



Australian Government
Indigenous Land Corporation



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Land
Strategy

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PEOPLE, LAND, OPPORTUNITY

Indigenous Land Corporation
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INTRODUCTION

The ILC Board is pleased to present the National Indigenous Land Strategy 2007-2012 (NILS). During the course of the previous NILS, the ILC introduced a four-stream land acquisition and management program, a property remediation program, and a strategic land acquisition and land management program. These programs will continue to be the means by which the ILC will seek to accommodate the wide range of benefits that Indigenous people desire to attain through owning and managing land in urban, rural and remote locations.

The ILC maintains that achieving sustainable benefits through land ownership and management is a challenging and complex task, involving an array of technical, business and management skills, which in turn must be underpinned by capacity and commitment. Consequently the ILC's land acquisition and management programs now require applicants to define a specific purpose and achievable benefits. The ILC assesses all applications thoroughly and does not support those that it believes are not sustainable in the long term, or those that are inconsistent with the ILC's published Program Guidelines. Through its evaluation framework the ILC monitors active projects to see that they are sustainable and that real benefits, particularly in employment and training are derived from land ownership.

Strategic land acquisition and land management activities have enabled the ILC to deliver important outcomes - especially in relation to economic development, employment and training, as well as providing a more effective means to help Indigenous people to address their aspirations regarding urban land issues.

A key component of these strategic projects has been the ILC's proactive development of high-level collaboration with Australian and State/Territory Government agencies, private industry, peak Indigenous organisations, communities and the non-government sector. These partnerships have attracted significant additional financial and human resources to allow long-term, sustainable programs to be developed with a focus on building capacity, equity and economic returns. The ILC will continue the same approach to help deliver sustainable benefits in urban, regional and remote locations, and to also increase economic development, education, employment and training outcomes particularly in key industries such as pastoralism and tourism.

The ILC's role in land management is to provide assistance to Indigenous landholders, to develop their capacity to sustainably manage their land. It is not, nor should it be, the ILC's responsibility to address the full range of land management issues on Indigenous-held land.

The ILC's land acquisition and land management functions are undertaken in addition to, not instead of, the functions of other agencies whose responsibilities extend to all types of land regardless of ownership. The ILC will continue to proactively collaborate with other agencies and the private sector where its actions are supplementary to the responsibilities of other agencies and within the ILC policy and where ILC involvement will deliver real benefits to Indigenous people.

The ILC continues to operate the property remediation program so that capacity is developed on eligible landholdings, and that the delivery of benefits to recipients of previous ILC land acquisitions is supported. The objective is to conclude this work by 30 June 2008.

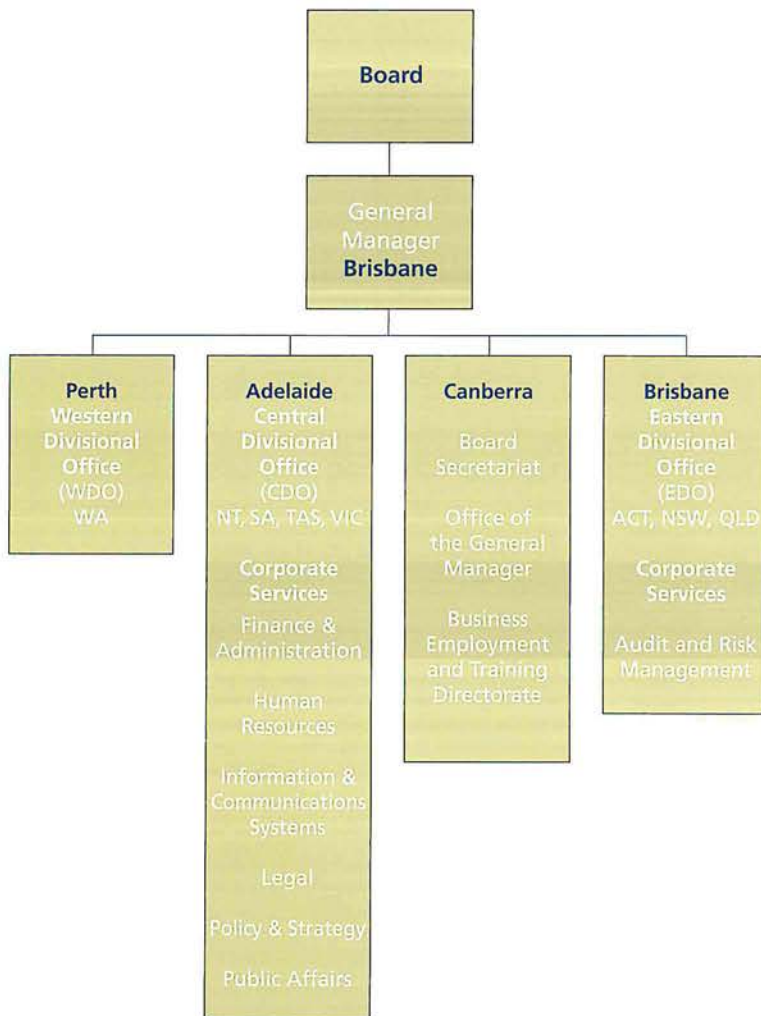
The ILC believes the need for a sound understanding of land issues at a local level is critical. The ILC will conduct regional information sessions and meet with representative Indigenous organisations and Indigenous landholders where and when it is appropriate. This provides a mechanism for continuous feedback on ILC policies and procedures and for monitoring and evaluating the benefits being derived to Indigenous landholders. It also supports the development of the ILC's Regional Indigenous Land Strategies (RILS) and regional profiles - both of which are used by the Board and General Manager in land acquisition and land management decision-making.

In developing this NILS, the ILC has sought input through a range of mechanisms. These have included consultation with Native Title Representative Bodies, feedback obtained during regional information sessions, via a survey on the ILC's website, and through an evaluation framework that included interviews with clients, a stakeholder survey and focus-group meetings. In response to feedback from stakeholders, and as part of its continuous improvement program, the ILC has streamlined its application and assessment process. In particular, it has clarified pre-application planning requirements.

The NILS continues to provide a sound footing for the ILC's land acquisition and land management functions. The ILC looks forward to working with Indigenous people, Australian, State and Territory Governments, and other agencies to assist Indigenous people to address land management issues on Indigenous-held land, and provide cultural, social, environmental and economic benefits especially through employment and training.

Organisational Structure

Three divisional offices are responsible for processing land acquisition and land management applications in each regional area.



2 STRUCTURE OF THE ILC

2.1 Background and Funding

The ILC began on 1 June 1995. It is a statutory authority set up under the *Aboriginal and Torres Strait Islander Act 2005* (the Act) by the Australian Parliament to assist Indigenous people to acquire and manage land in a sustainable way, to provide cultural, social, economic or environmental benefits.

The ILC draws down funding from the annual realised real return of the Aboriginal and Torres Strait Islander Land Account. The Account is a Special Account with a balance of approximately \$1.5b¹. The capital of the account is not available to the ILC.

2.2 Legislative Framework

2.2.1 Functions under the Act

The ILC's land acquisition and land management functions are defined in the Act. They are conferred on the ILC in addition to, not instead of, functions conferred on a person or body by any Australian, State or Territory law.

2.2.2 Compliance

The Act imposes a number of requirements on the ILC in the discharge of its functions. Some of those relevant to the land acquisition and land management functions are as follows:

- 1) The ILC must have regard to strategies – section 191Q. In pursuing its land acquisition and land management functions, the ILC must have regard to the NILS and each relevant RILS.
- 2) The ILC is not empowered to make loans for the acquisition of land – subsection 191D(1).
- 3) Native title searches – subsection 191D(4). The ILC must search relevant registers of the National Native Title Tribunal when considering the acquisition of land.

¹The Land Account is established by Division 10 of ATSI Act and is recognised as a Special Account under section 21 of the *Financial Management and Accountability Act 1997*.

- 4) Land management activities – paragraph 191E(1)(b).
The Act enables the ILC to carry on, or arrange for the carrying on, of land management activities on ILC acquired or Indigenous-held land and to make grants, loans or guarantee loans for land management activities on Indigenous-held land. The ILC must give priority to pursuing a policy of granting money or making loans only where it considers that alternative approaches are impracticable.
- 5) Agreements with landholders - subsections 191E(1A) and (3)(c).
Agreement with landholders is necessary for the ILC to carry on, or arrange for the carrying on, of land management activities and priority must be given to involving the landholders in those activities.
- 6) Sound business principles - subsection 191F (1).
When performing its functions on a commercial basis, the ILC is required to act in accordance with sound business principles. According to the Explanatory Memorandum to the Act (Commonwealth 1994:9), the nature of an activity and presence or absence of a profit motive enables a determination as to whether the ILC is acting commercially.
- 7) Priority to social and cultural benefits – paragraph 191F(2)(aa).
Although the purpose of the ILC is to provide economic, environmental, cultural or social benefits by assisting with land acquisition and management, priority must be given to social and cultural benefits. The ILC considers that significant social and cultural multiplier benefits should flow from all four streams.
- 8) Indigenous employment and use of goods and services provided by Indigenous-owned business – paragraphs 191F2(b) and (c).
The maximisation of Indigenous employment must be a consideration in the performance of the ILC's functions. The use of goods and services owned or controlled by Indigenous people, directly or indirectly, must also be maximised.

- 9) Functions are in addition to those conferred on other agencies – subsection 191F(3).
The ILC's functions are exercised in addition to, not instead of, the functions conferred on other agencies by Australian, State or Territory law.
- 10) Sound land and environmental management practices – paragraph 191E(3)(a).
The ILC will abide by Australian, State and Territory land and environment laws such as the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
- 11) Sacred matters – subsections 191F(4) and (5).
The ILC must ensure that sacred material is not disclosed in violation of Indigenous traditions and must report to the Minister for Families, Community Services and Indigenous Affairs whenever such matters affect its functions.

2.3 Administration

A board of seven Directors administers the ILC. The Board's role is to ensure the proper and efficient performance of the functions of the ILC and to determine the policy of the Corporation. Five Directors, including the Chairperson, must be Indigenous people.

The Minister for Families, Community Services and Indigenous Affairs makes appointments to the Board and can require the ILC to provide information about its activities. The Minister does not have general power of direction over the ILC.

KEY PRINCIPLES AND POLICIES

3.1 Benefits

The primary outcome of the ILC's land acquisition and land management program is the delivery of environmental, cultural, economic and social benefits to Indigenous people.

Land will not be acquired or land management assistance given unless applicants clearly show that sustainable benefits will arise and how capacity already exists or will be achieved.

To achieve sustainable benefits:

1. The primary purpose for the land, land capability, applicant capacity and commitment must be demonstrated;
2. The future maintenance and management of properties and the costs associated with ownership must be clearly demonstrated;
3. Land uses must encompass sound environmental management so that the land is cared for and not degraded by the activity;
4. Activities and projects must be economically viable. That is, they must not require recurrent ILC funding to survive and operate; and
5. Land uses must be actively supported or endorsed by landowners, and be consistent with the aspirations of the community and other Indigenous people who are directly affected.

The ILC will give priority to delivering employment and training benefits.

3.2 Key Principles

Implementation of the NILS will be guided by the ILC's corporate plan, together with the following ten key principles.

The ILC:

1. Recognises the rights, prior land ownership and the history of dispossession of Indigenous people;
2. Will prioritise the delivery of benefits in our decision making regarding land acquisition and land management projects;
3. Recognises that different regions have different requirements and will conduct regional consultations to ensure that the needs of Indigenous people are understood and benefits available to Indigenous landholders are maximized;

4. Will work closely with Indigenous organisations and the Indigenous community;
5. Will be highly focused on land acquisition and land management and work in an independent and professional manner;
6. Acknowledges that its resources cannot address the land needs of all Indigenous people and will therefore aim to maximise the benefits to Indigenous people from each land acquisition and land management activity;
7. Will retain a flexible and responsive approach in order to meet land needs;
8. Will aim for the maximum transparency and openness in respect of its decision-making principles and procedures;
9. Will operate in accordance with sound business principles, including in the commercial property market, to deliver benefits; and
10. Will assist Indigenous people to develop their capacity to own, manage and derive benefits from their land.

3.3 Guidelines

The ILC will provide written guidelines about its land acquisition and management functions and make free copies available. These will guide the land acquisition and management functions unless exceptional circumstances determine that an alternative approach is necessary.

The Program Guidelines provide detail on the processes and criteria that the ILC will use to assess applications.

3.4 Regional Strategies

The ILC is required to prepare and revise RILS. The RILS are based on the borders of the six States and the Northern Territory. The Australian Capital Territory is incorporated into the New South Wales RILS. The regional areas are not formal administrative regions for the purpose of the ILC's land acquisition and land management functions.

The ILC will conduct regional information and consultation sessions with Indigenous people and use the information gathered through these sessions when revising each RILS.

3.5 Remediation

The ILC operates a structured remediation program for properties acquired prior to 2002 by the ILC and identified in the ILC's National Property Assessment. This program, which is due to be completed by 30 June 2008, assists the Indigenous landowners of the properties with capacity development and property management planning to facilitate the delivery of sustainable benefits.

3.6 Strategic Land Acquisitions and Land Management

The ILC may initiate strategic land acquisitions or land management projects provided criteria are met and the Board endorses the proposed project.

Strategic projects will focus on employment, education, training and the delivery of social and cultural benefits in regions and specific industries. Collaboration and coordinated service delivery will be a priority.

The Board will take a long-term view regarding strategic land acquisition projects. Consequently, divestment may take place over a longer period while the ILC is an active partner. Land will not be granted unless the ILC is satisfied that the project's future is sustainable.

Strategic land management projects may be shorter-term, but must focus on developing the capacity for land management over regional areas, and employment and training in specific industries.

The ILC Board has identified the pastoral industry and tourism as focus areas for its strategic projects. The ILC will purchase land or lease Indigenous-held land and develop these as:

- viable enterprises;
- centres of Indigenous employment; and,
- education and training facilities.

The ILC Board recognises the importance of a core education to the future of Indigenous youth. It also notes that current education outcomes for those living in rural and remote areas are limited by the lack of available education facilities. To assist in improving these outcomes the ILC will collaborate with Australian and State/Territory Government agencies to acquire and/or develop boarding facilities in regional centres to assist such Indigenous youth to attend educational facilities. Provision of ILC funds would be on a joint basis.

The effect of strategic projects will be to enhance Indigenous participation in education, the pastoral and tourism industries and regional economies. In particular, the ILC will seek to generate significant training and employment opportunities in these industries for Indigenous people.

3.7 Collaboration

The ILC recognises that whole-of-government approaches and partnerships with non-government agencies, Indigenous people and the private sector are required to achieve real and lasting outcomes, particularly employment and training. For this reason, a key focus of the ILC in carrying out its land acquisition and land management functions will be establishing and strengthening these relationships to deliver benefits to Indigenous people.

The ILC will collaborate with research institutions to obtain information and ensure that applicants benefit from land management and enterprise opportunities. Collaboration with other agencies will also enhance the ILC's role in assisting Indigenous groups to identify available funding and support programs in their region.

3.8 Environmental Issues on Indigenous - Held Land

The ILC is committed to redressing environmental issues on Indigenous-held land. It has a land acquisition stream dedicated to providing environmental benefits, and land acquisition and land management projects of all types must comply with applicable environmental laws and incorporate sound land and environmental management practices. Although the Act does not define sound land and environmental management practices, the ILC as far as possible adopts the principles of ecologically sustainable development. It will also endeavour to balance maintenance and protection of the land with, where appropriate, deriving an economic gain from it. As far as possible, the best environmental practices and rehabilitation strategies will be supported.

Given that dealing with environmental issues is complex, the ILC will give priority to collaborating with other agencies.

LAND ACQUISITION

The ILC will buy land and property for the purpose of assisting Indigenous people to derive cultural, social, environmental or economic benefits within the scope of the Act, and if there is no other land acquisition mechanism available.

4.1 Four Streams

Four streams will be administered to assist Indigenous people to acquire land and to be able to enjoy the four categories of benefits. These are:

- The Cultural Acquisition Program, which assists Indigenous people to acquire land of cultural significance;
- The Social Acquisition Program, which assists Indigenous people to acquire land for a range of social and welfare purposes;
- The Environmental Acquisition Program, which assists Indigenous people to acquire land to derive environmental benefits. This could include collaboration with Australian Government, State, Territory or other environmental authorities and agencies; and
- The Economic Acquisition Program, which is a commercial program that assists Indigenous people to acquire land to establish and maintain viable and sustainable land-based businesses.

All acquisitions must demonstrate clearly that significant social and cultural benefits will be derived.

4.1.1 Eligibility

The ILC may only grant interests in land to Aboriginal and Torres Strait Islander corporations as defined in the Act.

4.1.2 Assessment and Conditions

Assessment of applications will consider the primary purpose, the capacity and commitment of the applicant, the sustainability of the project, the benefits derived and the suitability of the land.

When acquiring land for its cultural significance, the ILC will aim to ensure that traditional owners (or people with traditional links to the land) make up the membership of the title-holding corporation. Where sites of significance to groups who are not represented on the title-holding body exist on a property, the ILC will require access to the sites be guaranteed to those groups. This holds true for land the ILC acquires under its Social, Environmental and Economic programs where sites of significance exist.

The ILC believes that it should not be the principal forum for the resolution of disputes regarding the nature of people's connection to country.

Further details about the land acquisition programs are available in the Program Guidelines.

4.2 Lease Prior to Grant

After the ILC acquires land, it may grant a lease to the intended title-holding body for a period of up to three years. The lease will require the intended title-holding body to demonstrate its capacity to manage the property through an agreed work plan and reporting requirements, and to demonstrate that benefits are being delivered.

Grant of the land will be dependent on satisfactory progress towards agreed outcomes. Land can only be granted to title-holding bodies that are incorporated. It is preferred that title-holding bodies are incorporated under the legislation administered by the Registrar of Aboriginal Corporations². In the event that the ILC proceeds to grant the land, the proposed title-holding body will need to sign the ILC's standard Deed of Grant. The Act allows this Deed to include conditions, and the ILC uses this mechanism to ensure that the stated purpose of the acquisition continues, benefits are being achieved and the land is not lost from the Indigenous estate. This document is adapted to the particular circumstances but a pro forma is publicly available.

4.3 Disposal of Land

In circumstances in which the ILC is unable to grant an interest in land because of a lack of suitable title-holding body, the ILC will consider disposing of the interest under the provisions of section 191J of the Act. A suitable title-holding body will be one that is appropriate to the aims of the program stream under which the property was acquired and that satisfies the requirements set out in the NILS and the Program Guidelines. The ILC will not take this course of action until the Board is satisfied that the chances of establishing an appropriate title-holding body are so remote that the time the ILC will have to hold the land is no longer considered reasonable. The ILC will consider the full range of expressed land needs in an area before deciding to dispose of land under section 191J.

² Originally this was *The Aboriginal Councils and Associations Act 1976*, however, as of the 1 July 2007, this will be replaced by the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

LAND MANAGEMENT

The Land Management Program's objective is to assist Indigenous people to manage their land to derive cultural, social, environmental or economic benefits by supporting groups to develop their capacity to operate sustainable enterprises.

The Land Management Program was designed to assist Indigenous people to care for, develop and productively use their land, and includes assisting them to address environmental issues.

5.1 Land Management

Land management, for ILC purposes, is defined as the managed use, care or improvement of land. The Act gives a very broad interpretation of land management but lists a number of activities that come under the heading land management (subsection 191E(5)). These are:

- 1) Carrying on a business that involves the use, care or improvement of land;
- 2) Providing the following services in relation to the above:
 - Management, clerical, administrative or financial services;
 - Technical, professional or advisory services; or
 - Similar services;
- 3) Providing environmental management services;
- 4) Providing training related to the carrying on of a business or in the managed use, care and improvement of land; and
- 5) Disseminating information about land or environmental management practices.

Land management involves the active participation of the ILC in dealing with land management issues as a service, rather than simply as a funding provider. An intention of the Act is that the ILC must assist Indigenous people to make full use of the funds and programs available from other agencies and be involved in the provision of technical and professional advice, information and training.

5.2 Structure of the Program

The ILC will assist Indigenous landholders:

- to develop plans for their properties;
- to undertake cultural, social, environmental and economic projects on their properties; and
- to achieve social, environmental, cultural and economic benefits in a region.

5.2.1 Eligibility

The ILC can support land management activities in relation to all Indigenous-held land, provided that the activities meet the definition of land management as stated in the Act.

5.2.2 Assessment and Conditions

Assessment of applications will consider the primary purpose, the capacity and commitment of the applicant, the sustainability of the project, the benefits derived and the suitability of the land.

The applicant will be required to demonstrate that the land management activity:

- Meets the definition of land management;
- Will deliver sustainable benefits;
- Will maximise Indigenous employment and training; and
- Directly involves landholders.

Approved applicants will be required to enter into a land management agreement that includes a work plan and reporting requirements. Under the economic stream, applicants may be required to enter into a loan agreement as determined by the ILC.

Further details about the land management program are available in the Program Guidelines.

REVISION OF STRATEGIES

The National Strategy is not a static or fixed document. Subsection 191N(1) requires the ILC Board to prepare and periodically revise the NILS, while subsection 191N(5) requires the Board to review it. A NILS may only have a life of between three to five years (subsection 191N(4)).

The Board has determined that this version of the NILS will have a life of five years and will be reviewed at least annually and revised as required.

The Program Guidelines will be reviewed regularly and amended as necessary. To assist these processes, the ILC will continue to consult with Indigenous people where appropriate.