical forces of dispossession have resulted in a large number of displaced people now being resident, alongside people with traditional attachment.

4. LAND ACQUISITION

The National Strategy is required to cover the acquisition of interests in land for the purpose of making grants of those interests to Aboriginal or Torres Strait Islander corporations.

The following will form the ILC's land acquisition strategies over the next five years

4.1 DEVELOPMENT OF A LAND NEEDS SURVEY

The true extent of land acquisition and land management needs is not known accurately, therefore, the ILC will complete a National Land Needs Survey over a two to three year period.

This will allow the ILC to develop a strategic approach which will assist regional organisations to identify priority land needs (based on cultural significance) in their regions, and also provide a methodology to address land needs over the longer term. The Land Needs Survey will provide the ILC with the basic information on land needs, in order to shape its funding strategies. The Land Needs Survey will be dynamic and regularly updated.

The Land Needs Survey is the key strategic database for the ILC. It will record in a systematic way the land needs of indigenous groups from all regions, and will provide the information base for ILC decision-making.

The Land Needs Survey will help the ILC to establish a fundamentally different and *strategic relationship with the indigenous community.*

4.2 CULTURAL SIGNIFICANCE OF THE LAND

The ILC will give priority to land which is of cultural significance to indigenous people and where particular attachment as a group, as part of their customs, laws, and history, is

demonstrated. The following classes have been defined:

- **traditional attachment** – significance of land based on customs and traditions which pre-date colonial occupation (for example, traditional homelands, sacred sites, fishing places, etc.);
- **historical attachment** – significance of land based on events which have occurred since colonial occupation of the region, and may have resulted in disruption of pre-contact customs and traditions (for example, massacre sites, burial sites, former missions, workplaces etc.);
- **contemporary attachment** – significance of land based on the more recent assertion and recognition of indigenous rights (both land rights and cultural heritage), and aimed at re-establishing indigenous identity or recognition in an area (for example, special land and/or buildings in rural or urban centres, etc.).

The cultural significance of land is not inconsistent with a wide range of land uses which could provide economic, environmental or social benefits. The ILC, however, will not have the capacity to support a wide range of economic development demands and needs and the provision of capital assets for service organisations, where the cultural significance of the land is not a central component.

4.3 WORKING WITH NATIVE TITLE AND OTHER LAND LAWS

The ILC aims to complement other land rights and land acquisition laws, including the Native Title Act and State-based legislation related, for example, to land rights and sacred sites. As a general principle, the ILC will give priority to meeting identified land needs where other mechanisms for indigenous groups to gain

access to rights over land cannot or have not met the land needs of indigenous peoples.

The ILC will prioritise the acquisition of land for groups who are unlikely to have land needs met because their native title has been extinguished, or a native title claim has not been successful. The ILC is also required to inform itself of any native title claims to land which is being considered for acquisition. In considering the acquisition of land the ILC will have regard to whether other legislative mechanisms for claim, acquisition, or protection have proven unsuccessful, or are unavailable.

In considering the acquisition of a pastoral lease the ILC will seek advice from appropriate bodies on whether a native title claim would be likely to succeed, if made under s47 of the Native Title Act.

4.4 RELATIONSHIP WITH REGIONAL ORGANISATIONS

A priority for the ILC is to establish a new working relationship with indigenous peoples, in order to understand regional land needs, and to respond to those needs as effectively as possible.

The ILC will aim to develop a close working relationship with NTRBs, ATSIC Regional Councils, and other regional organisations which represent communities on land matters.

The development of a good working relationship will cover the three stages of ILC activity: identifying land needs and priorities in each region; land acquisition and the grant of title; and advice and support to indigenous landowners where appropriate.

This requires the ILC to develop and maintain lines of communication with the indigenous community, both in the provision of information, and in the collection of information on a regional level.

The ILC is aware that the identification of some culturally significant land could include the disclosure of sacred or sensitive material for some indigenous groups.

The ILC will respect all such disclosures, and process the information with confidentiality as required by the Act. It will seek the advice of indigenous groups or their representative organisations where appropriate, in respect of the appropriate persons to access any such sacred or sensitive material related to land needs.

4.5 A REPRESENTATIVE LAND BASE

The primary ILC strategy is to achieve a representative land base for the maximum number of (self-defining) family, clan or language groups in each regional area.

A representative land base is defined as a parcel (or parcels) of land which would help address the dispossession of a group in a specific region, and where the land has high priority, in accordance with their traditional, historical or contemporary links to the land.

A self-defining group is a broad term to describe indigenous peoples in a region who identify collectively to particular land(s), with that identity based on cultural ties, including traditional attachment (prior ownership), historical factors arising from the process of dispossession or contemporary attachment.

The ILC will work with regional representative bodies to build a picture of regional self-defined groups, the nature of their dispossession, and their priority land needs. The ILC recognises the wide variations that exist, in terms of how indigenous people define membership to a group, and their affiliation to land in the region.

The ILC will consult widely, so as to enable groups to identify land need priorities within the regional context.

The ILC is committed to strategies and priorities which do not favour nor disadvantage regions unfairly, and which provide equity of access to diverse communities with varying levels of needs and expectations, within the limits of ILC funding.

4.6 LAND OWNERSHIP ISSUES

In identifying land needs and considering land acquisition proposals, the ILC will seek information from regional groups on who might and should hold the proposed title, and the type of corporate body which will be required.

Priority will be placed on land which is, or will be, owned and used communally, and where the goals of the group include ownership of the land in perpetuity. The ILC Act does not permit a group to dispose of or otherwise allow a charge over land acquired through the ILC, without the consent of the ILC.

Title of land acquired by the ILC may be granted to a small incorporated body, for the benefit of a larger community group. The ILC will give priority to acquiring land itself, in order to be responsive to the property market. The ILC may assist the proposed landowners or their representatives on the most appropriate form of incorporation where necessary. The ILC can only grant land to Aboriginal and Torres Strait Islander corporations.

Where possible, the ILC will aim to ensure that traditional owners (or people with traditional links to the land) become the title-holders under a corporation, because the ILC is committed to recognition of prior ownership and restoring an association to land wherever possible.

Through this policy, the ILC aims to avoid causing conflict and tension at the regional level. The ILC does not plan to purchase land for one group in what is the traditional country of another group, without proper consultation.

4.7 REGIONAL POLITICAL ISSUES

The ILC recognises that the identification of groups with traditional attachment to land, and the identification of specific land proposals, can be the source of conflict and dispute.

The ILC strategy in respect of dispute resolution is to seek, wherever possible, the advice of regional organisations with knowledge and responsibility for land matters.

As a general principle, the ILC will defer the acquisition of land if the proposal has the potential to generate or increase regional conflict and tensions. While the ILC aims to address the identified land needs of as many indigenous peoples as possible, the ILC will also expect regional organisations and groups to resolve differences, and not to rely on the ILC to resolve conflicts.

4.8 REGIONAL PRIORITIES

The ILC recognises that land need priorities reflect multiple objectives and purposes for the land. ILC strategies aim to provide an opportunity for regional groups to determine local priorities based on the cultural importance of the land. Regional organisations will not be asked to rank or give priority to particular groups or specific land proposals. The ILC recognises that many indigenous peoples are dispossessed of their lands, and that the process of ranking relative needs can be a potential source of disputation.

4.9 ECONOMIC DEVELOPMENT

It is expected that some identified land needs will have commercial or economic purposes, in addition to the cultural significance of the land in the proposal. In this context, 'commercial' describes profit-making entities, operating under sound business principles, with associated commercial risks. 'Economic' describes projects where there may be significant income from operations, but the

project may require additional support for a period, because of identified social benefits.

The ILC strategy for economic and commercial projects is to consider only the land and fixed asset part of the proposal. For purely commercial projects, loan guarantees for the acquisition of the land and fixed assets may be considered.

Groups or corporations who request funding or assistance for commercial and economic projects will need to have a business plan and demonstrate the financial viability of the project. They will also need to demonstrate the capacity of the proposed owners to manage and develop the project over the longer term. New owners may seek assistance from the ILC in terms of managerial, financial and technical advice, and other support.

Commercial and economic proposals will need to demonstrate the nature of the cultural significance of the land, and how the proposal will address dispossession and land needs in the region.

4.10 SUPPORT TO SERVICE AND COMMUNITY ORGANISATIONS

During regional consultations, the ILC was made aware that the provision of land and fixed assets (such as accommodation) for service and community organisations can be a priority for some regional groups.

The ILC strategy for acquiring land for such purposes is to consider the extent to which the land has cultural significance, and how the proposal will help address dispossession. The ILC will then consider how the proposal provides economic, environmental, social or cultural benefits.

Given the limits to ILC funding, it is not the intention of the ILC to provide a range of land and fixed assets for service providers, where they should be the responsibility of other agencies.

The ILC will aim to act strategically, in the sense that the acquisition of particular land may bring 'value-added' benefits, such as contributions from other agencies at all levels of government, and the private sector.

4.11 LAND MANAGEMENT SUPPORT

In considering land acquisition proposals, the ILC will require information to help it assess any initial or future costs associated with indigenous ownership of the land, and the proposed land uses.

As a general principle, the ILC will not acquire land unless the proposal demonstrates a viable and achievable plan to use the land for the proposed purposes. The purposes proposed for the land should aim to achieve economic, environmental, social or cultural benefits.

The ILC may also require the proposal to identify how the proposed landowners plan to obtain funding from other sources to set up or sustain the proposed uses of the land.

Where additional land management funding is sought from the ILC at the time of acquisition, the ILC will consider the overall project in terms of viability, and the outcomes achievable for the funding required. The ILC will not give priority to acquisition of land where there would be substantial ongoing costs with little return or benefit.

4.12 ASSESSING OUTCOMES

The ILC will give priority to land proposals which provide sustainable outcomes for indigenous people, in terms of providing social, cultural, economic and environmental benefits.

The ILC, however, has neither the capacity nor the responsibility to directly address all adverse effects of dispossession, including marginalisation, health, housing, and employment. Its role is to provide land as a first step in addressing dispossession.

In the process of considering land proposals, the ILC will focus on the outcomes arising from the acquisition of a specific parcel of land. In simple terms, this is an assessment of how land will provide measurable benefits to the proposed land owners, compared to their land needs remaining unfulfilled.

The ILC recognises that measuring outcomes can be very difficult, particularly if the benefits include secure land tenure, empowerment within a community, longer-term psychological benefits, recognition of indigenous rights or cultural heritage, resolving questions of identity, and building self-esteem.

These are intrinsic land-related issues, and are based on a recognition of the central role of land to many indigenous peoples. They are aimed at building a land base for indigenous people whose marginalisation and dispossession can be lessened if secure tenure to indigenous land can be achieved through the ILC.

4.13 MEETING IDENTIFIED LAND NEEDS

Once land needs are identified in a region, and a strategic approach to addressing those needs has been applied, the ILC will operate as commercially as possible, in order to take advantage of opportunities that will arise in the property market within each region.

The ILC will also be as responsive as possible to the market, and retain sufficient flexibility so that opportunities for significant land purchases are not lost through inflexible or time-consuming procedures.

The ILC will assess land needs proposals against three sets of criteria:

Strategic Criteria – which will assess land needs and specific proposals, in terms of how they demonstrate cultural significance and are a regional priority.

Specific Criteria – which will assess the viability and outcomes achievable through specific land proposals, in terms of how economic, environmental, social or cultural benefits would be gained by the group seeking the land; and

Regional Criteria – which will assess specific proposals, and whether other Commonwealth, State or Territory schemes may be available to obtain access or right to the land. The ILC has limits to its funding, and therefore will aim to ensure that it allocates its funds as effectively as possible, and not duplicate or replace the responsibilities of other agencies to address land needs.

5. LAND MANAGEMENT

The ILC Act requires that the National Strategy cover land management issues relating to indigenous-held land. The land management functions of the ILC are applicable to land which is already held by indigenous people, as well as land acquired by the ILC.

5.1 ILC LAND MANAGEMENT POWERS

The ILC Act outlines the ways in which the ILC is able to assist indigenous peoples manage their lands in sustainable ways. The ILC may carry on, or arrange for the carrying on, of land management activities (which can cover many areas) in relation to indigenous-held land or on land held by the ILC. The ILC can make grants of money, give loans, or guarantee loans for land management activities.

‘Land management activities’ are defined as commercial activities, such as assisting businesses that involve the use, care, or improvement of land; or providing the following services:

- provision of advisory services (management, financial, technical, etc.);
- provision of environmental management services;
- provision of training in land management or business management;
- dissemination of information on land or environmental management.

The ILC Act also requires that the ILC perform in accordance with sound business practices when it performs its functions on a commercial basis.

5.2 A NEW APPROACH TO LAND MANAGEMENT

The ILC Act is specific in the powers available to the ILC in performing its land management functions. These powers are designed to

ensure that the ILC develops a strategic approach to assisting indigenous land managers to manage their land in sustainable ways. The ILC must enter into agreements with indigenous landowners before funding or undertaking activities on indigenous-held land. The ILC must also give priority to providing the maximum opportunities for indigenous landowners to participate in land management.

Funding support and the provision of services for commercial enterprises must be provided in accordance with sound business principles. Further to this, the ILC is required to give priority to providing grant or loan funding only if other approaches (such as undertaking land management activities itself, or guaranteeing loans from other sources) are impracticable.

The ILC will therefore be required to explore other measures and strategies for the provision of support to indigenous land managers. It is expected that this may be a complex task, and the ILC will aim to work closely with, and seek advice from, those regional organisations who assist or represent indigenous landowners.

In general, the ILC will consider funding support for economic and profit-based activities on indigenous-held land only where the proposal includes a business plan which demonstrates that the enterprise is, or is likely to become, commercially successful.

The ILC does not propose to provide grant funding or loans to enterprise activities on indigenous-held land where the enterprise is not sustainable nor viable in commercial terms, in the assessment of the ILC.

5.3 NATIONAL LAND MANAGEMENT RESPONSE

The ILC proposes to set out land management strategies under the broad heading of a

National Land Management Response. This first stage will consist of consultation, analysis and research in order to develop a strategic approach to the many complex issues and opportunities on indigenous-held land.

As a central component of the National Land Management Response, the ILC will develop a comprehensive network of contacts and sources of information on land management needs, involving indigenous organisations, government agencies, research organisations, the private sector, and indigenous landowners.

Development of this network is part of an ILC commitment to a co-ordination role, aiming to achieve the better delivery of services and information to indigenous landowners from government and private sector agencies who have the expertise and responsibility for land management.

5.4 LAND ASSESSMENT DATABASE

The ILC aims to develop and complete a Land Assessment Database by June 1998. It will include information on the land management needs of indigenous landowners, including issues such as total community needs, viability and sustainability of current activities, environmental issues, and multiple land-use opportunities.

5.5 AGREEMENTS WITH INDIGENOUS LANDOWNERS

The ILC recognises that indigenous peoples have the right to determine the most appropriate land management practices on their land, and that many indigenous peoples place great importance on the concept of custodianship and caring for their country.

The ILC, will therefore, assist by providing access to skills and advice to indigenous landowners when requested, so that they can

manage their land to meet their needs and aspirations.

In undertaking its National Land Management Response, the ILC will work on the basis that sustainable land use activities and practices on indigenous-held land are an increasingly important part of the total land management agenda for Australia, and that indigenous people can contribute significantly to the development of wide-ranging and sustainable land use and land care policies.

This does not ignore the economic potential which could be realised on indigenous-held land.

The ILC will consult with indigenous landowners on the support required for activities such as protection and maintenance of significant sites, the control or management of food sources (both native and introduced), and related measures which protect and support the integrity of the land for the landowners.

5.6 CO-ORDINATION ROLE

The ILC aims to fulfil a co-ordination role to assist with improved and sustainable land use on indigenous-held land. The ILC will aim to assist indigenous people obtain accurate and appropriate information and advice on the services available for land management. Such services may be available from government agencies (at all levels), indigenous organisations, the private sector, as well as the ILC.

In deciding whether to provide financial or advisory support for economic development on indigenous-held land, the ILC will undertake assessments of the outcomes achievable from the funding support. An assessment of economic development needs, so that indigenous landowners can participate in a range of land-related industries, will be a major focus of the National Land Management Response.

The setting up of the ILC as a separate agency is recognition of the importance of land in and of itself for indigenous peoples. The ILC does not aim to duplicate the responsibilities or provide the services of other indigenous or mainstream agencies.

5.7 SOCIAL AND CULTURAL BENEFITS

In a context where demand for funds is expected to exceed the capacity of the ILC, the ILC will give priority to the social and cultural benefits that can be derived from its land management strategies and priorities. As part of this policy, the ILC will give priority to an integrated land acquisition and land management strategy, in order to assist new landowners to have the opportunity to derive benefits from their land.

In assessing social and cultural benefits when assisting indigenous people to manage their land, the ILC strategy is to take a broad approach. The ILC will consider the sustainability of proposed land uses, in cultural, social, economic, and environmental terms. As part of its land management strategy, the ILC will encourage property management planning which takes into account the wide range of factors which are often specific to indigenous-held land.

5.8 ECONOMIC DEVELOPMENT

The ILC will give priority to encouraging regional approaches to strategic and sustainable land management on indigenous-held land. The ILC is limited in its capacity to provide a broad grant-based program of development and subsidy support to land-based activities which are not likely to be commercially viable.

Land management support to indigenous land managers will be based on a combination of the research and consultation components of the National Land Management Response, and

specific regional strategies. The ILC aims to assist indigenous landowners manage their land in a sustainable and strategic manner.

The ILC is aware, however, that many indigenous landowners have few options in terms of securing development and operational capital for land-based enterprises.

Under the National Land Management Response, the ILC aims to develop national or regional resources which can assist indigenous landowners to participate more successfully in commercial land-based industries, and those resources will contain particular expertise in the pastoral industry.

To support this strategy, the ILC will examine a range of options for the setting up and support of land management units, working regionally and utilising indigenous expertise and knowledge wherever possible.

Working with ATSIC will be a high priority for the ILC, because ATSIC has key responsibilities (and knowledge and experience) in the provision of services and infrastructure on indigenous-held land.

5.9 SUBSIDIARIES OF THE ILC

The ILC Act enables the ILC Board to establish subsidiaries, and to delegate some of its powers to those subsidiaries. The ILC proposes to undertake wide consultations with regional organisations, with the purpose of assessing the effectiveness of setting up a subsidiary relationship for the performance of some ILC functions. These functions would aim to further the social, cultural, economic or environmental outcomes in relation to indigenous-held land.

6. ENVIRONMENTAL ISSUES

The ILC Act requires that the National Strategy cover environmental issues relating to indigenous-held land. The ILC Act refers to environmental management issues under the definition of land management activities, and requires that the ILC perform land management functions according to sound environmental practices.

The ILC has wide powers to be involved in the use, care or improvement of land. The ILC will aim to address key environmental issues on land which is already held by indigenous people, and in relation to land acquired by the ILC.

6.1 SOCIAL AND CULTURAL BENEFITS

In a context where demand for land management funds and other assistance is expected to exceed the capacity of the ILC, priority will be given to the cultural and social benefits that can be derived from support for environmental management on indigenous-held land.

The ILC will work with indigenous organisations and landowners to increase access to, and use of, the programs of mainstream environmental agencies.

The requirement that land (including indigenous-held land) must be 'productive' in agricultural and conventional economic terms is, in part, a result of the lack of past recognition of the inherent cultural significance of indigenous land. There are some indications that agencies with land-related functions are becoming increasingly aware of the special issues facing indigenous land managers.

The ILC aims to support and promote sustainable and multiple land uses on indigenous-held land, within a broad framework of cultural, social, economic and environmental outcomes. The ILC will work to increase the awareness of the priorities of indigenous landowners among mainstream

agencies with responsibility for environmental and land management matters.

The co-ordination and information role will be developed in association with regional organisations, and with the active support and agreement of landowners.

The ILC recognises that there are many opportunities for indigenous landowners to increase access and control of lands where there are both high cultural values and high conservation values. The ILC aims to facilitate this in partnership with indigenous land owners.

6.2 REGIONAL LAND ASSESSMENTS

A central component of the National Land Management Response is to encourage and support regional and property land assessments, so as to obtain better information on environmental, social and economic matters.

This strategy will be focused on those regions where indigenous peoples are both a significant proportion of the regional population, and significant landowners and land managers. It is recognised that it is in these regions that the best opportunities exist for indigenous landowners to benefit from regional planning and regional initiatives.

Under this strategy, the ILC will aim to work co-operatively with State and Territory governments and agencies, so that ILC land management and environmental planning can be of greater benefit to indigenous landowners.

7. OTHER ISSUES

7.1 DEVELOPMENT OF A LAND TENURE DATABASE

The ILC will establish and complete a Land Tenure Database, in association with indigenous landowners and land managers. The Land Tenure Database will aim to provide the ILC with accurate and comprehensive information on land tenure, land management, and environmental issues on indigenous-held land.

The ILC will not simply duplicate the information collection and storage of land mapping agencies and other service providers but will aim to work with them to achieve the best analytical results. The ILC will also aim to advise and assist NTRBs and other organisations with land-related functions, in respect of their land information and mapping needs.

7.2 RESEARCH AND CONSULTATION

The ILC recognises that the long-term effectiveness of its land acquisition and land management functions will rely on a systematic approach to research and consultation at the national and regional level.

The ILC will give priority to obtaining the best possible information on patterns of traditional attachment, the nature and history of dispossession, and regional land needs and priorities. This will require an ongoing commitment to research and consultation, in order to provide the most appropriate responses to diverse land needs and opportunities.

During the term of the first National Strategy, the ILC will aim to work in close co-operation with government, research, scientific, and private sector agencies with responsibilities for land management and

environmental issues, with the aim of increasing the research effort for the benefit of indigenous-held land, and indigenous land managers.

7.3 CO-ORDINATION

The ILC is committed to providing a professional and focused coordination role, so it can assist indigenous landowners to gain access to the resources, advice and expertise required to manage their land in a sustainable way.

7.4 WORKING IN THE PROPERTY MARKET

The ILC recognises that, in some regions of Australia, the opportunities to acquire land of significance to indigenous peoples can be limited by rapid developments in the property market. The ILC will, therefore, develop procedures which, following approval by the Board, will maximise the capacity of the ILC to act in the commercial property market.

8. APPENDICES

Appendix One

List of acronyms and abbreviations

ACT	Australian Capital Territory
AM	Member of the Order of Australia
AO	Officer of the Order of Australia
ATSIC	Aboriginal and Torres Strait Islander Commission
CBE	Commander of the Order of the British Empire
Land Fund	Aboriginal and Torres Strait Islander Land Fund
ILC	Indigenous Land Corporation
ILC Act	<i>Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995</i> which inserted a new Part 4A into the Aboriginal and Torres Strait Islander Commission Act 1989
Mabo decision	Mabo and Others v The State of Queensland (1992) (no 2) 175 CLR 1 in the High Court.
MP	Member of Parliament
National Strategy	National Indigenous Strategy Land Strategy
Native Title Act	Native Title Act 1993
NSW	New South Wales
NTRBs	Native Title Representative Body — a representative Aboriginal / Torres Strait Islander body determined by the Minister under S. 202 (1) of the Native Title Act.
Regional Strategies	ILC Regional Indigenous Land Strategies