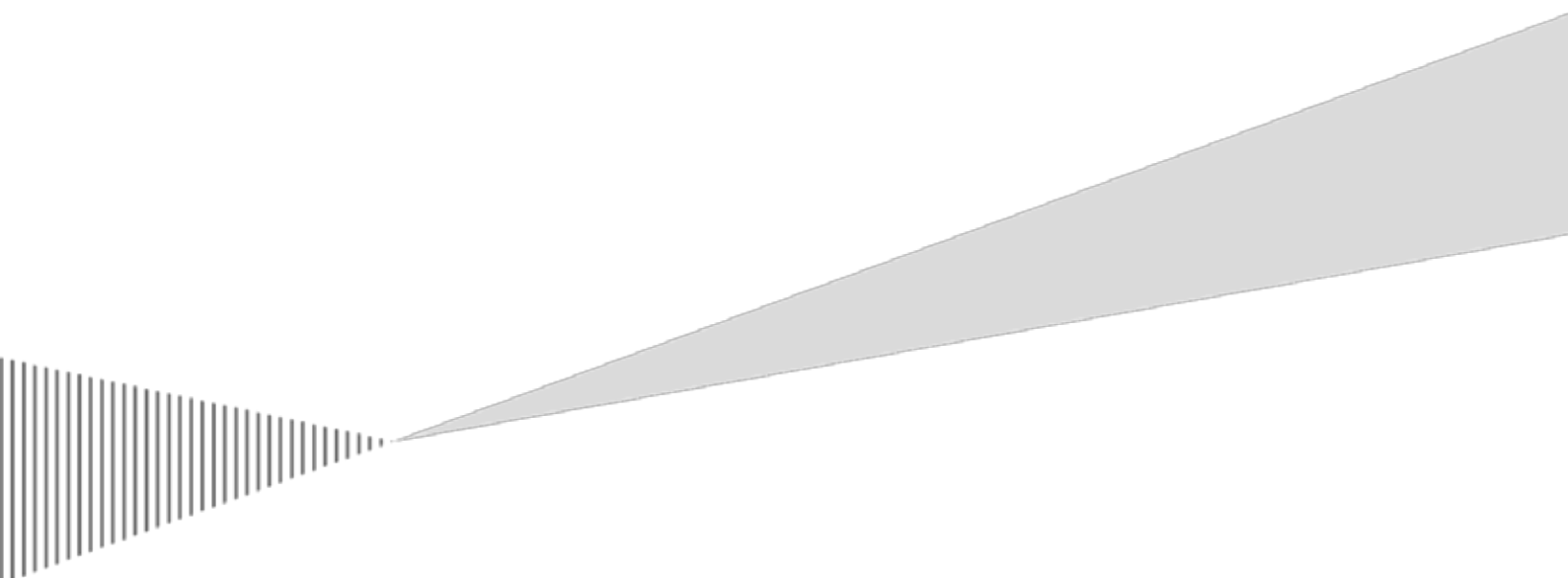


# Review of the Indigenous Land Corporation and Indigenous Business Australia

17 February 2014



**EY**

Building a better  
working world

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Caroline Edwards  
First Assistant Secretary  
Department of the Prime Minister and Cabinet  
PO Box 6500  
Canberra ACT 2600  
Australia

17 February 2014

Dear Caroline,

I am very pleased to present to you EY's report of the Review of Indigenous Business Australia and the Indigenous Land Corporation.

EY considers it a privilege to have been asked to conduct this review on your behalf and we are deeply appreciative of the time, candour and passion of the many dozens of stakeholders we interacted with throughout the review whose contributions have informed its outcomes.

The review demonstrates to us that there is a unified commitment to address Indigenous disadvantage and inequality.

Indigenous Business Australia and the Indigenous Land Corporation are key government agencies contributing to this agenda.

Our review highlights how further integration and focusing of these two organisations can further drive Indigenous economic development and contribute to better outcomes for Indigenous Australians.

EY is committed to '*building a better working world*' and we believe our recommendations reflect our business philosophy.

I and my colleagues thank you again for this opportunity to contribute to a subject that is of such significance and concern to all Australians.

Yours sincerely

Mark Nixon  
Partner, Leader Human Services, Oceania



## EY supports a major restructuring of government effort for Indigenous Economic Development

This restructure provides a pathway for the reorientation of Indigenous Business Australia and the Indigenous Land Corporation

First, the restructure honours the integrity of the land promise and the compensatory intent of the Indigenous Land Corporation

Second, the restructure will drive Indigenous Business Australia to be a more effective 'engine room' for entrepreneurial, commercial development and jobs creation for Indigenous Australians

Third, improved governance arrangements provide for the independent leadership and oversight required to drive the restructure

## 1 Executive Summary

*“There’s been very little improvement towards halving the gap in reading, writing and numeracy. **And indigenous employment has, ...if anything, slipped backwards over the past few years. We are not on track to achieve the more important and meaningful targets”.***

Prime Minister, Hon. Tony Abbott MP<sup>1</sup>

*“We missed an opportunity to quickly grow indigenous employment over the last six or seven years of the serious growth of the economy”*

Andrew Forrest<sup>2</sup>

*Indigenous Australians are resilient, and determined to create their own futures, but existing approaches are not working.*

- 1 The Prime Minister’s sobering remarks come more than six years after there was bipartisan federal commitment to ‘close the gap’ between Indigenous and non-Indigenous Australians<sup>3</sup>.
- 2 Despite the combined efforts of commonwealth, state and territory governments, the initiative and leadership of Indigenous communities and the goodwill and action of the private sector and civil society, the goal of even *halving* the gap remains elusive.
- 3 Existing approaches are not working.
- 4 There is, perhaps, cause for cautious optimism: an emerging Indigenous middle class<sup>4</sup>; a substantial and growing number of Indigenous owned businesses<sup>5</sup>; and an active Indigenous controlled community sector<sup>6</sup> evidence the resilience and determination of Indigenous Australians to participate and engage economically and socially to create their own futures.
- 5 Building on this foundation, a new approach from government is emerging.
- 6 This new approach requires adjustment to Government’s broad policy levers (such as tax, industrial relations, welfare and procurement), greater collaboration with the private sector and smarter, more strategic use of its statutory authorities.
- 7 Indigenous Business Australia (IBA) and the Indigenous Land Corporation (ILC) are two key statutory authorities that form part of the broader landscape of government effort towards reducing Indigenous inequality and are the subjects of this review.

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<sup>1</sup> Australia, House of Representatives, p.527

<sup>2</sup> The Australian (2014): Twigg urges action to save indigenous drop-outs. 12 February.

<sup>3</sup> COAG Standing Council on Federal Financial Relations (2009), *National Partnership Agreement on Closing the Gap in Indigenous Health Outcomes*, Council of Australian Governments, Canberra, Australia

<sup>4</sup> Boyer Lectures, *The Quiet Revolution: Changing the paradigm*, Marcia Langton, 2012.

<sup>5</sup> <https://supplynation.org.au/>

<sup>6</sup> <http://www.oric.gov.au/Content.aspx?content=aboutUs/aboutOurCorporations.htm&menu=about&class=about&selected=About our corporations>

- 8 The Department of the Prime Minister and Cabinet (PM&C) engaged EY to review the structure of IBA and the ILC. The primary focus was on Indigenous economic development (IED). Specifically, EY's task was to assess the effectiveness of IBA and the ILC in driving IED, and how enhanced outcomes in IED could be achieved by Government including through consideration of an integration of IBA and the ILC. (The review's Terms of Reference are noted on Page 24, and related limitations are addressed in Appendix A and on page 26.)
- 9 This review is one response to the Government's call to action to address Indigenous disadvantage and enable the potential of this "young, dynamic and geographically diverse population"<sup>7</sup>.
- 10 We recognise that this review has occurred during a period of change and turmoil for IBA and the ILC and that the process of the review further intensifies the uncertainty surrounding the two organisations. Considering the context of the review we are thankful for the open and constructive dialogue during consultations with all stakeholders including the ILC and IBA.
- 11 During the 11 week review period (3 December 2013 – 17 February 2014) the EY team met with more than 60 highly engaged and relevant stakeholders from Indigenous organisations and communities, private sector companies, peak bodies and the public sector (refer Appendix B). EY received written submissions from over 30 individuals and organisations (refer Appendix C). EY met with the Boards and executives of the ILC and IBA on multiple occasions (refer Appendix C) and received formal submissions from each organisation responding to the review's terms of reference.
- 12 We are extremely grateful for the time, candour and interest of all those who contributed to the review. Their contributions were all considered in full by the review team and helped inform and craft the outcomes of the review.
- 13 To complement these activities, a literature search of both Australian and international research was undertaken to gather additional insights and perspectives on IED including insights from the recent G20 Summit that addressed issues of unemployment and job creation (refer Appendix I), and international approaches to applying private sector capital to support inclusive growth in developed and emerging countries (refer Appendix F).
- 14 The outcome of this intensive research is a series of recommendations leading to new structural arrangements for IBA and the ILC.

*The outcome of this intensive research is a series of recommendations leading to new structural arrangements for IBA and the ILC.*

## 1.2 Policy Context

- 1 The Coalition Government has consistently articulated a clear and explicit policy agenda for Indigenous Affairs. In the lead-up to the 2013 election, the Coalition announced that: "... indigenous Australians deserve a better future, with more job opportunities, empowered individuals and communities, and higher standards of living. The

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<sup>7</sup>[http://www.bca.com.au/docs/fc22a473-911e-4703-b9d8-953b61a0809d/BCA\\_2013\\_Indigenous\\_Engagement\\_Report\\_Summary\\_FINAL\\_16.12.2013.pdf](http://www.bca.com.au/docs/fc22a473-911e-4703-b9d8-953b61a0809d/BCA_2013_Indigenous_Engagement_Report_Summary_FINAL_16.12.2013.pdf)

*Driving Indigenous economic development requires the creation of sustainable new jobs.*

- 2 Coalition aims to ensure that right around Australia, children go to school, adults go to work and the ordinary law of the land is *observed – in indigenous communities no less than in the general community*<sup>8</sup>. The Coalition's Indigenous policy framework is defined by three pillars:
  1. Improvement in Indigenous employment outcomes
  2. Improvement in the school attendance and educational attainment of Indigenous students
  3. Improvement in the safety of Indigenous communities.
- 3 EY's starting point for the review, based on consultation with the Minister for Indigenous Affairs<sup>9</sup> and PM&C, was that **IED in relation to IBA and the ILC means the creation of sustainable Indigenous employment opportunities**, particularly through new Indigenous enterprises.
- 4 Contributors to the review were unanimous in their acknowledgement of the importance of IED to address the Indigenous inequality.
- 5 Many stakeholders were equally clear that the matter of compensation for the dispossession of land remains fundamental. We have referred to this phenomenon as "honouring the land promise".
- 6 The "land promise" reflects the establishment of the Aboriginal and Torres Strait Islander Land Account (the Land Account) to provide a secure income to the ILC<sup>10</sup>. In effect the ILC was the culmination of decades of action by Indigenous Australians to seek recognition to address their dispossession from traditional lands and seas. The most significant and high profile achievement was the Mabo decision<sup>11</sup> when the High Court of Australia recognised common law native title for the first time.
- 7 There were many consequences arising from this decision, and three commitments made by the Keating Government: "to enact native title legislation, to establish a land fund for Aboriginal and Torres Strait Islander people whose native title had been extinguished and a social justice package."<sup>12</sup> The native title legislation was enacted, the ILC and the land account established but while the features of a social justice package were identified these were never enacted formally.
- 8 Seen in this context the "land promise" is more than a fund but a marker in the history of recognition and land rights for Indigenous Australians.
- 9 Indigenous economic development and the "land promise" are the common threads that ran through this review.

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<sup>8</sup> Liberal Party of Australia (2013), The Coalition's Policy for Indigenous Affairs, brochure, p. 2

<sup>9</sup> EY conducted a formal interview with the Minister for Indigenous Affairs as part of the review on 12 December 2013

<sup>10</sup> FaHCSIA Annual Report, 2012-13, Part 4 Financial Statements

<sup>11</sup> Mabo v Queensland [No.2] (1992) 175 CLR 1

<sup>12</sup> Watson, Nicole (2012)



- 10 If IED is to be effectively addressed the “land promise” and all the opportunity and historic significance attached to it must be considered.
- 11 It is also manifestly apparent, however, that there are several structural **inhibitors** to economic participation of Indigenous people and communities.
- 12 Such inhibitors are further exacerbated by a lack of coordinated and strategic responses: addressing these issues could perhaps be considered the **‘missing’ elements for IED** that if applied successfully could become the enabling architecture to drive IED forward.
- 13 Indeed, the ‘inhibitors and missing elements’ - summarised below in Figure 1 - are central to the review’s findings. These issues, discussed in further detail on page 34, were raised consistently by stakeholders and were confirmed in our review of literature both in Australia and internationally.

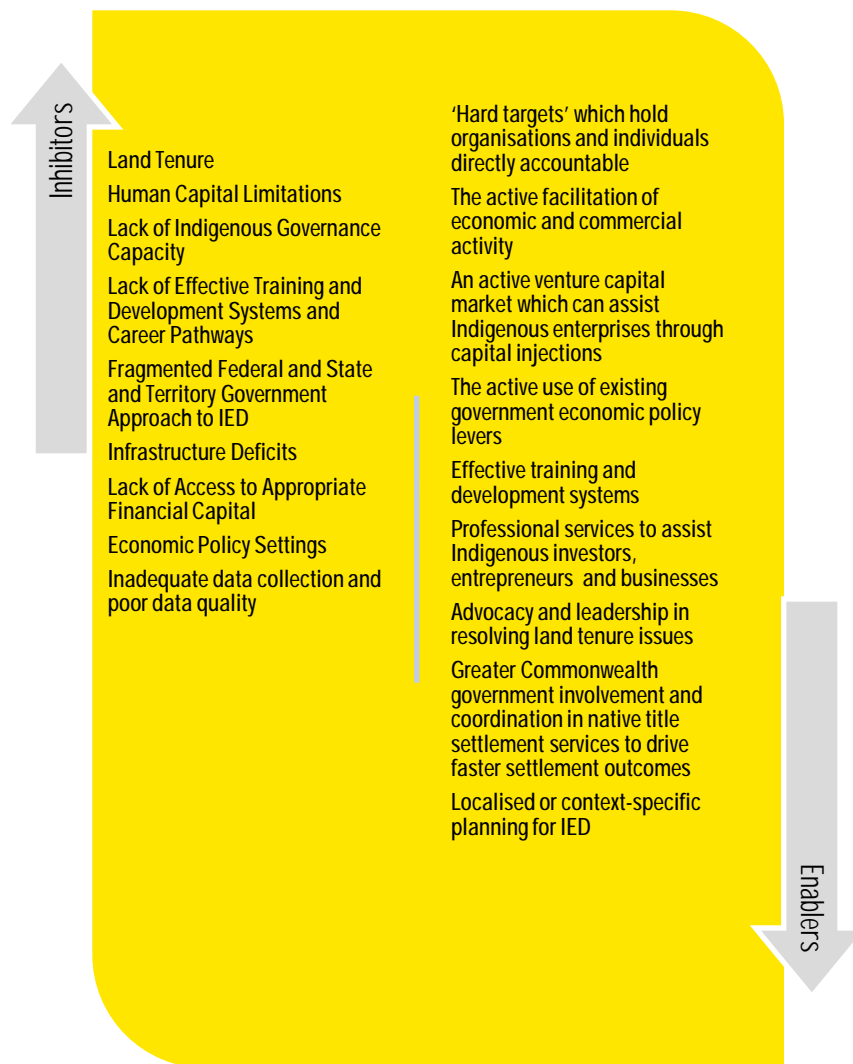


Figure 1: Inhibitors and Missing Elements of the Enabling Architecture

- 14 The inhibitors create an environment where activity and effort towards socio-economic development for Indigenous people is obstructed because of: structural issues, such as a lack of basic infrastructure to deliver services such as roads, telecommunications, power or utilities; capacity issues due to limited education or training of Indigenous people to be able to participate economically; coordination issues whereby government services are duplicated, inappropriate or ineffective; or, lack of incentives as a result of economic policy settings overlooking Indigenous economic development.
- 15 The 'missing elements' are those things that stakeholders and the literature note can address the inhibitors, and when applied consistently by a range of organisations or agencies have the potential to effect real change.
- 16 Stakeholders consider that **the ILC and IBA each has a key role to play in contributing to the enabling architecture**, whilst noting that in doing so they often share responsibilities with other stakeholders in government, the private sector and Indigenous communities. The review has proposed structural changes in the functions of IBA and the ILC drawn from the 'missing elements'.
- 17 These functions include: land tenure resolution, facilitation of commercial activity by Indigenous organisations, establishing a professional services panel or network and brokering access to venture capital.
- 18 The inhibitors and enablers, summarised above, gave rise to several new functions that are part of the recommendations of the review as new responsibilities for IBA and the ILC in driving IED.
- 19 Therefore, understanding how the ILC and IBA make these contributions requires an understanding of organisational purpose which was considered directly pertinent to our review of entity structure.
- 20 As a result, the purpose of the ILC and IBA was a constant theme in submissions and during our consultation and what emerges is a consensus that the original mandates of the organisations require refocusing and clarification because while at times the purpose and functions of the ILC and IBA appeared to overlap, they remain, from our observations, distinct in nature and scope.

### 1.3 IBA - Commercial Focus

- 1 IBA's commercial focus and emphasis is clear in its enabling legislation. IBA delivers on its legislative mandate through a diverse range of activities including the delivery of home loans, business loans, enterprise development, business capability support and an investment portfolio with Indigenous and non-Indigenous business partners.
- 2 IBA's clarity of purpose and coordinated commercial strategy is driving opportunities to create new approaches to investment, business development and home ownership.
- 3 IBA has demonstrated that it is operating effectively against its legislative mandate and has evidenced the capacity and capability to deliver outcomes that drive IED. The recent performance of IBA shows it

to be at an important point in its evolution with valuable opportunities in place that are likely to translate into jobs for Indigenous Australians.

- 4 Our research evidences that IBA is acquitting its commercial responsibilities well, albeit within the constraints discussed above.
- 5 This commercial focus has enabled valuable job creation even though employment outcomes are not currently an explicit legislated responsibility of IBA.

- 6 Submissions to the review from organisations familiar with IBA's performance and approach praised its professionalism and innovation. This background informed our view that IBA is poised to escalate its impact on IED.

## 1.4 ILC – Compensatory Purpose

- 1 In contrast to IBA the ILC's purpose is explicitly centred on land acquisition and management. Its legislative basis<sup>13</sup>, including the rationale for the legislation, is to deliver a compensatory outcome for Indigenous people arising from the legacy of dispossession. The legislation requires the ILC to deliver a program of land acquisition, management and divestment that creates social, cultural, environmental and economic benefits for Indigenous Australians.
- 2 At this point it should be noted that in the conduct of the review EY has acknowledged the advice of PM&C to stakeholders that “[t]here is no intention to change, alter or take savings out of the Aboriginal and Torres Strait Islander Land Account, which funds the land acquisition and land management functions of the Indigenous Land Corporation.”<sup>14</sup>
- 3 The recommendations identified through the review have respected the “land promise” as detailed above.
- 4 The focus of the ILC and its establishment rationale means that IED is only one feature of the ILC's activities. Furthermore the legislative basis of the ILC does not reflect a requirement to undertake or participate in commercial activities and none of the ILC's Portfolio Budget Statement targets reflect financial returns on investments. This creates confusion in the minds of some stakeholders who are of the view that the ILC has strayed into commercially-oriented activities that distract the ILC from its core compensatory function, contrary to its enabling legislation.
- 5 This conflict between the ILC's compensatory purpose and commercial activity is perhaps best evident through the purchase of the Ayers Rock Resort (the Resort); the Resort was purchased by the ILC as a commercial operation to create jobs and provide training opportunities for Indigenous Australians in the tourism sector.
- 6 The merits or otherwise of the Resort's purchase by the ILC have been the subject of separate independent review and are not within the remit of this engagement. The purchase, however, perhaps exemplifies the tension between the ILC's legislative remit and its rationale and its current

The commercial focus required to drive IED is in direct tension with the valid and essential compensatory ethic that defines the ILC.

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<sup>13</sup> Aboriginal and Torres Strait Island Act, 2005, s.191B.

<sup>14</sup> <http://ilcibareview.dpmc.gov.au/terms-of-reference>

- 7 organisational activity: to purchase such a significant commercial asset appears to open the organisation to responsibilities and commitments that it was not originally established to deliver.
- 8 Ultimately, such a lack of clarity around purpose must be addressed in order to adequately assess effectiveness.
- 9 What can be said of the ILC is that its effectiveness in driving IED is naturally limited based on its remit, but that its impact on underlying issues that influence economic participation is high. Recent collaboration with IBA (for example, the Hopevale Banana Plantation<sup>15</sup>) identifies that there is a complementary role for the ILC as an entity focused on land with the IBA as its collaborator, where appropriate, to utilise land assets for commercial activities.
- 10 This discussion emphasises the adage that land has the power to transform.

## 1.5 Themes from the Review

- 1 The role and use of land was a common point of discussion during the review. For Indigenous Australians land presents opportunities both to maintain culture and identity and to build an economic base. These two transformational forces need not be oppositional; however, they do present a tension, particularly for the ILC which, in partnership with Indigenous communities, must constantly reconcile how land will be utilised.
- 2 One of the major areas of tension and complexity for economic development in particular, and access generally, is land tenure. "Each jurisdiction sets and administers its own conditions of land tenure, use and management. States also exercise their own land and water rights through the tenure system...this diversity creates considerable complexity<sup>16</sup>."
- 3 Added to the complexity is the fact that negotiation and tenure-resolution mechanisms are under-resourced<sup>17</sup>. Stakeholders and submissions noted that there was a role for organisations like the ILC and IBA to play an advocacy role in negotiating or facilitating resolution of land tenure issues.
- 4 Another common theme was the role of partnerships and private sector involvement in the identification of opportunities, design and implementation of solutions. Consultation throughout the review and consideration of the literature affirmed the importance of the role of the private sector in partnering with Indigenous organisations to develop enterprises and create new jobs. An **active facilitator** of these opportunities was identified as a critical component to address the inhibitors and missing elements.

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<sup>15</sup> Kim, Sharnie, (2014) Big bananas: Cape York Indigenous farm ramps up production. 16 February. ABC News.

<sup>16</sup> CSIRO, p.1

<sup>17</sup> Ibid, p.1

- 5 Our research, and EY's global experience, highlights the critical role the private sector has in jobs creation. It should be noted that 9 in 10 jobs in emerging markets are created by the private sector<sup>18</sup>.
- 6 IBA already plays a role in this regard and has demonstrated that with greater emphasis on this role can facilitate the business growth that will create new jobs.
- 7 As IBA notes in its Annual Report for every business loan for \$200,000 2.3 Indigenous jobs are created<sup>19</sup>. Scaling this up is the critical next step.
- 8 Complementing the role of an active facilitator is the creation of a professional services panel or network that can be accessed by Indigenous organisations to provide entrepreneurial advice and support in addition to that provided by IBA and the ILC.
- 9 This could build on the existing consulting support available from IBA and provide deeper and more substantial advice or partnering options for Indigenous businesses.
- 10 This contributes to addressing some of the commercial, business management and governance capacity issues that stakeholders note currently exist across Indigenous communities and organisations. In particular, it was noted that existing small businesses operated by Indigenous Australians often required support in areas such as accounting, legal, human resources and logistics in order to scale up their business.
- 11 A professional services panel could provide a trusted source of advice and support in this context and address an IED inhibitor.
- 12 Finally, underpinning many of the inhibitors is the question of financial capital. Where there are opportunities to exploit there is often a requirement for investment. Both the ILC and IBA provide opportunities for Indigenous organisations, and in the case of IBA individuals, to access grants or loans. However, there were a series of examples provided during the consultation that demonstrated either the need for access to capital in a timeframe or of a scale that the ILC or IBA could not support.
- 13 What is apparent is that IBA in particular has strong relationships with large commercial investors and insights into capital markets that may allow it to play a role in linking Indigenous organisations to capital for enterprise establishment or expansion.
- 14 Once again it is the opportunity to work at scale that will deliver major job creation outcomes and in turn generate further business opportunities.

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<sup>18</sup> IFC Jobs Study - Assessing Private Sector Contributions To Job Creation And Poverty Reduction, January, 2013

<sup>19</sup> Indigenous Business Australia (2013), "Indigenous Business Australia Annual Report 2012-13", Commonwealth Government of Australia, Canberra, Australia.

- 15 Linking all of these themes together was the issue of hard targets. Setting targets to which individuals and organisations are held directly accountable is critical if performance is to improve. Those targets must directly relate to outcomes for Indigenous people and communities. In our discussion with stakeholders it was generally agreed that parity was a useful starting point for the setting of targets. For example, if the unemployment rate for non-Indigenous youth in a regional centre is 8%, this should be the target for that specific location for Indigenous youth.
- 16 The maturity assessment we applied to both organisations (discussed in section 5) established that both organisations have the structures and processes in place that enable them to take on and deliver these expanded functions.
- 17 The recommendations below examine the best way to apply these changes through restructured arrangements of the ILC and IBA to better drive IED outcomes.

*This report provides recommendations that present an opportunity to restructure government effort through IBA and the ILC to drive greater job creation and enterprise development whilst honouring the land promise.*

## 1.6 Recommendations

- 1 The importance of job creation and enterprise development to Indigenous economic development means that government effort, through IBA and the ILC, must be focused on achieving these outcomes.
- 2 This report provides a series of recommendations that present an opportunity to restructure government effort through IBA and the ILC to drive greater job creation and enterprise development whilst honouring the land promise.
- 3 We acknowledge that some elements of these recommendations are contributions that stakeholders are already exploring as options outside IBA and the ILC, or are under consideration by IBA or the ILC. We believe that these recommendations provide opportunities for the Government as it continues to drive its IED agenda to support Indigenous enterprise development and Indigenous jobs creation.

## 1.7 Options

- 1 The review initially identified 11 possible entity structure options for consideration (refer Appendix F). These options were based on our experience of public sector governance arrangements and discussions with stakeholders.
- 2 We established evaluation criteria to apply to apply in examining each of the structures for benefits, costs and risks (financial benefits, non-financial benefits and ease of implementation) (refer Appendix G).
- 3 Subsequently a short list of four options was given further consideration. Those items dismissed were discarded because the structures did not present opportunities to drive IED in a substantively different way; did not present the opportunity to address the 'missing enabling elements'; or, required such significant change that existing benefits would be lost. The shortlist of options were:

- „ Option 1 – Merger
- „ Option 2 – Shared Services Standalone
- „ Option 3 – Reconfigured Standalone

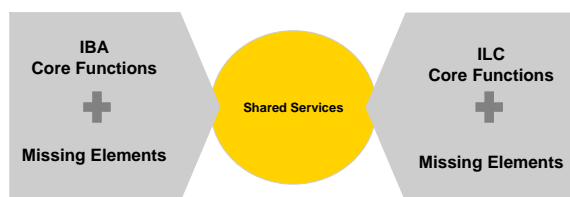
- „ Option 4 – Establishment of a new amalgamated entity which retains a multipurpose function.

### 1.7.1 Option 1: Merger



- 1 The straight merger of the ILC and IBA was considered as one response to the requirement in the terms of reference to “consider integration of the ILC and IBA into a single entity”.
- 2 The assumptions that underpin a merger are that it would:
  - ” Bring together the two entities into a single amalgamated entity under a single Board and CEO whilst retaining the current purpose, functions, programs and activities of each existing entity, without adding new functions or activities to the merged entity
- 3 Our assessment of this option is that it is not a viable or appropriate way to drive IED relative to other options considered. Based on the discussion to this point we have established as a starting point that there is an opportunity and need for change; and that there are inhibitors and missing elements to be addressed.
  - ” It fails to create any substantial change to the way in which the existing entities currently operate
  - ” It does not take the opportunity to address the ‘missing elements’ for IED through changes to purpose and functions
  - ” It presents governance challenges for a single board to oversight the two distinct purpose and diverse range of functions support these respective purposes (this is discussed further under Option 3 and 4)
  - ” It would be unlikely to present any significant financial savings as the existing activities are retained (see section 5 for high level assessment)
  - ” It would face significant organisational cultural challenges that would likely diminish its effectiveness, at least in the short term and effectively inhibit rather than enable of jobs growth.
- 4 The review has identified far too many opportunities to drive IED through IBA and the ILC to merge the two entities and experience business-as-usual.

### 1.7.2 Option 2: Shared Services



- 1 The second option considered was a shared services option which retained the existing entities, applied new functions or activities to address the ‘missing elements’ of IED, and provided a shared services

function to create savings across both organisations and establish a formal and structural link between the two entities.

- 2 *“The primary focus of shared services has been the concentration of transaction-orientated services that are repetitive and are much the same for each business unit. Generally, the types of services included in a shared services model include financial services ...; procurement; human resources including payroll; property and facilities management; and information technology operations”<sup>20</sup>.*

- 3 This Option and Options 3 and 4, are assessed in greater detail in section 5.

<sup>20</sup> Walsh, Peter and McGregor-Lowndes, Myles and Newton, Cameron (2006) Shared Services: Lessons from the Public and Private Sectors for the Nonprofit Sector, CPNS Working Paper No 34. Brisbane: QLD.

- 4 This option presents opportunities for continuity of service delivery by maintaining the separate entities in the hope that efficiencies can be found in the systems and processes that are shared between the entities.
- 5 Our high level assessment is that the organisations' distinct purposes and diverse functions of the two entities has driven a customer service approach that is unique to each entity. As such the systems and processes developed by each organisation appear to be largely unique. In addition the way in which each entity approaches its group structure with multiple subsidiary entities may also provide additional complications that diminish the efficiencies being sought.
- 6 Having dismissed Option 1 and 2, we turn to what we consider are two entity structures that PM&C may wish to consider in greater detail based on the benefits they offer in driving IED.

### 1.7.3 Option 3: Reconfigured Standalone Entities



- 1 Our experience is that the effectiveness of an organisation begins with clear purpose and functional alignment to that purpose. This reconfiguration is all about ensuring the appropriate focus is given to the core purpose of each organisation.
- 2 Accordingly, this reconfigured standalone option is much more than a status quo option. Whilst the proposition is that both entities retain their existing entity status, there are a series of new functions that are proposed and new ways of operating that would be designed into the reconfigured entities to integrate them tightly.
- 3 Our observations, supported by stakeholder feedback, are that the ILC has been distracted by its expansion into commercial activities. This movement into commercially focused investments is an area of overlap with IBA which has created confusion amongst some stakeholders and may ultimately divert the focus of the organisation from effectively addressing the compensatory purpose for which it was established.
- 4 In this option the ILC retains its existing **compensatory purpose** and functions and focuses explicitly on those activities that give effect to its purpose.
- 5 IBA expands its role as an **impact investor** by taking on new functions to drive IED that are consistent with its **commercial orientation** in direct response to our research on private sector drivers of improvement.
- 6 There remain challenges in this context, not least of which being the balance between establishing effective accountability over a public entity, and the importance of independence both to a commercially oriented organisation with privacy and confidentiality restrictions relating to its clients, and for the ILC which was established to give Indigenous people a high degree of autonomy through an Indigenous-controlled statutory authority to acquire and manage land as a compensatory outcome.
- 7 IBA must have authority to operate independently in order to act commercially to effectively deliver on its mandate. However, the limits of a government entity in relation to policy alignment, public accountability and financial probity must also be addressed. To



this end we see that the current Ministerial powers to direct and request information under section 151 and 154 of the ATSI Act 2005 are appropriate.

- 8 This alignment of activities with core compensatory purpose does not suggest the ILC cannot continue to work to achieve benefits across the social, cultural, environmental *and economic* domains, however, it recognises that ILC's focus is not to achieve commercial outcomes but that it can complement IBA's commercial focus.
- 9 The independence of each entity's Board remains important and as such returning to arrangements for an **independent chair** for each entity would appear consistent with good governance practice. This is not to imply that the current common Chair arrangements have not been effective and in some respects beneficial, rather, that independent and separate Chair arrangements are better practice to preserve a strong focus on the distinct purpose of each entity.
- 10 The table below provides greater detail on the features, benefits and risks of this option.

| Features of Option 3: Reconfigured Standalone Entities   |
|--|
| <ul style="list-style-type: none"> <li>• Indigenous control of entities to remain through existing Board membership and Chair requirements.</li> <li>• The core purpose of the ILC remains focused on its compensatory function and the acquisition, management and divestment of land for social, cultural, economic or environmental benefits.</li> <li>• The Land Account remains tied directly to the purpose and functions of the ILC. (The existing arrangements in legislation (s.191EA) that allow the ILC to “make payments to Indigenous Business Australia to assist Indigenous Business Australia to carry out its functions” to remain.)</li> <li>• IBA to retain and expand its explicit commercial focus on job creation through entrepreneurial business development.</li> <li>• The ILC to withdraw from commercially focused activities by divesting assets to Indigenous organisations or transferring responsibility to IBA (with an agreed divestment plan).</li> <li>• The ILC to work with IBA to identify commercial opportunities arising from land acquisition and management activity that IBA can facilitate and support. Either through legislated requirements or in Service Agreements.</li> <li>• Maintain separate Board and separate Chair for each entity.</li> </ul> |
| Benefits   |
| <ul style="list-style-type: none"> <li>• Least disruption to current business due to limited structural changes to operations and governance other than integration of expanded IED functions</li> <li>• Streamlining of purpose and functions creates potential for better focus of effort and resources across each organisation</li> <li>• Provides clarity to the Indigenous community as to the roles of each organisation</li> <li>• No exposure to incremental one-off or ongoing costs from structural changes</li> <li>• Least amount of change, therefore smallest exposure to execution risk</li> <li>• Separate Board and Chair consistent with good practice corporate governance</li> <li>• The Land Account is maintained within the ILC consistent with its original intent and any access to funds by IBA through s.191EA is governed by an independent Board with responsibility to the ILC’s mandate and purpose</li> </ul>   |
| Risks  |
| <ul style="list-style-type: none"> <li>• The transfer or divestment of existing ILC assets may impact on the performance of those assets in the short term</li> <li>• The existing organisational culture of the ILC or IBA may constrain improved performance under the new arrangements and diminish their overall effectiveness</li> </ul>  |

11 Supporting this Option are the following recommendations:

12 Recommendation 1 - Purpose

- a) Confirm the purpose of IED as being focused on Indigenous jobs creation and enterprise development
  - b) Revise the purpose of each entity to explicitly address its role in driving IED
- i) IBA: to act as the catalyst for Indigenous enterprise development and job creation through entrepreneurial business formation and development, home ownership and facilitation of investments for the benefit of Indigenous Australians
  - ii) ILC: to assist Indigenous Australians to acquire and manage land for social, cultural, environmental and economic benefits.
- c) Refocus the activities of the ILC to its original compensatory purpose for land acquisition, land management and land divestment. Existing ILC business operations and assets which do not strictly align with ILC’s original purpose should

either be divested to either Indigenous or sold on the open market with realised returns being returned to the ILC or be transferred to the IBA if appropriate.

13 Recommendation 2 - Finance & capital

- a) Expand the investment parameters of the Land Account to allow greater returns to be generated from the Land Account
- b) Revise IBA's legislation to allow for capital raising (however, maintain the restrictions on borrowing powers)
- c) Revise the ILC's legislation to remove its powers to borrow money consistent with other CAC entities
- d) IBA to utilise the land account fund, consistent with section 191EA of the ATSI Act, to better facilitate IED.

14 Recommendation 3 - Governance and strategy

- a) Reform the Director appointment processes to ensure appointments are staggered (to support continuity) and skills-based (to complement the purpose and functions of the entity)
- b) Require (through legislative changes) collaboration between IBA and the ILC in the development of strategic plans as they relate to IED
- c) Set explicit 'stretch' targets linked to IED and job creation outcomes for IBA – linked to Closing the Gap targets as a starting point
- d) Make the Board and senior executives directly accountable for stretch targets with legislated penalties
- e) Amend the enabling legislation to ensure each entity has a separate Chair.

15 Recommendation 4 - Indigenous enterprise development

- a) Establish a professional services panel or network to enable Indigenous organisations to access investment and entrepreneurial advice and support in addition to that provided by IBA.

16 Recommendation 5 - Land tenure

- a) Make explicit through legislative changes the lead role of the ILC and IBA in resolving land tenure issues that create impediments to the effective utilisation of land by Indigenous title holders. (This is not intended to position the ILC or IBA as a lead agency for land tenure issues generally, rather that they should apply their expertise and resources to resolving land tenure issues in partnership with governments and communities where it impacts on their clients or constituents.

17 Option 3 recognises that purpose is central to effective governance. While land can play a role as an economic asset, in the context of IED and the "land promise" it has multiple legitimate purposes. Retaining the entity structures of the ILC and IBA retains distinct governance over the ILC to maintain its compensatory functions and the associated land account while IBA is enabled by an independent board which can focus exclusively on taking a commercially focused approach to IED.

18 The ATSI Act in s.191EA already allows the ILC to "make payments to Indigenous Business Australia to assist Indigenous Business Australia to carry out its functions". The separation of the entities with different and separate Chairs provides a greater degree of control and accountability over the Land Account and its availability to IBA.

- 19 Whilst stakeholders within IBA or PM&C were not aware if this provision had been exercised, it presents a valuable opportunity for IBA and the ILC to resource projects and initiatives within an effectively controlled governance environment.
- 20 The separation also provides continuity for the entities enabling them to maintain momentum generated over recent years.

#### 1.7.4 Option 4: New Entity



- 1 This alternative to the proposal above requires, in our view, substantial change to existing arrangements.
  - 2 Fundamentally, the option to create a new entity, as detailed below, presents a major shift in the way in which government addresses IED and brings with it transition risks that would require considerable analysis and management.
  - 3 This fourth option would require that the ILC and IBA be abolished to create an entirely new entity. This entity would combine the key elements of the ILC and IBA under a single Board.
  - 4 Its purpose would be centrally focused on driving IED for jobs creation and enterprise development whilst retaining the compensatory land-acquisition, management and divestment functions of the ILC.
- 5 In order to create maximum impact, the new entity would take on new functions that address the 'missing elements' of IED.
  - 6 One of the central challenges to this proposal is a multi-purpose entity being overseen by a single Board.
  - 7 This is made more complex by the role of the Land Account.
  - 8 The Land Account was established to provide a secure income in-perpetuity to the ILC to provide economic, social, cultural and environmental benefits to Indigenous people by assisting in the acquisition and management of an Indigenous land base.
  - 9 We understand that there is no interest on the part of the Government to change the purpose of the Land Account or the ILC's functions towards commercial activity. Instead we are clear that by virtue of the Land Account effectively being annexed from the review that its original intent remains intact and thus the Board of a new entity emerging from the ILC and IBA would be required to quarantine its commercially focused decisions from activities funded by the Land Account.
  - 10 This creates complexity and risk for Directors in meeting their fiduciary duties as they will be required to make decisions on matters which on one hand may be consistent with a socio-cultural outcomes, but may conflict with a commercial decision sought by another part of the organisation.

#### Features of Option 4: New Entity

- Abolish the ILC and IBA and establish a new entity whose purpose is entity to act for the benefit of Indigenous Australians as the catalyst for Indigenous enterprise

development and job creation, whilst continuing to acquire and manage land for social, cultural and environmental outcomes

- Indigenous control of entity to remain
- Requires the creation of a new operating model
- The purpose of the Aboriginal and Torres Strait Islander Land Account retains its integrity as a compensatory function linked to land acquisition, land management and land divestment activity.

#### Benefits

- Synergies may be realised through full integration of IBA and the ILC from consolidation and reformulation of board, offices, compliance costs, capital avoidance, procurement, processes and systems
- New centralised structure with integrated operating model provides an opportunity to benefit for a more coordinated approach across IED and other outcomes. For example, improved management decision making and capital allocation can generate dynamic efficiencies.

## Risks

- Opposition from Indigenous stakeholders to the abolition of the ILC and are likely to hinder the merger and may delay or diminish the achievement of benefits
- The transition period to the new entity may result in the withdrawal of partners in the Indigenous community, private sector and civil society
- Cost of implementation may ultimately result in a net cost to merge the entities
- Legislative hurdles may be present for transferring employees/assets/ contracts that may trigger unintended consequences (e.g. CGT)
- Potential clash of existing organisational cultures, mandates and strategic objectives may diminish the performance of the new entity
- Ability to leverage synergies from functions other than back office support may be limited due to the unique systems currently in use
- Where Option 3 provides for effective accountability over access to funds from the Land Account through s.191EA, this Option creates an opportunity in practice for the Board to apply the funds it receives from the Land Account to purposes other than its compensatory function.

11 Supporting this Option are the following recommendations.

12 Recommendation 1 - Purpose

- a) Confirm the purpose of IED as being focused on Indigenous jobs creation and enterprise development
- b) Establish the purpose of the new entity to explicitly address their role in driving IED. For example: The new entity to act for the benefit of Indigenous Australians as the catalyst for Indigenous enterprise development and job creation, whilst continuing to acquire and manage land for social, cultural and environmental outcomes.

13 Recommendation 2 - Finance & capital

- a) Expand the investment parameters of the Land Account to allow greater returns to be generated from the Land Account and applied to the activities of the new entity
- b) Allow for capital raising in the legislation of the new entity (however, restrict borrowing powers).

14 Recommendation 3 - Governance and strategy

- a) Establish a Director appointment processes to ensure appointments are staggered (to support continuity) and skills-based (to complement the purpose and functions of the entity)
- b) Set explicit 'stretch' targets linked to IED and job creation outcomes for the new entity
- c) Make the Board and senior executives directly accountable for stretch targets with legislated penalties.

15 Recommendation 4 - Indigenous enterprise development

- a) The new entity to establish a professional services panel or network to enable Indigenous organisations to access investment and entrepreneurial advice and support in addition to that provided by the new entity.

16 Recommendation 5 - Land tenure

- a) Make explicit through legislative changes the lead role of the new entity in resolving land tenure issues that create impediments to the effective utilisation of land by Indigenous title holders. (This is not intended to position the new entity as a lead agency for land tenure issues generally, rather that it should apply its expertise and resources to resolving land tenure issues in partnership with governments and communities where it impacts on their clients or constituents.)

17 The scale and impact of the change proposed in this option means that further detailed assessment should be undertaken to determine the relative benefits and risks of establishing a new entity.

## 1.8 Implementation Issues

1 We believe that Options 3 and 4 present two viable options for further consideration by Government.

2 We note below an initial set of implementation issues that may arise in establishing each Option.

3 In implementing Option 3: Reconfigured Standalone Entities, the following issues would require consideration:

- Extensive consultation with Indigenous communities to build understanding and inform implementation planning
- Operationalising an expansion of IBA's legislative mandate to reflect legislation will require appropriate consideration and planning for execution to ensure seamless transition
- Setting of IED stretch targets by Government through consultation with IBA
- The nature of the changes to expand the investment parameters of the Land Account to generate the potential for higher investment returns while not exposing the Land Account's capital to excessive risk
- Design of a transition plan for the transfer of ILC's commercial activities and to divest ILC's non-land assets; and
- Design and testing of legislative amendments to foster collaboration between the ILC and IBA through the introduction of new structural mechanisms.

4 In implementing Option 4: New Entity, the following issues would require consideration:

- Extensive consultation with Indigenous communities to build understanding and inform implementation planning
- Design a detailed entity structure and operating model ahead of implementation
- Design of a transition plan to support operational continuity, manage clients and stakeholders and transfer assets
- Setting of IED stretch targets by Government through consultation with IBA
- Valuation of each entity's existing assets would be required
- Appropriate legislative arrangements to reflect the purpose of the Land Account within the new entity which maintains the account's original compensatory function; and

The nature of the changes to expand the investment parameters of the Land Account to generate the potential for higher investment returns while not exposing the Land Account's capital to excessive risk.

## 1.9 Conclusions

- 1 From the four options summarised above Option 3 and 4 present, in our view, the most viable options for consideration by Government.
- 2 Based on the relative benefits and risks of both options including the associated implementation issues, EY considers Option 3 – the reconfigured standalone option – to be the preferred option to drive IED.
- 3 Our experience and the research literature on public and private sector mergers cautions against bringing together entities with distinct purposes and unique cultures. In addition, the importance of maintaining momentum in the face of the profound challenges facing Indigenous Australians leads us to conclude that the retention of the existing entity structures, supported by structural changes to the way in which they interact will bring the greatest benefits in driving IED.
- 4 As the Minister noted in announcing the review, there are opportunities to strengthen the links between the two organisations<sup>21</sup>.
- 5 Our preferred option honours the integrity of the “land promise” and drives IBA to increase its impact on commercially focused enterprise development. Together the restructured arrangements proposed have the potential to drive job creation for Indigenous Australians.
- 6 We recognise that there may be additional evidence that because of the limitations of the review (refer page 26 and Appendix A) were not considered and that may influence the option selected. As such, we present both Options 3 and 4 for consideration.

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<sup>21</sup> Scullion, N. (Minister for Indigenous Affairs, Australian Government) *Review into Indigenous Business Australia and the Indigenous Land Corporation*, 2 December 2013.



## 2 Background to the Review

- 1 On 24 June 2013, Senator Nigel Scullion (now the Minister for Indigenous Affairs (the Minister) delivered an adjournment speech to the Australian Senate which highlighted concerns relating to the operation of Indigenous Business Australia (IBA) and the Indigenous Land Corporation (ILC).
- 2 Subsequent to his appointment, the Minister initiated this review into the effectiveness of IBA and the ILC, with a particular focus on IBA and the ILC's ability to address IED.
- 3 The Department of the Prime Minister and Cabinet (PM&C) engaged EY to undertake the review to address the following terms of reference.

### 2.1 Terms of Reference

- 1 The terms of reference (ToR) from PM&C were to review IBA and the ILC and to develop recommendations on the following:
  - „ the effectiveness of IBA and the ILC, as currently constituted, in driving economic development through employment, training, business development, land acquisition and management and home ownership
  - „ the optimal structure and function of government effort to drive Indigenous economic development, including consideration of whether outcomes could be enhanced by integrating IBA and ILC into a single entity
  - „ If a statutory body is considered the best approach, how to structure arrangements to ensure:
    - „ efficient administration and reduced red tape
    - „ transparency and accountability of public funds
    - „ appropriate powers of Ministerial direction or Government control.
- 2 The review commenced on 3 December 2013 and the final report was submitted on 17 February 2014.
- 3 Members of the public and interested parties had the opportunity to participate in the review through the provision of public submissions to PM&C. The official deadline for receiving public submissions was 24 January 2014.

### 2.2 Approach

- 1 In addressing the terms of reference, EY conducted multiple streams of work, including:
  - „ Desktop review of documentation – including a review of documentation from both IBA and the ILC into their operations, current government policy and initiatives (such as the Forrest Review) as well as broader Australian and international literature on IED from Canada, New Zealand and the United States of America.
  - „ Review of Public Submissions – including the consideration of submissions from IBA and the ILC as well as 26 public submissions (refer Appendix B). Public submissions were received by PM&C and summaries along with the full submission were sent to EY. EY received all submissions from PM&C that were received on or before 24 January 2014.

EY received an additional 7 submissions directly from stakeholders and via IBA after the close of public submissions. In the interests of embracing the widest possible range of inputs, EY has included these submissions in its considerations.
  - „ The application of EY's organisational maturity assessment (refer Section 4.3) to IBA and the ILC – which involved IBA and ILC providing evidence of organisational maturity spanning several areas of operational activity including: strategy; governance and leadership; core business and stakeholder focus; financial sustainability; and quality, measurement and improvement.

The elements underpinning the self-assessment maturity tool have been developed based on the fundamental building blocks that must be considered, addressed and developed by service-delivery

organisations. Each of the elements contains a number of sub-elements that were adapted to address the context and characteristics of IED.

- Stakeholder consultation – encompassed interviews of 64 people including national Indigenous leaders, the Commonwealth public service, private sector organisations (including industry associations and companies), academia and current and former directors and staff of the IBA and the ILC.
  - Facilitated workshops – which included the detailed discussions with both the ILC and IBA boards and senior executives (on 23 and 24 January) concerning several issues relating to the ToRs, their submissions to the review and several preliminary observations and findings resulting from the desktop review of documentation and stakeholder interviews. (Further details of meetings with IBA and the ILC are at Appendix C).
- 2 Development and testing of various entity structures to drive IED – including a high-level review of current state entity structure, the identification of a set of feasible high-level entity structure options and the analysis and high-level evaluation of the entity structures against agreed criteria (refer Section 5).
  - 3 Among the options tested, this work stream sought to test the value of an integration of IBA and the ILC into a single entity, which is an option specifically mentioned in the review's terms of reference.

## 2.3 Review Assumptions

- 1 The following assumptions inform the review's findings, observations and recommendations.
  - I. In considering the optimal structure of government effort and function to drive IED, EY interpreted the words 'government effort' to include the totality of Commonwealth & State and Territory government activity in driving IED. EY's questioning of interviewees therefore was much broader than just the activities of IBA and the ILC.

This approach enabled the review team to have a better understanding of the broader economic and policy context in which both IBA and the ILC operate.
  - II. Within the time available EY did not have the opportunity to provide a detailed analysis of the optimal 'architectural' structure of Commonwealth government effort, given that this would require a broader analysis and critique of both Commonwealth and State and Territory government policies.
  - III. In this report, EY has provided broad commentary regarding government effort outside the scope of IBA and the ILC, while noting the policy initiatives currently being implemented or policy reviews initiated by various levels of government, for example through the Forrest Review.
  - IV. The review's ToRs explicitly required EY to consider whether outcomes could be enhanced by integrating IBA and ILC into a single entity. Based on discussions with PM&C, EY's interpretation of an 'integration' between IBA and ILC is an amalgamation of the two entities largely maintaining both the existing purposes and functions of the IBA and ILC.

## 2.4 Review Limitations

- 1 There are several specific qualifications and limitations (in addition to EY's general limitations as listed in Appendix A) that inform the review's findings, observations and recommendations. These limitations and qualifications are as follows:
  - I. EY was limited by the time available in which to conduct the review. Given the broad scope of the ToRs, EY found that there was a significant volume of documentary evidence about the operations of IBA, the ILC and the role of government effort in driving IED.

EY's findings and conclusions therefore can only be based on the documentary evidence examined by the review team. There may be other documentary evidence which, if considered by the review team may lead to alternative findings, observations and recommendations.
  - II. While EY interviewed over 60 people as part of the review, there were stakeholders who EY were unable to interview who had expressed an interest in being interviewed or who EY would like to have spoken to. EY's inability to interview these stakeholders was not due to any active selection on the part of EY.



## 2.5 Background of IBA and the ILC

| Indigenous Business Australia |   |
|-------------------------------|---|
| Item                          | Description   |
| History                       | <p>The Commonwealth has had a long policy commitment to developing Aboriginal and Torres Strait Islander economic self-sufficiency. This policy commitment has been manifested through several Commonwealth entities including:</p> <ul style="list-style-type: none"> <li>• The Aboriginal Development Commission (ADC)( 1980 -1990)</li> <li>• Aboriginal and Torres Strait Islander Commission, Commercial Development Corporation (CDC) (1990 - 2001); and</li> <li>• Indigenous Business Australia (2001 -).</li> </ul> <p>Indigenous Business Australia (IBA) has been in existence since 1990 through the establishment of the CDC. The CDC was renamed to the IBA through the passage of the <i>Aboriginal and Torres Strait Islander Commission Act 2001</i>. In 2005, the Commonwealth transferred multiple programs, including the Indigenous Home Ownership Program (IHOP) which coincided with the abolition of the Aboriginal and Torres Strait Islander Council (ATSIC).</p> <p><b>The CDC</b></p> <p>At the time of establishment of the CDC, the CDC assumed the property and cash assets of the ADC, with additional financial supplements of Commonwealth appropriations from 1990 to 1994. During its existence, the CDC used its resources for the following:</p> <ol style="list-style-type: none"> <li>a) encouraging and facilitating Aboriginal and Torres Strait Islander participation in commercial projects and enterprises</li> <li>b) securing, as far as practicable, Aboriginal and Torres Strait Islander participation in the ownership and control of entities engaged in activities that are likely to have a significant impact on Aboriginal or Torres Strait Islander interests</li> <li>c) promoting the development of industries and other commercial and economic activities that are likely to have a beneficial impact on Aboriginal or Torres Strait Islander interests; and</li> <li>d) making specialist commercial expertise available to Aboriginal persons and Torres Strait Islanders engaged in commercial activities.</li> </ol> <p><b>The IBA</b></p> <p>According to the IBA Submission to the review, the IBA focuses on the commercial end of the Economic Development spectrum. Some of IBA's programs such as IHOP have been operating over many decades. In recent years, the IBA has undergone a transformation journey resulting in the development of new investment products such as the Real Estate Investment Trust (REIT), new investment vehicles and joint ventures and improved operational efficiency through the implementation of a cost reduction program which significantly reduced IBA's overhead costs.</p> |
| Purpose                       | <p>IBA was created to assist and enhance the economic development opportunities of Aboriginal and Torres Strait Islander people across Australia. IBA's purpose is defined under section 146 of the ATSI Act, which states:</p> <ol style="list-style-type: none"> <li>a) to assist and enhance Aboriginal and Torres Strait Islander self-management and economic self-sufficiency; and</li> <li>b) to advance the commercial and economic interests of Aboriginal persons and Torres Strait Islanders by accumulating and using a substantial capital asset for the benefit of the Aboriginal and Torres Strait Islander peoples.</li> </ol>  |
| Functions                     | <p>Consistent with subsection 147(1) of the ATSI Act, IBA achieves its purpose through the operation of two main functions, which are:</p> <ol style="list-style-type: none"> <li>a) to engage in commercial activities</li> <li>b) to promote and encourage Aboriginal and Torres Strait Islander self-management and economic self-sufficiency.</li> </ol> <p>The IBA is required to implement these functions according to sound commercial principles and is required to seek to advance the corporate and commercial interests of Aboriginal and Torres Strait Islanders through the encouragement and facilitation of Aboriginal and Torres Strait participation and ownership in commercial</p>  |

|                                   |  |
|-----------------------------------|--|
|                                   | projects and enterprises.  |
| Activities                        | <p>The IBA achieves its purpose and functions through the offering of several programs and activities including:</p> <p><b>Indigenous Home Ownership Program</b><br/>The IBA promotes home ownership to Aboriginal and Torres Strait Islanders individuals who are considered to be high-risk when benchmarked against the customers of mainstream banks and financial institutions. Since assuming the program in 2005, IBA has used IHOP funds to assist over 4,250 Aboriginal and Torres Strait Islanders to purchase their own home.</p> <p><b>Business Development &amp; Assistance Program (BDAP)</b><br/>The IBA plays an important role in the development and growth of Aboriginal and Torres Strait Islander businesses through the delivery of the Business Development and Assistance Program.</p> <p><b>Equity and Investments Program</b><br/>According to the IBA, IBA's Investments facilitates commercial investment by:</p> <ul style="list-style-type: none"> <li>• Applying IBA capital experience and skills to access financially sound opportunities;</li> <li>• Bringing together Aboriginal and Torres Strait Islander people, including industry specialists and private investors; and</li> <li>• Building commercial capability through partnership, hands-on mentoring, employment and training.</li> </ul> |
| Subsidiaries & Associate Entities | IBA has a significant number of investment subsidiaries (44 as at June 30, 2013) and associate entities (10 as at June 30, 2013) with investments across tourism, industrial, retail, mining, telecommunications and commercial property.  |

## Indigenous Land Corporation

| Item      | Description   |
|-----------|---|
| History   | <p>The ILC was formally established in 1995 through the passage of the <i>Land Fund and Indigenous Land Corporation (ATSI Amendment) Act 1995</i>.</p> <p>According to the ILC's submission to the review:</p> <p>"the ILC and the Land Account were established following the passage of the <i>Native Title Act 1993</i> in recognition of, and as partial compensation for the <i>"vast majority of Indigenous Australians (that) have been dispossessed of that which is most precious to their sense of history and spirituality, that most essential component of their heritage – their land."</i> In return, the Native Title Act provided certainty for non-Indigenous Australians regarding the security of land tenure."</p>   |
| Purpose   | <p>The ILC was established to provide Indigenous Australians with appropriate compensation from the effects of dispossession that were not able to be accessed through Native title. The ILC delivers such compensation through its ability to acquire, manage and divest land to Indigenous people thereby delivering economic, environment, social and cultural benefits to Indigenous Australians.</p> <p>This is underpinned by section 191B of the ATSI Act which states that the ILC was established:</p> <p><i>a) to assist Aboriginal persons and Torres Strait Islanders to acquire land; and</i><br/><i>b) to assist Aboriginal persons and Torres Strait Islanders to manage indigenous-held land;</i></p> <p><i>so as to provide economic, environmental, social or cultural benefits for Aboriginal persons and Torres Strait Islanders.</i></p> |
| Functions | <p>Consistent with ATSI Act, the ILC has several functions that allows the ILC to meet its legislative purpose. These functions include:</p> <ul style="list-style-type: none"> <li>• The ability to acquire land directly or grant money or guarantee loans to Indigenous corporations for the acquisition of land (section 191D)</li> <li>• The ability to manage acquired land consistent with agreements with land holders or to undertake land management activities to land held by the ILC or other Indigenous people (paragraphs 191E (1)(a)(b))</li> <li>• The ability to grant money or guarantee loans for the purpose of carrying out land management activities (paragraphs 191E (c) – (f))</li> </ul>   |

|                                   |   |
|-----------------------------------|---|
|                                   | <ul style="list-style-type: none"> <li>• The ability to dispose of surplus land to people or corporations (subsection 191J (2)); and</li> <li>• The requirement to develop a National Indigenous Land Strategy which guides the land acquisition and management functions of the ILC (section 191N).</li> </ul>   |
| Activities                        | <p>Consistent with the ILC's purpose and functions, the ILC undertakes a range of activities which drives Indigenous economic, social, environmental and cultural benefits. These activities include:</p> <ul style="list-style-type: none"> <li>• land acquisition, land management and land divestment activities;</li> <li>• manage ILC's environmental management activities (including carbon related activities); and</li> <li>• manage ILC's agricultural businesses which in 2012-13 included 14 agricultural businesses on land it either owns or leases from other Indigenous land owners as well as deliver employment and training programs related to the pastoral sector.</li> </ul>  |
| Subsidiaries & Associate Entities | <p>The ILC also delivers benefits through its several subsidiaries, which includes:</p> <ul style="list-style-type: none"> <li>• Voyages Indigenous Tourism Australia (Voyages) – which manages several tourism businesses and assets including Ayres Rock Resort, Mosman Gorge and Home Valley and manages ILC's tourism and hospitality employment and training programs.</li> <li>• The National Centre of Indigenous Excellence (NCIE) – which builds capabilities and creates opportunities by delivering life-changing programs and promoting progressive thought leadership through its enterprises and facilities.</li> <li>• Mutitjulu Foundation – established to improve the well-being of the Anangu people, from Mutitjulu and their neighbouring communities, through improved health, education and greater economic and social participation</li> <li>• National Indigenous Pastoral Enterprises - NIPE was established in 2004. NIPE provides the employment vehicle for the staff working on ILC-held or operated businesses. This enables such staff to be employed on a private industry basis and in accordance with pastoral terms and conditions.</li> </ul> |

## 3 Indigenous Economic Development (IED)

- 1 This review has a primary focus on the way in which IBA and the ILC contribute to government effort towards IED. In that context this section of the report provides a brief contextual summary of the key elements that contribute to IED as well as a historical perspective of IED in both Australia and in other countries.

### 3.2 Indigenous Economic Development History and Performance in Australia

- 1 Over the recent decades, both Commonwealth and State and Territory governments have actively pursued IED outcomes across Australia through a variety of policies and initiatives.
- 2 According to research and analysis conducted by the Centre for Aboriginal Economic Policy Research (CAEPR)<sup>22</sup>, Indigenous Australians have experienced improvements in economic and social outcomes in both absolute and relative terms over the period 1971 to 2006 according to official census data.
- 3 While progress against IED outcomes has been achieved, there remains significant economic and social disparity between Indigenous and non-Indigenous Australians across a range of outcome categories, including employment, education and home ownership, particularly in remote Australia.
- 4 According to another CAEPR paper<sup>23</sup>, analysis based on the same census data indicates that there has been a widening of the employment gap between Indigenous and non-Indigenous Australians for the recent period of 1996 to 2006. According to the research paper, employment indicators have widened for the following indicators:
  - „ Unemployment rate
  - „ Employment to population ratio
  - „ Labour force participation rate (% adults).
- 5 The only employment indicator which had shown improvement over this period was *private sector employment*.
- 6 The inability to achieve additional progress in closing the relative gap between Indigenous and non-Indigenous Australians across economic and social indicators such as employment and life expectancy has caused concern for governments and public policy makers over recent years.
- 7 Despite the best intentions and significant amounts of activity, policy outcomes have been sub-optimal, despite modest policy successes in some areas.
- 8 This is supported by the Australian National Audit Office (ANAO)<sup>24</sup> which in 2012 stated:

*“Achieving sustainable improvements in the lives of Indigenous people has been slow; while some progress has been made in employment, educational attainment, child mortality and home ownership for Indigenous Australians, most measures of Indigenous disadvantage have shown limited improvements or have deteriorated since systematic measurements began in 2002.”*

#### 3.2.2 Closing the Gap

- 1 In December 2007, the Council of Australian Governments (COAG) committed itself to ‘closing the gap’ between Indigenous and non-Indigenous Australians. In November 2008, COAG formalised this commitment through the signing of the National Indigenous Reform Agreement (NIRA).<sup>25</sup>

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<sup>22</sup> Altman, J., Biddle, N., and Hunter, B., (2008), *“The Challenge of ‘Closing the Gaps’ in Indigenous Socioeconomic Outcomes”*, Research Paper No. 8/2008, Centre for Aboriginal Economic Policy Research, Australian National University, Canberra, Australia

<sup>23</sup> Altman, J., Biddle, N., and Hunter, B., (2008), *“How realistic are the prospects for ‘Closing the Gaps’ in Socioeconomic Outcomes for Indigenous Australians,”* Research Paper No. 8/2008, Centre for Aboriginal Economic Policy Research, Australian National University, Canberra, Australia

<sup>24</sup> ANAO (2012), *“Australian Government Coordination Arrangements for Indigenous Programs”*

- 2 According to the NIRA, COAG established a set of ‘closing the gap’ targets<sup>26</sup> which would guide program design and implementation delivery towards achieving sustainable and tangible outcomes. These targets include:
- ” To close the life-expectancy gap within a generation
  - ” To halve the gap in mortality rates for Indigenous children under five within a decade
  - ” To ensure access to early childhood education for all Indigenous four years olds in remote communities within five years
  - ” To halve the gap in reading, writing and numeracy achievements for children within a decade
  - ” To halve the gap in Indigenous Year 12 achievement by 2020
  - ” To halve the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade.
- 3 According to the NIRA, measuring progress against reducing the gap in employment outcomes would be measured by:
- ” Employment to population ratio for the working age population
  - ” Unemployment rate
  - ” Labour force participation rate
  - ” Proportion of Indigenous 20-64 year olds with or working towards post school qualification in AQF Certificate III level or above (Baseline data: 2006).
- 4 At the federal parliamentary level, the ‘closing the gap’ agenda has received bi-partisan support.
- 5 Under the Rudd and Gillard Governments, meeting the ‘closing the gap’ targets through the NIRA was supplemented with additional Commonwealth Government activity through various government programs which sought to drive IED outcomes.
- 6 Since COAG agreed to the NIRA, the COAG Reform Council (CRC) has issued several reports measuring progress across the agreed target areas. With respect to meeting the employment target, data cited by the CRC in a November 2013<sup>27</sup> report suggests that COAG is not on track to meet the 2018 target and that employment indicators have actually worsened. According to the CRC:

*“During the period 2006 to 2011, the gap between Indigenous and non-Indigenous employment outcomes widened, whether measured by the employment rate, labour force participation rate, or unemployment rate:*

- *Indigenous employment fell while non-Indigenous employment increased—the gap widened from 23.7 to 26.0 percentage points.*
- *The Indigenous participation rate fell while the non-Indigenous participation rate increased—the gap widened from 18.7 to 20.5 percentage points.*
- *Both Indigenous and non-Indigenous unemployment rose, but the Indigenous unemployment rate rose more — the gap widened from 10.5 to 11.7 percentage points.”*

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<sup>25</sup> COAG Standing Council on Federal Financial Relations (2009), *National Partnership Agreement on Closing the Gap in Indigenous Health Outcomes*, Council of Australian Governments, Canberra, Australia

<sup>26</sup> COAG Reform Council (2014), *“Indigenous Reform”*, COAG Reform Council, COAG Reform Council, Council of Australian Governments, Canberra, Australia

<sup>27</sup> COAG Reform Council (2013), *“Lessons for federal reform: COAG reform agenda 2008-2013”*, COAG Reform Council, Council of Australian Governments, Canberra, Australia



### 3.3 International experience

- 1 As noted by the United Nations<sup>28</sup>, Indigenous peoples constitute five per cent of the world's population, but make up 15 per cent of the world's poorest citizens. Several countries with similar contexts to that of Australia – specifically Canada, USA and New Zealand – present opportunities to share experiences of success that may contribute to IED in Australia.
- 2 Whilst not required as part of the review EY looked research on the international experience in order to understand what approaches have been applied in other jurisdictions. Our conclusions are that the decision to place economic development as a central theme of government policy is consistent with other contexts and that as we identify later in this section, there are common inhibitors that obstruct IED progress that partnerships, innovation and entrepreneurship can combat to create change.
- 3 In this context we note that IBA executives participated in a visit to Canada in 2013 with Australia's Governor-General and have been invited to share the success of IBA with the Canadian Ministry of Aboriginal Affairs and Northern Development Canada<sup>29</sup>.

### 3.4 The Government's Intent and Policy on IED

- 1 The newly elected Commonwealth Government has consistently articulated over the previous 12 months a clear and explicit policy agenda for Indigenous Affairs in Australia. In the lead-up to the 2013 election, the Coalition committed itself to an Indigenous policy framework defined by three pillars:

1. Improvement in Indigenous employment outcomes;
2. Improvement in the school attendance and educational attainment of Indigenous students; and
3. Improvement in the safety of Indigenous communities.

- 2 Explicitly, the Government's Indigenous affairs policy<sup>30</sup> states:

*"... indigenous Australians deserve a better future, with more job opportunities, empowered individuals and communities, and higher standards of living. The Coalition aims to ensure that right around Australia, children go to school, adults go to work and the ordinary law of the land is observed – in indigenous communities no less than in the general community."*

- 3 There are a series of policy initiatives that the Commonwealth Government has underway which will set the foundations for the policy action from government in the years ahead. These initiatives include:

- the consolidation of Indigenous programs and 1700 staff into PM&C<sup>31</sup>
- the Indigenous Jobs and Training Review
- additional support for the Generation One Vocational Training and Education Centres<sup>32</sup>
- establishment of the Prime Minister's Indigenous Advisory Council<sup>33</sup>
- the Empowered Communities project<sup>34</sup>; and
- a review of government programs and activities to create a more coordinated and streamlined service delivery approach<sup>35</sup>.

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<sup>28</sup> UN Permanent Forum on Indigenous Issues (UNPFII), *State of the World's Indigenous Peoples*, 14 January 2010, ST/ESA/328, p.21

<sup>29</sup> Fry, Chris, Personal Communication - Email, 22 January 2014

<sup>30</sup> Liberal Party of Australia (2013), *The Coalition's Policy for Indigenous Affairs*, brochure, p. 2

<sup>31</sup> Commonwealth of Australia (2014), "Minister Scullion: Major overhaul of Indigenous spending", *Closing the Gap*, 22 January 2014

<sup>32</sup> Commonwealth of Australia (2014), "Minister Scullion: Guaranteed Jobs for Indigenous Australians", *Closing the Gap*, 17 January 2014

<sup>33</sup> The Hon Tony Abbott MP (2013), *Membership of the Prime Minister's Indigenous Advisory Council*, media release, 23 November 2013

<sup>34</sup> Commonwealth of Australia (2014), "Parliamentary Secretary Tudge: Project Launched to Empower Communities", *Closing the Gap*, 6 February 2014

<sup>35</sup> <http://www.theaustralian.com.au/national-affairs/policy/from-26-indigenous-programs-to-five/story-fn9hm1pm-1226807204320#>

## 3.5 Defining Indigenous Economic Development

- 1 Given the context and for the purposes of the review, EY has interpreted IED in relation to IBA and the ILC to mean the creation of sustainable Indigenous employment opportunities which result in a greater number of Indigenous Australians in employment.
- 2 Given the Government's public commitment to the 'closing the gap' agenda, EY has interpreted 'government effort' in the context of IED to mean a policy outcome of halving the gap in employment outcomes between Indigenous and non-Indigenous Australians (the gap being approximately 12 per cent) by 2018.
- 3 Stakeholders consulted during the review noted that IED, whilst centrally focused on outcomes relating to employment, is part of a wider economic and social environment, the component parts of which must be operating effectively and in an integrated fashion in order to achieve the desired employment outcomes.
- 4 This wider economic and social environment is reflected in the Government's articulation of its policy agenda and delivered through specific policies, functions and programs to achieve the economic participation that drives sustainable jobs creation.

## 3.6 Specific Inhibitors to Driving IED in Australia

- 1 Our review of economic development literature as well as the stakeholder interviews has highlighted that within Australia there are specific inhibitors to creating sustainable employment opportunities for Indigenous Australians.
- 2 While the Forrest Review<sup>36</sup> will explore these issues in greater depth, the following list of inhibitors has emerged throughout this review and has informed our findings and recommendations around optimal structure and function for IBA and the ILC.
  - " Land Tenure – land titles which cannot be used as security for the purposes of clarifying ownership, accessing equity and securing capital for investment
  - " Human Capital Limitations – the often poor education and training opportunities and/or outcomes of Indigenous Australians which diminish their potential and readiness for employment or further education and training
  - " Lack of Indigenous Governance Capacity – the small pool of Indigenous people with good governance skills to provide effective oversight of Indigenous organisations
  - " Lack of Effective Training and Development Systems and Career Pathways – inadequate training and support which are available for Indigenous Australians to be both job-ready across a range of job roles and industries and business ready to establish and operate a business
  - " Fragmented Federal and State and Territory Government Approach to IED – non-integrated and non-strategically aligned policies and programs responses across the different tiers of government in Australia
  - " Infrastructure Deficits – particularly economic infrastructure such as utilities, road, rail and telecommunications in rural and remote Australia which impacts on the ability of Indigenous communities to generate economic and commercial activity
  - " Lack of Access to Appropriate Financial Capital – lack of financial capital which can be readily acquired when economic and business opportunities arise
  - " Economic Policy Settings – which relates to broad policy levers of government (such as tax, industrial relations and welfare) which reduces incentives for business creation and job participation; and
  - " Inadequate data collection and poor data quality - inhibiting high quality research and constraining a data driven evidence base approach to the formulation of Indigenous policy and programs.

## 3.7 The 'Missing' Enabling Elements

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<sup>36</sup> Department of the Prime Minister and Cabinet (2013), Indigenous Jobs and Training Review Terms of Reference, DPMC, Canberra

1 Several stakeholders, interviewees and public submissions highlighted that there are several 'missing elements' from the current IED architecture in Australia. Evidence to the review indicated that these 'missing elements' are critical to driving IED outcomes in Australia. We list the 'missing' elements below noting that the following list may not be a complete list and that the take up and operation of these missing elements may be best placed in either the public sector (including statutory authorities) or the private sector. (Figure 2 demonstrates the alignment between the 'missing elements' and international experience in addressing economic development.)

2 These 'missing' elements in no particular order are:

- " 'Hard targets' for both broader government effort and for statutory authorities (such as the IBA and the ILC) which holds organisations and individuals directly accountable for failure (or success) to achieve policy and program outcomes
- " An active facilitator of economic and commercial activity that has sufficient agility and flexibility to drive significant IED outcomes on a national basis
- " An active venture capital market which can assist in facilitating Indigenous start-up organisations through providing capital
- " An active use of existing government commercial policy levers such as Commonwealth Government procurement (in terms of requiring a percentage of government spend to be allocated for Indigenous businesses) to generate demand for Indigenous businesses and provide a catalyst to the formation of an sustainable Indigenous goods and services supply chain
- " An effective network and system of Infrastructure facilitators who are able to identify infrastructure gaps as well as design, build and deliver adequate infrastructure solutions that assists in meeting the identified gaps in regional, rural and remote Australia
- " Effective training and development systems address the occupational, entrepreneurial, managerial and governance skill gaps of Indigenous Australians
- " Available professional services and skills which can assist Indigenous investors, entrepreneurs and corporations to conduct opportunity scoping, develop investment and business proposals, conduct project feasibility testing and other planning activities
- " Commonwealth government advocacy and leadership in resolving land tenure issues that helps to facilitate the effective utilisation of land by Indigenous title holders
- " Greater Commonwealth government involvement and coordination in native title settlement services which would drive greater numbers of settlement outcomes
- " Localised or context-specific planning for IED which recognises that solutions should be fit for purpose and developed to address issues for the context in which they will be delivered.

**Infrastructure development:** develop sustainable infrastructure roadmaps to aid economic growth including demand estimation, conceptualisation and implementation of infrastructure projects.

**Skill development:** develop a robust skills development implementation framework that monitors and evaluates progress.

**Business climate reforms:** develop streamlined business processes that ensure fast and cost effective mechanism for preparing business for doing business and promotes investment and trade.

**Increasing attractiveness:** identifying targeted lists of investors and creating a fertile investment landscape.

**Livelihood enhancement:** develop a market-based livelihood framework that is replicable, scalable and sustainable.

**Micro, Small and Medium Enterprise (MSME) development and access to finance:** develop an investment framework and nurture an entrepreneur-friendly business environment.

Figure 2: Framework elements that drive job creation through private sector investment (refer Appendix E)

### 3.8 The Role of the ILC and IBA in the Enabling Architecture

- 1 There are four major areas where the ILC and IBA can play an expanded role to support the enabling architecture that drives IED.
- 2 Land tenure is the first of these. For Indigenous Australians land presents opportunities both to maintain culture and identity and to build an economic base. These two transformational forces need not be oppositional; however, they do present a tension, particularly for the ILC which, in partnership with Indigenous communities, must constantly reconcile how land will be utilised.
- 3 Regardless of the purpose to which land will be put the tenure arrangements define critical issues of access, use and entitlement. The challenge arises as "[e]ach jurisdiction sets and administers its own conditions of land tenure, use

and management. States also exercise their own land and water rights through the tenure system...this diversity creates considerable complexity<sup>37</sup>."

- 4 Adding to the complexity is the fact that negotiation and tenure-resolution mechanisms are under-resourced<sup>38</sup>. Stakeholders and submissions noted that there was a role for organisations like the ILC and IBA to play an advocacy role in negotiating or facilitating resolution of land tenure issues based on their knowledge of land management, relationships with Indigenous communities and authority as Australian Government entities – recognising that neither organisation has powers to direct in relation to land tenure.
- 5 Another common theme was the role of partnerships and private sector involvement in the identification of opportunities, design and implementation of solutions. Consultation throughout the review and consideration of the literature affirmed the importance of the role of the private sector in partnering with Indigenous organisations to develop enterprises and create new jobs. An active facilitator of these opportunities was identified as a critical component to address the inhibitors and missing elements.
- 6 Our research, and EY's global experience, highlights the critical role the private sector has in jobs creation. It should be noted that 9 in 10 jobs in emerging markets are created by the private sector<sup>39</sup>.
- 7 And evidence shows that in more than 80 percent of cases where a person within a household retains a job this is the decisive factor in protecting the entire household from poverty<sup>40</sup>.
- 8 IBA already plays a role in this regard and has demonstrated that with greater emphasis on this role can facilitate the business growth that will create new jobs.
- 9 As IBA notes in its Annual Report for every business loan of \$200,000, 2.3 Indigenous jobs are created<sup>41</sup>. Scaling this up is the critical next step.
- 10 Complementing the role of an active facilitator and the third area where IBA or the ILC could play an influential role is the creation of a professional services panel or network that can be accessed by Indigenous organisations to provide entrepreneurial advice and support in addition to that provided by IBA and the ILC.
- 11 This could build on the existing consulting support available from IBA and provide deeper and more substantial advice or partnering options for Indigenous businesses.
- 12 This can contribute to addressing some of the commercial, business management and governance capacity issues that stakeholders note currently exist across Indigenous communities and organisations. In particular, it was noted that existing small businesses operated by Indigenous Australians often required support in areas such as accounting, legal, human resources and logistics in order to scale up their business.
- 13 A professional services panel could provide a trusted source of advice and support in this context and address an IED inhibitor.
- 14 Finally, underpinning many of the inhibitors is the question of financial capital. Where there are opportunities to exploit there is often a requirement for investment. Both the ILC and IBA provide opportunities for Indigenous organisations, and in the case of IBA individuals, to access grants or loans. However, there were a series of examples provided during the consultation that demonstrated either the need for access to capital in a timeframe or of a scale that the ILC or IBA could not support.

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<sup>37</sup> CSIRO, p.1

<sup>38</sup> Ibid, p.1

<sup>39</sup> IFC Jobs Study - Assessing Private Sector Contributions To Job Creation And Poverty Reduction, January, 2013

<sup>40</sup> Pfeffermann, Guy (2003), *Paths out of Poverty*, cited in AusAID (2012) at p6

<sup>41</sup> Indigenous Business Australia (2013), "Indigenous Business Australia Annual Report 2012-13", Commonwealth Government of Australia, Canberra, Australia.

- 15 What is apparent is that IBA in particular has strong relationships with large commercial investors and insights into the capital market that may allow it to play a role in linking Indigenous organisations and venture capital for enterprise establishment or expansion.
- 16 Once again it is the opportunity to work at scale that will deliver major job creation outcomes and in turn generate further business opportunities.
- 17 Linking all of these themes together was the issue of hard targets. Setting targets to which individuals and organisations are held accountable is critical if performance is to improve. Those targets must directly relate to outcomes for Indigenous people and communities. In our discussion with stakeholders it was generally agreed that parity was a useful starting point for the setting of targets. For example, if the unemployment rate for non-Indigenous youth in a regional centre is 8%, this should be the target for that specific location for Indigenous youth.

### 3.9 Broad Policy Levers

- 1 As noted above, existing policy efforts have not worked effectively to reduce Indigenous disadvantage, specifically as it relates to IED and Indigenous employment.
- 2 In considering any reformulation of policy settings, Governments have within their power, significant and broad policy levers which have a primary influence in determining economic and employment conditions in Australia, including for Indigenous Australians. These levers include:
  - „ Taxation policy
  - „ Welfare or income support policy
  - „ Industrial relations and employment policy
  - „ Generic regulatory settings through generic regulatory policies
  - „ Government procurement policy
  - „ Superannuation and financial markets/systems policy
  - „ Industry policy (both economic wide and industry specific)
  - „ Law and Order Policy
  - „ Alcohol and Drugs Policy
  - „ Land Tenure Policy
  - „ Health Policy; and
  - „ Education and Innovation policy.
- 3 A significant reformulation and readjustment of these policy levers are ultimately going to have the most significant and positive impact on structuring government towards reducing Indigenous disadvantage and meeting the ‘closing the gap’ targets.
- 4 Moreover, such a reformulation and readjustment of these policy levers will also likely to have an impact on the effectiveness of IBA and the ILC in addressing their legislative remit.
- 5 It is beyond the scope of this review to investigate or articulate what form such a reformulation and readjustment should occur. The review notes that, as described above, the current government is adjusting existing policy settings in accordance with their election commitments as well as implementing several specific indigenous affairs policy initiatives.
- 6 This policy landscape and the new initiatives underway will set the foundations for further reform.

### 3.10 Observations and Conclusions

- 1 Given the primacy of IED within the review’s ToR, the review team has invested significant time to understand the broad policy and environmental context within which IBA and the ILC operate.

- 2 EY observes that:
  - " Indigenous Australians continue to experience significant levels of economic and social disadvantage
  - " As noted by the CRC, the employment gap between Indigenous and non-Indigenous Australians has widened in recent years
  - " To meet the 'closing the gap' employment target as articulated in the NIRA, Australia requires a significant reformulation and readjustment of existing policy settings (as noted by the Prime Minister in his 2014 'Closing the Gap' address)
  - " There are specific inhibitors to driving IED in Australia as well as 'missing elements' from Australia's IED architecture
  - " Governments have within their power, significant and broad policy levers which have a primary influence in determining economic and employment outcomes.
- 3 This discussion of IED provides an appropriate contextual backdrop to considering the effectiveness of IBA and the ILC in driving IED in Australia and the potential structural reform options which will be examined later in this report consistent with the review's ToRs.
- 4 Further themes from EY's consultation and submissions received are summarised in Appendix D.

## 4 Organisational Effectiveness of the ILC and IBA

### 4.1 Approach

- 1 Consistent with the review's ToR, EY has assessed the effectiveness of IBA and the ILC to drive IED against their original legislative mandate.
- 2 Both organisations create economic benefits through different functions and activities:
  - The IBA largely delivers economic benefits through its loan programs, investment activities and business development and enterprise support activities.
  - The ILC largely delivers economic benefits through its land acquisition and land management functions which include the operation of several agricultural and tourism based businesses.

### 4.2 Assessing Effectiveness

- 1 In assessing the effectiveness of the ILC and IBA we applied three criteria<sup>42</sup>:
  1. Structures – assesses the capacity of an organisation for effective performance
  2. Processes – considers the processes that enable effective performance
  3. Outcomes – measures what occurred as a result of the activity and effort of the organisation.
- 2 EY utilised a maturity assessment tool to review the maturity of each of the organisations. The EY organisational maturity assessment provides evidence to address the structures and processes of the ILC and IBA. The tool supplements evidence gathered across the course of the engagement to inform observations and the conclusions drawn on the organisational effectiveness of IBA and the ILC.
- 3 This maturity assessment tool was designed by EY to help organisations assess their current level of maturity in the context of their operational/ services brief. It therefore provides an evidence-based assessment of organisational maturity. The tool was adapted to address the context within which IBA and ILC operate.
- 4 The elements underpinning the tool have been developed based on the fundamental building blocks that must be considered, addressed and developed by organisations delivering services in the human services sector. Each of the elements contains a number of criteria that were adapted to address the focus in the review terms of reference on Indigenous economic development.
- 5 EY's maturity assessment was taken from the perspective of the organisation's head office and corporate activities and excluded processes undertaken within subsidiaries.
- 6 EY's maturity assessment utilises a different approach and criteria to the work undertaken by Deloitte as part of the governance review undertaken in 2012<sup>43</sup> and 2013<sup>44</sup>. These maturity assessments are not directly comparable, due to the different criteria utilised in each review. While it is our understanding that work has been undertaken to improve the maturity of the organisation's since the Deloitte Governance Review, our maturity assessment was not designed to be a healthcheck on Deloitte's recommendations. It is of importance to note, that the tool used is a maturity assessment, not a performance assessment. This allows organisations to acknowledge that their current level of maturity exists on a continuum and presents the opportunity for them to consider future development that may be desirable.

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<sup>42</sup> Scott, W. Richard (2000) *Institutions and Organizations: Ideas, Interests and Identities*.

<sup>43</sup> Indigenous Business Australia (2012), *Final Report of Independent Review of Governance Framework Processes*, prepared by Deloitte Touche Tomatsu, Brisbane.

<sup>44</sup> Indigenous Land Council (2013), *Board Governance Arrangements*, prepared by Deloitte Touche Tomatsu, Brisbane.

## 4.3 Maturity Tool Elements and Criteria

- 1 The maturity tool contains seven elements, and approximately 25 criteria (depending upon the degree to which the tool is tailored). In this review both organisations completed the assessment questions for each related criteria, and rated their maturity on a scale of 1-5 (not developed – highly developed) based on the criteria rating. Each rating was supported by a description of supporting evidence.
- 2 The self-assessment was then compared with EY’s desktop assessment and discussion took place with the organisations to enable EY to reach a final maturity rating, ensuring there was evidence in place to support the final rating. While there was not consensus between the view of EY and the organisations on every criteria, EY provided the final maturity ratings to each organisation with the opportunity to comment or provide further evidence.
- 3 The existing arrangements of a common Chair of the ILC and IBA was not considered as part of the maturity assessment as it was conducted independently for each organisation. However, we have considered this as part of our options for good governance in Section 6.
- 4 The elements applied for this review were:
  - ” Strategy
  - ” Governance and leadership
  - ” Business and stakeholders
  - ” Financial sustainability
  - ” Quality, measure, improve.
- 5 The tool is designed to reflect levels of maturity ranging from low to high. While a rating of 5 is aligned with better practice, it is not considered appropriate for all organisations to be targeting a maturity level of 5. In some smaller and mid-sized organisations, a maturity level of 2-3 may be appropriate, while a higher rating of 4-5 may be desirable in some instances. A rating of 1 does not reflect “poor performance” but may indicate that some work may need to be undertaken to move the organisation to a more mature state of operations and thus contribute to better performance.
- 6 The assessment has been undertaken within the legislative framework in which the organisations operate. This is important as there may be legislative constraints or elements which need to be interpreted in light of the legislative requirements, for example the Board appointment process.
- 7 The following sections outline the maturity assessment for IBA and ILC across the 5 elements.

## 4.4 Maturity assessment

- 1 The following sections provide an overview of the maturity of both IBA and the ILC. The purpose of this process was not to compare or contrast the organisations, but to gather an evidence base, in conjunction with deep stakeholder consultation, to form an opinion on the effectiveness of each organisation. As a result there is a separate table and commentary in each section for the IBA and the ILC.
- 2 This maturity assessment was not designed as a compliance audit. In undertaking this process EY looked for evidence and documentation to support organisational operations, systems and processes. While documents such as frameworks, policies and sample documents were provided to support maturity ratings against better practice processes EY have not undertaken a compliance check of the quality.

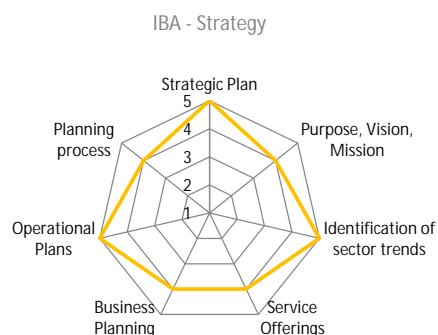
### 4.4.2 Strategy

- 1 The strategy element looks to evidence such as strategic plans; organisations clearly defining their vision, purpose and organisational goals as well as processes such as SWOT analysis, continuous improvement and business planning.



## IBA

| Criteria                           | Rating |
|------------------------------------|--------|
| 1. Strategic plan                  | 5      |
| 2. Purpose, vision, mission        | 4      |
| 3. Identification of sector trends | 5      |
| 4. Service offerings               | 4      |
| 5. Business planning               | 4      |
| 6. Operational plans               | 5      |
| 7. Planning process                | 4      |



- 2 The evidence provided by IBA to meet the criteria under the Strategy element demonstrates a consistent level of maturity of the organisation. EY's ratings of 4 and 5 demonstrate an organisation that is operating using some better practice processes. There is some opportunity for further improvement through strengthening the link in publicly available documents between the IBA's vision, mission and goals and the services offered.

## ILC

| Criteria                           | Rating |
|------------------------------------|--------|
| 1. Strategic plan                  | 5      |
| 2. Purpose, vision, mission        | 4      |
| 3. Identification of sector trends | 4      |
| 4. Service offerings               | 4      |
| 5. Business planning               | 3      |
| 6. Operational plans               | 3      |
| 7. Planning process                | 4      |



- 3 The ratings for ILC's strategy element ranged from 3 through to 5. A maturity rating of 3 may represent some improvement opportunities; however we are of the view that this is an acceptable level of maturity for an organisation of this scale.

### 4.4.3 Governance and leadership

- 1 The governance element looks to the Board and to processes which support strong governance such as Directors' skills assessments, appointment, performance appraisal and decision making along with delegations and setting organisational policies and procedures.
- 2 The leadership elements are looking to the organisation's maturity in terms of leadership performance and capacity, succession and workforce planning, role requirements and accountabilities and performance management.

## IBA

| Criteria                               | Rating |
|--|--------|
| 1. Board members                       | 2      |
| 2. Board performance                   | 2      |
| 3. Board decision making and oversight | 5      |
| 4. Organisation decision making        | 5      |
| 5. Information for decision making     | 5      |
| 6. Policies and procedures             | 4      |
| 7. Risk management                     | 5      |
| 8. Roles and responsibilities          | 5      |
| 9. Leadership team                     | 5      |



| Criteria                             | Rating |
|--------------------------------------|--------|
| 10. People resources                 | 3      |
| 11. People skills                    | 5      |
| 12. Performance management framework | 5      |

3 The maturity rating of IBA across the Governance and Leadership

4 Criteria 1 and 2 were both rated 2, indicating a lower level of maturity and is not within the control of the Board due to the legislative framework

5 **Criteria 1:** This was rated a 2 as the IBA Board as it is currently a criterion for a mix of legal skills is standard to the EY appointment of Directors is the responsibility of the Minister, as

6 "The Aboriginal and Torres Strait Islander Act 2005 (the ATSI Act) provides that the Chair and all other Indigenous Business Australia directors are to be appointed by the Minister; s157(1) and (2). In making such appointments the Minister must be satisfied that each director is a person who has experience in (a) industry, commerce or finance or (b) Aboriginal or Torres Strait Islander community life or enterprises; s157 (5)"<sup>45</sup>

7 A rating of 2 does not point to the maturity of the organization internally, but to the criteria for decision making applied by the government in its selection process. If the legal representation criteria was removed, the score for this criteria would be 4.

8 Although the legislation does not require legal skills in the composition of the Board, it is better practice to have a Director with legal skills. This criterion is of significance in that there is opportunity for the Minister to review the appointment process in the future to determine whether it is appropriate to appoint a Director with legal skills.

9 **Criteria 2:** The maturity rating of 2 for criteria 2 was due to not having a process at IBA to assess individual Director's performance, although a process is in place for reviewing the Board as a whole's performance. While the IBA Board Governance Charter outlines that "the Board will decide an appropriate review method which may include...[list of options]"<sup>46</sup>, EY are of the view that the Board should decide an appropriate review method for individual Director's on a permanent, ongoing basis as a continuous improvement opportunity.

10 The maturity assessment indicates a varied level of maturity at IBA across the governance and leadership elements, with opportunity to achieve a higher rating if the above 2 opportunities were addressed.



## ILC

| Criteria                               | Rating |
|--|--------|
| 1. Board members                       | 3      |
| 2. Board performance                   | 3      |
| 3. Board decision making and oversight | 4      |
| 4. Organisation decision making        | 5      |
| 5. Information for decision making     | 4      |
| 6. Policies and procedures             | 4      |
| 7. Risk management                     | 4      |
| 8. Roles and responsibilities          | 4      |
| 9. Leadership team                     | 3      |
| 10. People resources                   | 4      |
| 11. People skills                      | 3      |
| 12. Performance management framework   | 5      |



<sup>45</sup> Aboriginal and Torres Strait Islander Act 2005 (Commonwealth of Australia)

<sup>46</sup> Indigenous Business Australia "Board Governance Charter", December 2012, pp55

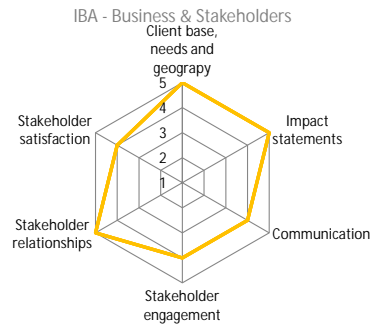
- 11 The ILC have formalised a process for reviewing individual Board Directors performance as a process improvement opportunity as a result of a previous review into their governance arrangements.
- 12 ILC's maturity assessment indicates governance and leadership at a varied level of maturity. As outlined above in the strategy section, a maturity rating of 3 may represent some improvement opportunities; it is EY's view that this is an acceptable level of maturity for an organisation of this scale.

#### 4.4.4 Business and stakeholders

- 1 The criteria under the business and stakeholder elements looks to evidence that demonstrates the organisation has a detailed understanding of its stakeholder base, its core business, engaging and communication with stakeholders and community and understanding potential changes to the landscape which it operates within.

## IBA

| Criteria   | Rating |
|--|--------|
| 1. Client base, client needs and geographical location | 5      |
| 2. Impact statements                                   | 5      |
| 3. Communication regarding organisational strategy     | 4      |
| 4. Stakeholder engagement                              | 4      |
| 5. Stakeholder relationships                           | 5      |
| 6. Stakeholder satisfaction and feedback               | 4      |

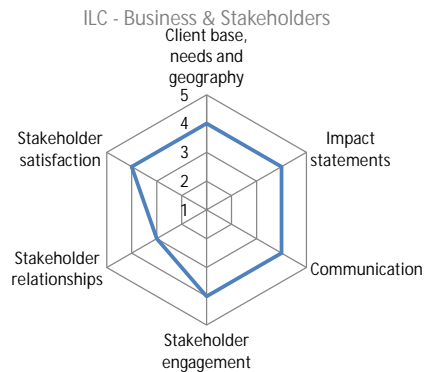


- 2 The IBA demonstrates a high level of maturity in the context of its business operations and stakeholders. It has been noted by the Board through undertaking the process that there is some opportunity to move IBA to a level 5 rating against the criteria of 4.

### 4.4.5 Stakeholder engagement

## ILC

| Criteria   | Rating |
|--|--------|
| 1. Client base, client needs and geographical location | 4      |
| 2. Impact statements                                   | 4      |
| 3. Communication regarding organisational strategy     | 4      |
| 4. Stakeholder engagement                              | 4      |
| 5. Stakeholder relationships                           | 3      |
| 6. Stakeholder satisfaction and feedback               | 4      |



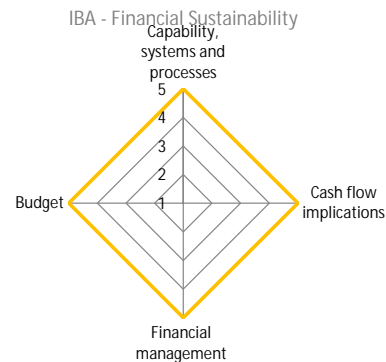
- 1 ILC has demonstrated a consistent level of maturity within the business and stakeholder element. The Board has identified improvement opportunities for 2 and 4, indicating a desired future state of 5. While EY is of the view that a maturity level of a 4 for business operations for an organization of this size and scale would be considered appropriate, there is some opportunity for the ILC to develop a forward strategy with a longer term view of stakeholder relationships.

### 4.4.6 Financial sustainability

- 1 The criteria within the financial sustainability element looks for evidence to support maturity such as financial delegations, risk assessment, systems, level of reporting automation, cash flow management and capability and accessibility of information.

## IBA

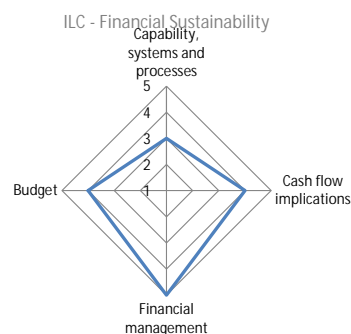
| Criteria                             | Rating |
|--------------------------------------|--------|
| 1. Capability, systems and processes | 5      |
| 2. Cash flow implications            | 5      |
| 3. Financial management processes    | 5      |
| 4. Budget                            | 5      |



- 2 The IBA financial capability, systems and process have been rated 5 across all criteria. The organisation provided significant evidence to demonstrate it is operating at a high level of maturity along with operating in line with better practice processes.

## ILC

| Criteria                             | Rating |
|--------------------------------------|--------|
| 1. Capability, systems and processes | 3      |
| 2. Cash flow implications            | 4      |
| 3. Financial management processes    | 5      |
| 4. Budget                            | 4      |



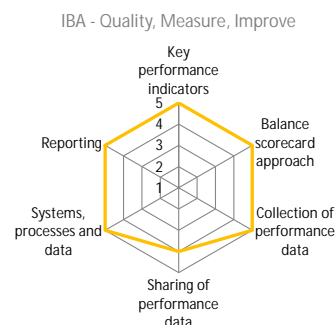
- 3 The ILC financial sustainability element demonstrates maturity ranging from 3 to 4. The ILC Board has identified improvement opportunities across some of the elements to further move the maturity along the continuum towards better practice.

### 4.4.7 Quality, measure, improve

- 1 The criteria under the element: Quality, measure and improve looks to evidence such as KPI's and regular performance reporting, external trend analysis and benchmarking, business improvement opportunities and measuring quality.

## IBA

| Criteria                          | Rating |
|-----------------------------------|--------|
| 1. Key performance indicators     | 5      |
| 2. Balanced scorecard approach    | 5      |
| 3. Collection of performance data | 5      |
| 4. Sharing of performance data    | 4      |
| 5. Systems, processing and data   | 5      |
| 6. Reporting                      | 5      |

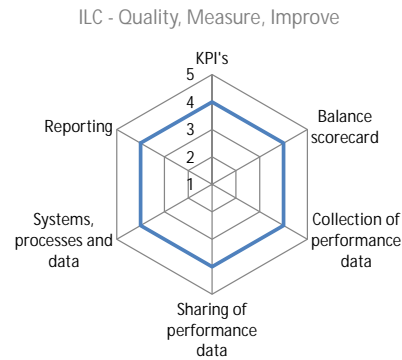


- 2 While the criteria for Quality Measure and Improve 6 was demonstrated at a level 5, in that there is a designated position for quality improvement processes, EY suggests that better practice would have all roles include this as an embedded accountability. There is a continuous improvement opportunity at IBA to embed quality improvement accountabilities in all roles within the organization.

- 3 The maturity assessment tool demonstrates that IBA is operating at a consistently mature level in regards to quality, measure and improve with ratings of 3 and 4 across this element.

## ILC

| Criteria                          | Rating |
|-----------------------------------|--------|
| 1. Key performance indicators     | 4      |
| 2. Balanced scorecard approach    | 4      |
| 3. Collection of performance data | 4      |
| 4. Sharing of performance data    | 4      |
| 5. Systems, processing and data   | 4      |
| 6. Reporting                      | 4      |



- 4 ILC has demonstrated a consistent level of maturity across the quality, measure and improve element with ratings of 3 and 4 across all criteria. It is EY's view that while there may be continuous improvement opportunities a maturity rating ranging between 3 and 4 would be appropriate for an organization of the size, level and complexity of ILC.

## 4.5 Outcomes of IBA and ILC in Driving IED

- 1 The table below summarises the critical achievements which the ILC and IBA are measured against through the PBS. They have been categorised by the primary domain which the activity addresses being: social, cultural, environmental or economic, to provide a sense of the alignment between outcomes and effective contributions to IED.

| Outcomes                         |  |                             |          |  |
|----------------------------------|--|-----------------------------|----------|--|
| Criteria                         | IBA  | ILC                         | Domains  | Comments   |
| Direct New Indigenous Employment | 222  | 143                         | Economic | These jobs were created directly for Indigenous people by IBA and ILC through their operations.  |
| Indirect Employment Outcomes     | Target: 230<br>Result: 300   | Target: 500<br>Result: 1451 | Economic | These were jobs created as a result of IBA loan funding and ILC land acquisition and land management programs.                                 |
| Investments                      | Target: \$83.9m<br>Result: \$101.2m  | N/A                         | Economic | Focus on providing Indigenous people with meaningful investment opportunities  |
| Rate of return                   | Current Year<br>Target: 6.23%<br>Result: 6.4%<br>Rolling five years<br>Target: 7.36%<br>Result: 4.8% | N/A                         | Economic | Investment returns target the cash rate + 3%, the rolling five year result indicates lower than targeted returns                               |
| Home Loans                       | Number of new home loans<br>Target: 645<br>Result: 664   | N/A                         | Economic | 93.5% of loans are to first home buyers, with a focus on higher utilization of limited capital through split loans with mainstream bank sector |
| Business Loans                   | Number of loans  | N/A                         | Economic | Greater focus on pre and post loan   |

| Outcomes          |  |   |  |   |
|-------------------|--|---|--|---|
| Criteria          | IBA  | ILC   | Domains  | Comments  |
|                   | approved<br>Target: 75<br>Result: 95   |   |  | support than mainstream products  |
| Land Acquired     | N/A  | Target: 6<br>Result: 4  | Social/Cultural/<br>Environmental/<br>Economic | There were a further 4 acquisitions approved and commenced  |
| Land Management   | N/A  | 118 properties assisted to improve land management  | Social/Cultural/<br>Environmental/<br>Economic |   |
| Land Divested     | N/A  | Properties granted<br>Target: 10<br>Result: 5   | Social/Cultural/<br>Environmental/<br>Economic | Further 5 properties had grant approval and were awaiting settlement. There is a forward divestment schedule of 10 per year   |
| Capacity Building | Number of businesses provided with support:<br>Target: 485<br>Result: 552<br>Into Business workshops<br>Target: 750<br>Result: 1,723 | Indigenous trainees hosted<br>Target: 250<br>Result: 350<br>Indigenous training outcomes achieved through LA and LM<br>Target: 800<br>Achieved: 2,347 | Economic                                       | Training and support is offered via different channels, either through operations (ILC) or products (IBA). Figures show a number of touch points through traineeships, business support and training outcomes |

- 2 EY compared the Portfolio Budget Statement targets<sup>47</sup> set for both IBA and the ILC with the actual result reported in the annual report<sup>48, 49</sup> of each of the organisations. This was performed for the key performance indicators and the deliverables targets across the last three financial years. In all but one year, IBA and the ILC achieved or exceeded at least 75% of their published Portfolio Budget Statement revised budget outcomes; however this also means that up to one quarter of outcomes set were not achieved.

## 4.6 Observations and Conclusions

- 1 In assessing effectiveness of the ILC and IBA across their structures, processes and outcomes a consistent level of maturity has been demonstrated both organisations. EY has made the following observations:
- „ Both organisations have in some cases exceeded the level of maturity that would be expected of similar sized organisations
  - „ Both organisations have a high degree of maturity across the strategy element
  - „ IBA has consistently demonstrated its processes are aligned with “better practice” processes for financial sustainability
  - „ There are some opportunities for further improvement, specifically with regard to the skilled board requirements and appointment processes at IBA, however these are broadly outside of the control of the organisation, due to legislated appointment process by the Minister.

<sup>47</sup> Portfolio Budget Statements 2013-14, 2013-12, 2012-11, 2011-10

<sup>48</sup> ILC, Annual Report, 2013-12 2012-11, 2011-10

<sup>49</sup> IBA, Annual Report, 2013-12 2012-11, 2011-10

- 2 The maturity assessment demonstrates that as currently constituted each of the organisations are demonstrating an appropriate maturity level to deliver against their current legislative purpose and functions.
- 3 The evidence we have collected through the consultation and submissions process suggests that the ILC and IBA have the structures and processes in place to enable them to operate effectively and fulfil their different mandates.
- 4 As the summary analysis above shows, in assessing the effectiveness of the organisations against IED, or even economic activity more generally, IBA has an overwhelming focus on the economic domain. The achievements evidenced by IBA also suggest that it is operating effectively, though remains capable of directing more focus towards activities that drive enterprise development and job creation. However, we note that such a redirection of effort, in the existing budgetary environment would require either new sources of revenue or prioritisation of resources away from other activities.
- 5 The ILC on the other hand takes an integrated approach – documented in the National Indigenous Land Strategy – that incorporates benefits across social, cultural, environmental and economic outcomes. Thus, assessing the effectiveness of the ILC in driving IED - which is understood to be primarily focused on job creation and enterprise development - will show the organisation not to be effective by these criteria.
- 6 Our assessment of effectiveness is that IBA is effective and demonstrating high levels of performance with capacity to extend its reach as an impact investor. The ILC is also effective in addressing its mandate with acknowledged challenges around land management and divestment as key priorities for improvement. The ILC has far greater latent potential and thus opportunities to improve on its current service delivery.
- 7 Ultimately the primary challenge in the current environment is how to prioritise effort and resources for the greatest benefit which requires clarification of purpose and function of IBA and the ILC in the way in which they address IED.



## 5 Options Analysis

### 5.1 Approach

- 1 Having established the background and current state effectiveness of the ILC and IBA, and identified the opportunities that exist for the ILC and IBA to further drive IED, this section of our report documents a series of entity structures available for consideration by government.
- 2 Our consideration of potential structures involved high-level mapping of current state IBA/ILC entity structures, listing and defining evaluation criteria, and assessing three potential structures shortlisted from a wider range of 11 options (refer Appendix F). These options were based on our experience of public sector governance arrangements and discussions with stakeholders.
- 3 Subsequently a short list of four options was given further consideration. Those items dismissed were discarded because the structures did not present opportunities to drive IED in a substantively different way; did not present the opportunity to address the 'missing enabling elements'; or, required such significant change that existing benefits would be lost. The shortlist of four options were:
  - „ Option 1 – Merger
  - „ Option 2 – Shared Services Standalone
  - „ Option 3 – Reconfigured Standalone
  - „ Option 4 – Establishment of a new amalgamated entity which retains a multipurpose function.
- 4 Apart from Option 1, which is discussed in section 6.1.1, all other options assume that new functions, identified on page 51, will be added to the scope of the ILC or IBA to drive IED under the changed structures.
- 5 Consistent with the review's ToR, we have actively considered the integration of IBA and the ILC into a single entity (i.e. Option 1 and Option 4).
- 6 We have defined all options consistent with the Minister for Indigenous Affairs' public commitment that the integrity of the Land Account will be maintained and therefore any consideration of the Land Account with respect to its purpose is out of scope for the review.
- 7 One of the options initially considered but ruled out for further analysis was a straight amalgamation (Option 1) which would have created one entity structure but maintained the existing purposes of the ILC and IBA and at an operational level would have largely retained the same people, processes, and systems with very limited integration. Our logic for dismissing this option is noted in section 6.
- 8 In considering the remaining three options, we established evaluation criteria (refer Appendix G) which we applied to each of these structures for benefits, costs and risks.
- 9 It is important to note that our review has involved high-level analysis and assumptions and has not been validated in detail with stakeholders. As such, there is potential, with deeper analysis, to identify further benefits, synergies and risks.
- 10 Our observations and conclusions regarding the structural options available to Government for consideration is based on both the constraints established through the terms of reference and limitations on change to the land account, results of EY's structural options evaluation as well as other evidence including literature relating to IED, the legislative mandates of IBA and the ILC, the organisational maturity and effectiveness of IBA and the ILC and stakeholder interviews.

## 5.2 Current State Analysis

- 1 Our observation is that the ILC and IBA have autonomous organisational objectives with few natural synergies that will immediately enhance IED outcomes. As combined entities, IBA and the ILC represent a ~310 FTE equivalent statutory authority with over \$3bn in net assets. The graphic below provides a high level summary of the entity arrangements of IBA and the ILC.

|                                    | ILC  | IBA  | Observations   |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
|------------------------------------|--|--|--|---|------------------------------------|--|--|--|--|-----------------|---------------------|----|-------|----------------------|---|
| <b>History and Purpose</b>         | <ul style="list-style-type: none"> <li>Established in 1995 and governed by the Aboriginal and Torres Strait Islander Act 2005</li> <li>To assist Indigenous people acquire and manage land for a broad range of benefits, including economic, environmental, social and cultural and assist to create employment and training opportunities</li> </ul> | <ul style="list-style-type: none"> <li>Renamed in 2001 from CDC and governed by the Aboriginal and Torres Strait Islander Act 2005</li> <li>To accumulate and use a substantial capital asset base for the benefit of Aboriginal and Torres Strait Islander people and engage in commercial activities to promote self-management and economic self-sufficiency</li> </ul> | Mature organisations that occupy different and distinct economic, environmental, social and cultural roles within IED                |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| <b>Key Numbers</b>                 | <ul style="list-style-type: none"> <li>FTE Equivalent: 99.4</li> <li>Net Assets: \$1.968 billion</li> <li>Annual Funding: Minimum \$45m</li> <li>Annual Expense: \$17m (employee benefits: \$11.9m)</li> <li>No of Subsidiaries: 4 (NIPE, NCIE, Voyages, Mutitjulu)</li> </ul>   | <ul style="list-style-type: none"> <li>FTE Equivalent: 223</li> <li>Net Assets: \$1.093 billion</li> <li>Annual Funding: \$140 million (self-funded)</li> <li>Annual Expense: \$X (wages: \$15.7m)</li> <li>No of Subsidiaries: 44</li> </ul>  | IBA has more than double the FTE equivalents than the ILC; combined the entities represent a ~300 FTE equivalent and \$3b net assets |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| <b>Functions</b>                   | <table border="1"> <tr> <td>Land Acquisition</td> <td>Land Management</td> </tr> </table>  | Land Acquisition   | Land Management  | <table border="1"> <tr> <td>IHOP<br/>4,265 active loans, \$147m</td> <td>BDAP &lt;\$200k<br/>288 active loans, \$57m,</td> <td>Investments &gt;\$5m<br/>35 active, \$286m</td> </tr> </table> | IHOP<br>4,265 active loans, \$147m | BDAP <\$200k<br>288 active loans, \$57m,   | Investments >\$5m<br>35 active, \$286m | Limited overlap across 5 key functions   |  |                 |                     |    |       |                      |   |
| Land Acquisition                   | Land Management  |  |  |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| IHOP<br>4,265 active loans, \$147m | BDAP <\$200k<br>288 active loans, \$57m,   | Investments >\$5m<br>35 active, \$286m   |  |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| <b>Operations</b>                  | <table border="1"> <tr> <td>Capital Works</td> <td>Business Enterprises</td> <td>Employment &amp; Training</td> </tr> </table>   | Capital Works  | Business Enterprises   | Employment & Training   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| Capital Works                      | Business Enterprises   | Employment & Training  |  |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| <b>Corporate Services</b>          | <table border="1"> <tr> <td>General Manager</td> <td>Finance &amp; Corporate Serv</td> <td>Human Resources</td> </tr> <tr> <td>Legal</td> <td>Policy &amp; Program</td> <td>Business Development</td> </tr> </table>   | General Manager  | Finance & Corporate Serv   | Human Resources   | Legal                              | Policy & Program   | Business Development                   | <table border="1"> <tr> <td>Finance/ Payroll</td> <td>Human Resources</td> <td>Procurement/ Supply</td> </tr> <tr> <td>IT</td> <td>Legal</td> <td>Business Development</td> </tr> </table> | Finance/ Payroll   | Human Resources | Procurement/ Supply | IT | Legal | Business Development | IBA's and ILC's different purposes, functions and activities require unique back office support |
| General Manager                    | Finance & Corporate Serv   | Human Resources  |  |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| Legal                              | Policy & Program   | Business Development   |  |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| Finance/ Payroll                   | Human Resources  | Procurement/ Supply  |  |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| IT                                 | Legal  | Business Development   |  |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| <b>Offices</b>                     | <table border="1"> <tr> <td>Head Office (Adelaide)</td> <td>Canberra</td> <td>Perth</td> <td>Brisbane</td> </tr> </table>  | Head Office (Adelaide)   | Canberra   | Perth   | Brisbane                           | <table border="1"> <tr> <td>Head Office (Canberra)</td> <td>16 Offices</td> </tr> </table> | Head Office (Canberra)                 | 16 Offices   | Separately located head offices; Both the ILC and IBA have national presence |                 |                     |    |       |                      |   |
| Head Office (Adelaide)             | Canberra   | Perth  | Brisbane   |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| Head Office (Canberra)             | 16 Offices   |  |  |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| <b>Stakeholders</b>                | <table border="1"> <tr> <td>Groups</td> </tr> </table>   | Groups   | <table border="1"> <tr> <td>Groups</td> <td>Individuals</td> </tr> </table>  | Groups  | Individuals                        | Limited overlap in customer demographics   |  |  |  |                 |                     |    |       |                      |   |
| Groups                             |  |  |  |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |
| Groups                             | Individuals  |  |  |   |                                    |  |  |  |  |                 |                     |    |       |                      |   |


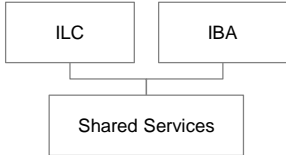
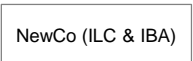
### 5.3 Expanding the Scope of Activity

- 1 Stakeholders to the review have identified several 'missing' elements (refer page 34) in the current IED architecture. Our assessment is that several of these 'missing elements' could be incorporated into Government's broader effort in IED through an expansion of functions and activities by both the IBA and the ILC.
- 2 As described below, we outline the additional functions and activities which can be expanded into the current operations of IBA and the ILC.

|   |   |  |
|---|---|--|
| 1 | <b>Land Tenure</b>                                  | <ul style="list-style-type: none"> <li>▶ There is a need for an advocate to work with jurisdictions and stakeholders to resolve land tenure issues</li> <li>▶ Resolving ongoing land tenure issues are key to driving IED outcomes.</li> <li>▶ Both IBA and the ILC have the ability to offer the necessary research, negotiation and collaboration services relevant to resolving land tenure issues given their experience and existing client/customer base.</li> </ul>   |
| 2 | <b>Active Facilitator of Commercial Enterprises</b> | <ul style="list-style-type: none"> <li>▶ IBA has an opportunity to become an active facilitator, linking together Indigenous groups or organisations with commercial opportunities through increased scale, driving economic and commercial activity via their investments and equity arm.</li> <li>▶ An ability to 'scale up' with more capital and experienced personnel will help IBA identify and realise a greater number of investment opportunities.</li> <li>▶ An opportunity exists for IBA to identify economic infrastructure gaps which are inhibiting the economic development of Indigenous Australians and to facilitate planning, financing and construction and maintenance of Infrastructure.</li> </ul> |
| 3 | <b>Professional Services Panel</b>                  | <ul style="list-style-type: none"> <li>▶ Insights from stakeholder consultation indicates that Indigenous organisations often require partners with specialist skill sets to support or complement their service offering or provide greater scale. This includes HR, finance, IT, logistics, supply chain etc</li> <li>▶ To assist in bridging these capability gaps in a scalable and sustainable manner, a professional services panel has been suggested as a feasible model which provides access to individuals or organisations who are vetted so that there is greater confidence that Indigenous organisations will be supported</li> </ul>   |
| 4 | <b>Venture Capital</b>                              | <ul style="list-style-type: none"> <li>▶ Currently IBA provides SME/micro loans up to \$200k (BDAP) and investments for opportunities above \$5m</li> <li>▶ There are commercial opportunities for Indigenous communities without effective capital to initiate them.</li> <li>▶ There is a role for an organisation to facilitate access to venture capital funds and act as a broker for Indigenous organisations to access financial capital</li> </ul>   |

## 5.4 Potential Entity Structure Options

- 1 As part of this analysis, we have examined three different entity structures which could absorb both the existing functions and activities of IBA and the ILC as well as the additional functions identified in the previous section. This specific examination of organisational structures has not taken into account the effectiveness of either IBA or ILC as entities or in driving IED. We make commentary on these elements elsewhere.

|             | Reconfigured Standalone  | Shared Services   | New Entity   |
|-------------|--|---|--|
| Description |  <ul style="list-style-type: none"> <li>▶ The ILC and the IBA are retained as constituted, as separately operating statutory authorities, with IBA assuming expanded IED responsibilities and ILC scaled back to land based organisation.</li> </ul>  |  <ul style="list-style-type: none"> <li>▶ As with Option 1, the ILC and the IBA retained as standalone entities with changes to the responsibilities and activities of the IBA and the ILC. In addition, a shared services entity to provide both entities with back office support</li> </ul>   |  <ul style="list-style-type: none"> <li>▶ Abolish the IBA and the ILC and establish a new entity which is solely focused on driving Indigenous economic outcomes via a combined integration of existing functions with additional activities.</li> </ul>  |
| Pros        | <ul style="list-style-type: none"> <li>▶ Least disruption to operational business activities as usual due to limited structural changes to operations and governance other than integration of expanded IED functions</li> <li>▶ No exposure to incremental one-off or ongoing costs from structural changes resulting in a best cost/worst case of a cost neutral result</li> <li>▶ Least amount of change and status quo, therefore smallest exposure to execution risk</li> </ul> | <ul style="list-style-type: none"> <li>▶ Opportunity to leverage both financial and non-financial benefits from duplicate back office services and shared capabilities/skillsets (e.g. HR support, finance, procurement)</li> <li>▶ Benefit of synergies from shared services without complexity of the establishment of a new entity.</li> </ul>   | <ul style="list-style-type: none"> <li>▶ In addition to Option 2, additional synergies may be realised from a consolidation &amp; reformulation of board, offices, compliance, capital, procurement and systems</li> <li>▶ New centralised structure provides an opportunity to benefit for a more coordinated approach across IED outcomes. For example, dynamic efficiencies (e.g. Improved management decision making and capital allocation) arising from an entity overseeing both IBA and ILC operations.</li> </ul> |
| Cons        | <ul style="list-style-type: none"> <li>▶ No incremental financial or non-financial benefit opportunities available</li> <li>▶ Ability to influence significant change to entity may be constrained by legacy structural or cultural issues</li> </ul>  | <ul style="list-style-type: none"> <li>▶ Scale and customer service delivery approach of the ILC and IBA operations indicate that shared services efficiencies may not be significant</li> <li>▶ Net financial benefits may potentially have limited value after considering implementation costs (one-off and ongoing) for establishing a shared services function (e.g. advisor costs) and additional governance to manage the entity)</li> </ul> |  |

## 5.5 High-Level Entity Structure Assessment

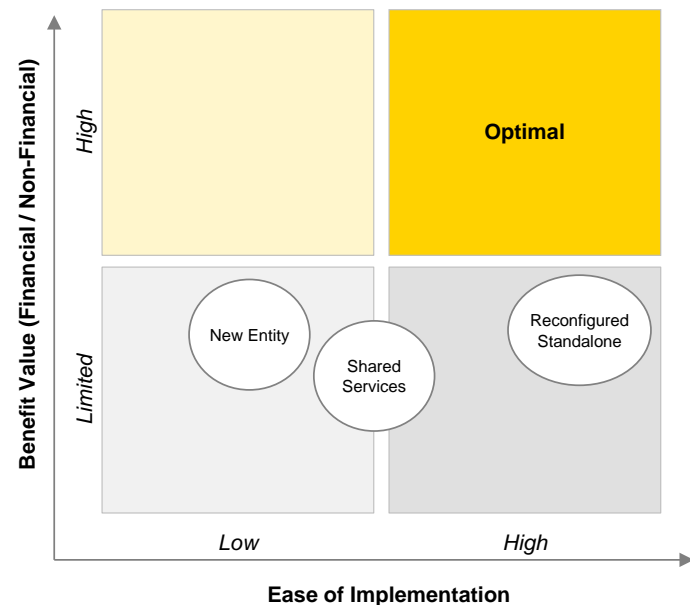
1 In applying the evaluation framework as at Appendix G, EY has assigned scores against each option from 1 to 3 relating to three criteria relating to financial benefits, non-financial benefits and amalgamation. Our scores and analysis are detailed below.

| Criteria                      | Reconfigured Standalone | Shared Services | New Entity | Comment on Ratings  |
|-------------------------------|-------------------------|-----------------|------------|---|
| <b>Financial Benefits</b>     | Medium (2)              | Low (1)         | Low (1)    | <ul style="list-style-type: none"> <li>▶ <b>Reconfigured Standalone:</b> With no integration of operations, there are no incremental financial benefit opportunities available. However, on the upside, there is also no exposure to incremental one-off or ongoing costs. This results in a best case /worst case of a financially neutral result.</li> <li>▶ <b>Shared Services:</b> Synergies may be realised from consolidation of duplicate services (e.g. HR, finance, systems, procurement). Based on a high-level review, it appears that ILC and IBA have relatively separate and distinct back office services with low scale. Potential savings may accordingly be limited. In contrast, one-off implementation costs for establishing a shared services function may be significant (e.g. project management for planning and execution, facilitating legislative changes, external advisor costs) and dissynergies (e.g. additional governance oversight for larger structure) may result in net financial benefits being partially/wholly eroded.</li> <li>▶ <b>New Entity:</b> Abolish the IBA and the ILC and establish a new entity via a combined integration of existing functions with additional activities. These, in addition to Shared Services, additional synergies however subject to further detailed benefits assessment may be realised through integration of functions. This however needs to be considered holistically with one-off implementation costs and ongoing dissynergies as mentioned above. Given the greater complexity of establishing a new entity to the Shared Service option, implementation costs are likely to be more significant. In addition, legislative hurdles may also be present for transferring employees /assets/contracts that may trigger undesired financial outcomes (e.g. CGT, changes in contractual rights).</li> </ul> |
| <b>Non-Financial Benefits</b> | Low (1)                 | Medium (2)      | Medium (2) | <ul style="list-style-type: none"> <li>▶ <b>All Options:</b> Assumed to have a baseline non-financial benefit for the inclusion of complementary IED functions (i.e. Land tenure, active facilitation of economic, commercial and infrastructure activity, professional services panel, venture capital and Entrepreneurship, Managerial and governance development).</li> <li>▶ <b>Reconfigured Standalone:</b> No incremental non-financial benefit other than the baseline applied to all options for revised IED functions. However on the upside as per the analysis of Financial Benefits above, there is conversely no exposure to non-financial risks, leading to a best case/worst case of a non-financially neutral result.</li> <li>▶ <b>Shared Services:</b> Opportunity to leverage shared capabilities and skillsets to improve efficiency of back office processes.</li> <li>▶ <b>New Entity:</b> In addition to Shared Service, a more centralised structure provides an opportunity to benefit from larger presence and a more consistent and coordinated approach across IED outcomes. For example, dynamic efficiencies (e.g. improved management decision making and capital allocation) arising from an entity overseeing the former IBA and ILC activities.</li> </ul>  |
| <b>Ease of Implementation</b> | High (3)                | Medium (2)      | Low (1)    | <ul style="list-style-type: none"> <li>▶ <b>All Options:</b> Will require the integration of new IED functions which has a degree of complexity in comparison with existing services/capabilities. This is accordingly included as a baseline for all options.</li> <li>▶ <b>Reconfigured Standalone:</b> Each Option becomes incrementally more complex to implement due to increasing structural changes and level of integration. This option (reconfigured Standalone) accordingly is the easiest option to implement with least disruption to business as usual due to limited structural changes to operations or governance.</li> <li>▶ <b>Shared Services:</b> Will require establishment of shared services (incl. setup or transfer of governance, policies, contractual arrangements, people) and alignment of shared processes, systems and offices (depending on the agreed level of integration)</li> <li>▶ <b>New Entity:</b> In addition to Shared Service, requires reformulation of operations, cultures, systems and functions. Establishment of new mandates and strategic objectives will also require alignment.</li> </ul>   |
| <b>Rating</b>                 | 6                       | 5               | 4          |   |
| <b>Ranking</b>                | 1                       | 3               | 2          | <i>Reconfigured Standalone is the preferred option for the next phase of target operating model design and detailed benefits assessment</i>   |

## 5.6 Entity Structure Findings

- 1 Based on our high-level analysis of the three options, Option 1 (Reconfigured Standalone) is the preferred solution. Detailed target operating model design and benefits assessment however should be conducted to validate findings and strategic objectives.

### Summary of findings<sup>1</sup>



Notes (1): High-level assessment to be validated by detailed target operating model design and benefits assessment

### Key points

- ▶ Subject to detailed target operating model design and benefits assessment, our high-level assessment in applying the evaluation criteria is that a standalone ILC and IBA model with changes to the responsibilities and activities of the IBA and the ILC as well as additional functions (i.e. Land tenure, active facilitation of economic, commercial and infrastructure activity, professional services panel, venture capital and Entrepreneurship, Managerial and governance development) is the preferred option.
- ▶ The Shared Service and New Entity options, whilst delivering incremental synergies to Option 1 through rationalising of duplicate functions and leverage of shared capabilities, also have associated implementation costs to plan, execute and govern complex change for the future state.
- ▶ The Reconfigured Standalone option presents as the highest ease of implementation (i.e. minimal structural change) compared to Shared Service and New Entity options which need to consider either integrating or reformulating two distinct and separate functions, cultures and operations.
- ▶ Accordingly, based on a high-level analysis in considering potential net benefit value and ease of implementation, Reconfigured Standalone option is the preferred option. Further design of target operating model and entity objectives should however be undertaken to validate assumptions, benefits, risks and costs.

## 6 Observations and Conclusions

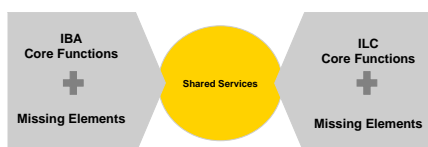
### 6.1 Options

#### 6.1.1 Option 1: Merger



- 1 The straight merger of the ILC and IBA was considered as one response to the requirement in the terms of reference to “consider integration of the ILC and IBA into a single entity”.
- 2 The assumptions that underpin a merger are that it would:
  - ” Bring together the two entities into a single amalgamated entity under a single Board and CEO whilst retaining the current purpose, functions, programs and activities of each existing entity, without adding new functions or activities to the merged entity
- 3 Our assessment of this option is that it is not a viable or appropriate way to drive IED relative to other options considered. In particular:
  - ” It fails to create any substantial change to the way in which the existing entities currently operate
  - ” It does not take the opportunity to address the ‘missing elements’ for IED through changes to purpose and functions
  - ” It presents governance challenges for a single board to oversight such a range of functions and activities whilst serving two distinct purposes
  - ” It would be unlikely to present any significant financial savings as the existing activities are retained
  - ” It would face significant organisational cultural challenges that would likely diminish its effectiveness, at least in the short term.
- 4 The review has identified far too many opportunities to drive IED through IBA and the ILC to merge the two entities and experience business-as-usual.

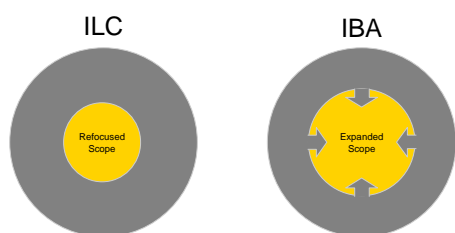
#### 6.1.2 Option 2: Shared Services



- 1 The second option considered was a shared services option which retained the existing entities, applied new functions or activities to address the ‘missing elements’ of IED, and provided a shared services function to create savings across both organisations and establish a formal and structural link between the two entities.
- 2 This option presents opportunities for continuity of service delivery by maintaining the separate entities in the hope that efficiencies can be found in the systems and processes that are shared between the entities.
- 3 Our high level assessment is that the individual purpose and distinct functions of the two entities has driven a customer service approach that is unique to each entity. As such the systems and processes developed by each organisation appear to be largely unique. In addition the way in which each entity approaches its group structure with multiple subsidiary entities may also provide additional complications that diminish the efficiencies being sought.
- 4 Having dismissed Option 1 and 2, we turn to what we consider are two entity structures that PM&C may wish to consider in greater detail based on the benefits they offer in driving IED.



### 6.1.3 Option 3: Reconfigured Standalone Entities



- 1 This reconfigured standalone option is much more than a status quo option. Whilst the proposition is that they retain their existing entity status, there are a series of new functions that are proposed and new ways of operating that would be designed into the reconfigured entities to integrate them tightly.
- 2 In this option IBA expands its role as an impact investor by taking on new functions to drive IED that are consistent with its commercial orientation.
- 3 The ILC would retain its existing compensatory purpose and functions and focus explicitly on those activities that give effect to its purpose.
- 4 Our observations, supported by stakeholder feedback, are that the ILC has been distracted by its expansion into commercial activities. This movement into commercially focused investments is an area of overlap with IBA which has created confusion amongst some stakeholders and may ultimately divert the focus of the organisation from effectively addressing the compensatory purpose for which it was established.
- 5 The alignment of activities with core compensatory purpose does not suggest the ILC cannot continue to work to achieve benefits across the social, cultural, environmental *and economic* domains. However, it recognises that its focus is not to achieve commercial outcomes but that it can complement IBA's commercial focus.
- 6 This reconfiguration is all about ensuring the appropriate focus is given to the core purpose of each organisation. Our experience is that the effectiveness of an organisation begins with clear purpose and functional alignment to that purpose.
- 7 The independence of each entity's Board remains important and as such returning to arrangements for an independent chair for each entity would appear consistent with good governance practice. This is not to imply that the current common Chair arrangements have not been effective and in some respects beneficial, rather that independent and separate Chair arrangements are good practice.
- 8 The table below provides greater detail on the features, benefits and risks of this option.

| Features of Option 3: Reconfigured Standalone Entities   |
|--|
| <ul style="list-style-type: none"> <li>• Indigenous control of entities to remain through existing Board membership and Chair requirements.</li> <li>• The core purpose of the ILC remains focused on its compensatory function and the acquisition, management and divestment of land for social, cultural, economic or environmental benefits.</li> <li>• The Land Account remains tied directly to the purpose and functions of the ILC. (The existing arrangements in legislation (s.191EA) that allow the ILC to "make payments to Indigenous Business Australia to assist Indigenous Business Australia to carry out its functions" to remain.)</li> <li>• IBA to retain and expand its explicit commercial focus on job creation through entrepreneurial business development.</li> <li>• The ILC to withdraw from commercially focused activities by divesting assets to Indigenous organisations or transferring responsibility to IBA (with an agreed divestment plan).</li> <li>• The ILC to work with IBA to identify commercial opportunities arising from land acquisition and management activity that IBA can facilitate and support. Either through legislated requirements or in Service Agreements.</li> <li>• Maintain separate Board and separate Chair for each entity.</li> </ul> |
| Benefits   |
| <ul style="list-style-type: none"> <li>• Least disruption to current business due to limited structural changes to operations and governance other than integration of expanded IED functions</li> <li>• Streamlining of purpose and functions creates potential for better focus of effort and resources across each organisation</li> <li>• Provides clarity to the Indigenous community as to the roles of each organisation</li> </ul>   |

- No exposure to incremental one-off or ongoing costs from structural changes
- Least amount of change, therefore smallest exposure to execution risk
- Separate Board and Chair consistent with good practice corporate governance
- The Land Account is maintained within the ILC consistent with its original intent and any access to funds by IBA through s.191EA is governed by an independent Board with responsibility to the ILC's mandate and purpose

#### Risks

- The transfer or divestment of existing ILC assets may impact on the performance of those assets in the short term

9 Supporting this Option are the following recommendations:

#### 10 Recommendation 1 - Purpose

- d) Confirm the purpose of IED as being focused on Indigenous jobs creation and enterprise development
- e) Revise the purpose of each entity to explicitly address their role in driving IED
  - i) IBA: To act as the catalyst for Indigenous enterprise development and job creation through entrepreneurial business formation and development, home ownership and facilitation of investments for the benefit of Indigenous Australians
  - ii) ILC: To assist Indigenous Australians to acquire and manage land for social, cultural, environmental and economic benefits.
- f) Refocus the activities of the ILC to its original compensatory purpose for land acquisition, land management and land divestment. Existing ILC business operations and assets which do not strictly align with ILC's original purpose should either be divested to either Indigenous or sold on the open market with realised returns being returned to the ILC or be transferred to the IBA if appropriate.

#### 11 Recommendation 2 - Finance & capital

- e) Expand the investment parameters of the Land Account to allow greater returns to be generated from the Land Account
- f) Revise IBA's legislation to allow for capital raising (however, maintain the restrictions on borrowing powers)
- g) Revise the ILC's legislation to remove its powers to borrow money consistent with other CAC entities
- h) Utilisation of funds, consistent with section 191EA of the ATSI Act, from the land account by IBA to better facilitate IED.

#### 12 Recommendation 3 - Governance and strategy

- f) Reform the Director appointment processes to ensure appointments are staggered (to support continuity) and skills-based (to complement the purpose and functions of the entity)
- g) Require (through legislative changes) collaboration between IBA and the ILC in the development of strategic plans as they relate to IED
- h) Set explicit 'stretch' targets linked to IED and job creation outcomes for IBA
- i) Make the Board and senior executives directly accountable for stretch targets with legislated penalties
- j) Amend the enabling legislation to ensure each entity has a separate Chair.

#### 13 Recommendation 4 - Indigenous enterprise development

- b) Establish a professional services panel or network to enable Indigenous organisations to access investment and entrepreneurial advice and support in addition to that provided by IBA.

#### 14 Recommendation 5 - Land tenure

Make explicit through legislative changes the lead role of the ILC and IBA in resolving land tenure issues that create impediments to the effective utilisation of land by Indigenous title holders. (This is not intended to position the ILC or IBA as a lead agency for land tenure issues generally, rather that they should apply their expertise and resources to resolving land tenure issues in partnership with governments and communities where it impacts on their clients or constituents.

- 15 Option 3 recognises that purpose is central to effective governance. While land can play a role as an economic asset, in the context of IED and the “land promise” it has multiple legitimate purposes. Retaining the entity structures of the ILC and IBA retains distinct governance over the ILC to maintain its compensatory functions and the associated land account while IBA is enabled by an independent board which can focus exclusively on taking a commercially focused approach to IED.
- 16 The ATSI Act in s.191EA already allows the ILC to “make payments to Indigenous Business Australia to assist Indigenous Business Australia to carry out its functions”. The separation of the entities with different and separate Chairs provides a greater degree of control and accountability over the Land Account and its availability to IBA.
- 17 Whilst stakeholders within IBA or PM&C were not aware if this provision had been exercised, it presents a valuable opportunity for IBA and the ILC to resource projects and initiatives within an effectively controlled governance environment.
- 18 The separation also provides continuity for the entities enabling them to maintain momentum generated over recent years.

#### 6.1.4 Option 4: New Entity



- 1 The alternative to the proposal above requires, in our view, substantial change to the existing arrangements. Fundamentally, the option to create a new entity, as detailed below, presents a major shift in the way in which government addresses IED and brings with it transition risks that would require considerable analysis and management.
- 2 This fourth option would require that the ILC and IBA be abolished to create an entirely new entity. This entity would combine the key elements of the ILC and IBA under a single Board.
- 3 Its purpose would be centrally focused on driving IED for jobs creation and enterprise development whilst retaining the compensatory land-acquisition, management and divestment functions of the ILC.
- 4 In order to create maximum impact, the new entity would take on new functions that address the ‘missing elements’ of IED.
- 5 One of the central challenges to this proposal is a multi-purpose entity being overseen by a single Board.
- 6 This is made more complex by the role of the Land Account.
- 7 The Land Account was established to provide a secure income in-perpetuity to the ILC to provide economic, social, cultural and environmental benefits to Indigenous people by assisting in the acquisition and management of an Indigenous land base.
- 8 We do not understand that there is any interest in changing to purpose of the Land Account or the ILC’s functions towards commercial activity. Instead we are clear that by virtue of the Land Account effectively being annexed from the review we have presumed that its original intent remains intact and thus the Board of a new entity emerging from the ILC and IBA would be required to quarantine its commercially focused decisions from activities funded by the Land Account.
- 9 This creates additional complexity and risk for Directors in meeting their fiduciary duties as they will be required to make decisions on matters which on one hand may be consistent with a socio-cultural outcomes, but may conflict with the commercial perspective sought by another part of the organisation.

#### Features of Option 4: New Entity

- Abolish the ILC and IBA and establish a new entity whose purpose is to act for the benefit of Indigenous Australians as the catalyst for Indigenous enterprise development and job creation, whilst continuing to acquire and manage land for social, cultural and environmental outcomes
- Indigenous control of entity to remain

- Requires the creation of a new operating model
- The purpose of the Aboriginal and Torres Strait Islander Land Account retains its integrity as a compensatory function linked to land acquisition, land management and land divestment activity.

#### Benefits

- Synergies may be realised through full integration of IBA and the ILC from consolidation and reformulation of board, offices, compliance costs, capital avoidance, procurement, processes and systems
- New centralised structure with integrated operating model provides an opportunity to benefit for a more coordinated approach across IED and other outcomes. For example, improved management decision making and capital allocation can generate dynamic efficiencies.

#### Risks

- Opposition from Indigenous stakeholders to the abolition of the ILC and are likely to hinder the merger and may delay or diminish the achievement of benefits
- The transition period to the new entity may result in the withdrawal of partners in the Indigenous community, private sector and civil society
- Cost of implementation may ultimately result in a net cost to merge the entities
- Legislative hurdles may be present for transferring employees/assets/ contracts that may trigger unintended consequences (e.g. CGT)
- Potential clash of existing organisational cultures, mandates and strategic objectives may diminish the performance of the new entity
- Ability to leverage synergies from functions other than back office support may be limited due to the unique systems currently in use
- Where Option 3 provides for effective accountability over access to funds from the Land Account through s.191EA, this Option creates an opportunity in practice for the Board to apply the funds it receives from the Land Account to purposes other than its compensatory function.

10 Supporting this Option are the following recommendations.

11 Recommendation 1 - Purpose

- c) Confirm the purpose of IED as being focused on Indigenous jobs creation and enterprise development
- d) Establish the purpose of the new entity to explicitly address their role in driving IED. For example: The new entity to act for the benefit of Indigenous Australians as the catalyst for Indigenous enterprise development and job creation, whilst continuing to acquire and manage land for social, cultural and environmental outcomes.

12 Recommendation 2 - Finance & capital

- c) Expand the investment parameters of the Land Account to allow greater returns to be generated from the Land Account and applied to the activities of the new entity
- d) Allow for capital raising in the legislation of the new entity (however, restrict borrowing powers).

13 Recommendation 3 - Governance and strategy

- d) Establish a Director appointment processes to ensure appointments are staggered (to support continuity) and skills-based (to complement the purpose and functions of the entity)
- e) Set explicit 'stretch' targets linked to IED and job creation outcomes for the new entity
- f) Make the Board and senior executives directly accountable for stretch targets with legislated penalties.

14 Recommendation 4 - Indigenous enterprise development

- b) The new entity to establish a professional services panel or network to enable Indigenous organisations to access investment and entrepreneurial advice and support in addition to that provided by the new entity.

15 Recommendation 5 - Land tenure

- b) Make explicit through legislative changes the lead role of the new entity in resolving land tenure issues that create impediments to the effective utilisation of land by Indigenous title holders. (This is not intended to position the new entity as a lead agency for land tenure issues generally, rather that it should apply its expertise and resources to resolving land tenure issues in partnership with governments and communities where it impacts on their clients or constituents.)

16 The scale and impact of the change proposed in this option means that further detailed assessment should be undertaken to determine the relative benefits and risks of establishing a new entity.

17 We outline below a series of risks that may result from the abolition of IBA and the ILC and the creation of a new entity if not properly considered, planned and executed.

| Area                                    | Description  | Mitigating Actions   |
|---|--|--|
| <b>Poor Execution</b>                   | <ul style="list-style-type: none"> <li>▶ Inability to realise synergies for two complex and different organisations</li> <li>▶ There is a risk that the merged organisation structure is poorly implemented affecting BAU activities</li> </ul>  | <ul style="list-style-type: none"> <li>▶ Develop a detailed target operating model design, benefits assessment and implementation plan</li> <li>▶ Ensure adequate governance process and resources to manage, execute and track implementation</li> <li>▶ Ensure clarity of job descriptions and reporting lines</li> <li>▶ Regularly review structure to ensure it is delivering required outcomes</li> </ul> |
| <b>Poor Communication and Confusion</b> | <ul style="list-style-type: none"> <li>▶ Stakeholder confusion if the IBA and the ILC strategies are different and not aligned</li> <li>▶ There is a risk that the new reporting lines mean that employees are confused about who they take direction from</li> </ul>                                  | <ul style="list-style-type: none"> <li>▶ Document and communicate clear objectives, purpose and benefits behind an expansion of function or amalgamation to stakeholders</li> <li>▶ Clear job descriptions</li> <li>▶ Communication and training on matrix reporting lines</li> </ul>  |
| <b>Lack of Visibility of Operations</b> | <ul style="list-style-type: none"> <li>▶ There is a risk that the CEO is unable to gain an adequate understanding of the performance of the business</li> </ul>  | <ul style="list-style-type: none"> <li>▶ Ensure processes are established to enable reporting and communication between General Managers and CEO</li> <li>▶ Conduct workshop between General Managers and CEO to agree on interfaces and roles and responsibilities</li> </ul>   |
| <b>Loss of Senior expertise</b>         | <ul style="list-style-type: none"> <li>▶ Losing key senior employees to achieve people synergies means a loss of significant knowledge and expertise</li> <li>▶ Risk that key talent is lost over the next 9-12 months due to uncertainty regarding roles in the new organisation structure</li> </ul> | <ul style="list-style-type: none"> <li>▶ Consider keeping senior employees for a transition period to transfer knowledge to new CEO and GM roles</li> <li>▶ Consider identifying key positions and offering retention incentives to remain or contract extensions to post transition</li> <li>▶ Communicate regularly with employees regarding the timing and process of changes</li> </ul>                    |
| <b>Employee Retention</b>               | <ul style="list-style-type: none"> <li>▶ Risk that key talent is lost over the next 9-12 months due to uncertainty regarding roles in the new organisation structure</li> </ul>  | <ul style="list-style-type: none"> <li>▶ Communicate regularly with employees regarding the timing and process for an amalgamation/changes to entity structure</li> </ul>  |
| <b>FTE Reductions</b>                   | <ul style="list-style-type: none"> <li>▶ Risk that FTE reductions are not achieved due to political constraints or lack of execution</li> </ul>  | <ul style="list-style-type: none"> <li>▶ Ensure clarity is achieved on the ability to make forced redundancies</li> <li>▶ Ensure synergy benefits and costs are tracked accurately and do not creep back into operating costs in future years</li> </ul>   |

## 7 Summary of recommendations

- 1 We have produced recommendations against each of the two viable options considered.

### 7.2 Option 3 - Reconfigured Stand-alone Option

#### 1 Recommendation 1 - Purpose

- a) Confirm the purpose of IED as being focused on Indigenous jobs creation and enterprise development
- b) Revise the purpose of each entity to explicitly address their role in driving IED
  - iii) IBA: To act as the catalyst for Indigenous enterprise development and job creation through entrepreneurial business formation and development, home ownership and facilitation of investments for the benefit of Indigenous Australians
  - iv) ILC: To assist Indigenous Australians to acquire and manage land for social, cultural, environmental and economic benefits.
- c) Refocus the activities of the ILC to its original compensatory purpose for land acquisition, land management and land divestment. Existing ILC business operations and assets which do not strictly align with ILC's original purpose should either be divested to either Indigenous or sold on the open market with realised returns being returned to the ILC or be transferred to the IBA if appropriate.

#### 2 Recommendation 2 - Finance & capital

- a) Expand the investment parameters of the Land Account to allow greater returns to be generated from the Land Account
- b) Revise IBA's legislation to allow for capital raising (however, maintain the restrictions on borrowing powers)
- c) Revise the ILC's legislation to remove its powers to borrow money consistent with other CAC entities.
- d) Utilisation of funds, consistent with section 191EA of the ATSI Act, from the land account by IBA to better facilitate economic development.

#### 3 Recommendation 3 - Governance and strategy

- k) Reform the Director appointment processes to ensure appointments are staggered (to support continuity) and skills-based (to complement the purpose and functions of the entity)
- l) Require (through legislative changes) collaboration between IBA and the ILC in the development of strategic plans as they relate to IED
- m) Set explicit 'stretch' targets linked to IED and job creation outcomes for IBA
- n) Make the Board and senior executives directly accountable for stretch targets with legislated penalties
- o) Amend the enabling legislation to ensure each entity has a separate Chair.

#### 4 Recommendation 4 - Indigenous enterprise development

- c) Establish a professional services panel or network to enable Indigenous organisations to access investment and entrepreneurial advice and support in addition to that provided by IBA.

#### 5 Recommendation 5 - Land tenure

Make explicit through legislative changes the lead role of the ILC and IBA in resolving land tenure issues that create impediments to the effective utilisation of land by Indigenous title holders. (This is not intended to position the ILC or IBA as a lead agency for land tenure issues generally, rather that they should apply their expertise and resources to resolving land tenure issues in partnership with governments and communities where it impacts on their clients or constituents.

### 7.3 Option 4 – New Entity Recommendations

#### 1 Recommendation 1 - Purpose

- a) Confirm the purpose of IED as being focused on Indigenous jobs creation and enterprise development

- b) Establish the purpose of the new entity to explicitly address their role in driving IED. For example: The new entity to act for the benefit of Indigenous Australians as the catalyst for Indigenous enterprise development and job creation, whilst continuing to acquire and manage land for social, cultural and environmental outcomes.

2 Recommendation 2 - Finance & capital

- a) Expand the investment parameters of the Land Account to allow greater returns to be generated from the Land Account and applied to the activities of the new entity
- b) Allow for capital raising in the legislation of the new entity (however, restrict borrowing powers).

3 Recommendation 3 - Governance and strategy

- a) Establish a Director appointment processes to ensure appointments are staggered (to support continuity) and skills-based (to complement the purpose and functions of the entity)
- b) Set explicit 'stretch' targets linked to IED and job creation outcomes for the new entity
- c) Make the Board and senior executives directly accountable for stretch targets with legislated penalties.

4 Recommendation 4 - Indigenous enterprise development

- a) The new entity to establish a professional services panel or network to enable Indigenous organisations to access investment and entrepreneurial advice and support in addition to that provided by the new entity.

5 Recommendation 5 - Land tenure

- a) Make explicit through legislative changes the lead role of the new entity in resolving land tenure issues that create impediments to the effective utilisation of land by Indigenous title holders. (This is not intended to position the new entity as a lead agency for land tenure issues generally, rather that it should apply its expertise and resources to resolving land tenure issues in partnership with governments and communities where it impacts on their clients or constituents.)

## 8 Conclusions and Next Steps

- 1 From the analysis conducted in this review, EY has produced a series of observations, conclusions and recommendations about IBA, the ILC and government's broader effort in driving jobs creation and enterprise development for the benefit of Indigenous Australians.
- 2 On the issue of the optimal structure and function of government effort in driving IED, EY has recognised that adjustment is underway to government's broader policy settings. These policy levers have the primary and most significant influence on economic and employment conditions in Australia, including direct relevance to Indigenous Australians.
- 3 On the issue of integration of IBA and the ILC, EY has concluded based on the evidence considered and the assumptions and constraints noted, government's effort in driving IED would be best served from keeping IBA and ILC as standalone entities but that each organisation undertake specific reforms which would realign the organisation's strategic purpose to their functions and activities.
- 4 Improving the efficiency of IBA and the ILC will have a high dependency on the decision by Government in relation to any structural changes. However, we note that as our maturity assessment found, IBA has structures and processes that are very mature with high degree of efficiency given their operating context. The ILC has greater room for improvement, but is on a path to greater efficiency in operations.
- 5 Accountability arrangements, at the entity level, for the ILC and IBA are currently consistent with standard statutory authority governance arrangements. Any change to entity structures will require further consideration of appropriate mechanisms to ensure effective accountability for public funds and alignment with government intent.
- 6 We have made recommendations that any new arrangements must include hard targets that require direct accountability by the Board and senior management. It is this accountability that provides the direct link to government control. Our recommendations propose that accountability for targets be appropriately referenced in the enabling legislation. It is our contention that balancing the independence to support a commercial focus against the requirement for appropriate government control is best done using the existing mechanisms of the CAC Act and specific performance targets for the Board and senior management.

### 8.2 Implementing the Recommendations as Articulated in this Report

- 1 The recommendations articulated in this report are based on information provided and acquired during the review period and as such allow for an initial assessment that will benefit from deeper analysis. To ensure these recommendations contribute to enhancing Government's broader effect as it relates to IBA and the ILC legislative and operational changes are required.
- 2 With respect to IBA and the ILC, implementing the recommendations outlined in this report requires significant implementation planning to ensure effective execution. In particular, we recommend:
  - that the IBA and the ILC with appropriate assistance from PM&C develop new respective operating models that outline how each entity will operate in a post-transition environment; and
  - develop implementation plans and assign project teams that can help both entities transition to their respective operating models.

### 8.3 Further Investigation of the Benefits and Risks of Integration of IBA and the ILC

- 1 Additional analysis which specifically focuses on the transitional and on-going benefits and costs, coupled with a relaxation of existing assumptions and constraints (including the operation of the Land Account) may yield greater benefits in driving IED outcomes over a medium to long term time horizon.
- 2 To better assess the benefits and costs of alternative structural models under different assumptions and constraints, we recommend that additional analysis be conducted. Specifically, we recommend that PM&C:
  - construct a detailed operating model which would outline the specific functions and activities that an amalgamated entity would operate



- conduct a detailed benefits assessment which may assist in the development of a business case by applying a rigorous assessment and ensuring all potential benefits are examined, both financial / non-financial, as well as consideration of issues, risks and costs.

## Appendix A Limitations

This report was prepared at the request of the Department of the Prime Minister and Cabinet (hereafter “PM&C”).

This report is provided to PM&C for the purposes of public release. However, PM&C and any other party other than PM&C who access this report shall only do so for their general information only and this report should not be taken as providing specific advice to those parties on any issue, nor may this report be relied upon in any way by any party other than PM&C. A party other than PM&C accessing this report should exercise its own skill and care with respect to use of this report, and obtain independent advice on any specific issues concerning it.

In carrying out our work and preparing this report, Ernst & Young has worked solely on the instructions of PM&C, and has not taken into account the interests of any other party other than PM&C with the exception of guidance received during our consultation with the Minister for Indigenous Affairs in respect of the policy context of Indigenous economic development as referenced on page 7 of this report. The report has been constructed based on information current as of 16 February 2014, and which have been provided by PM&C. Since this date, material events may have occurred which is not reflected in the report.

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## Appendix B Submissions to the review

EY wishes to thank those individuals and organisations that contributed to the review. The candour and engagement of all who participated is deeply appreciated.

Public submissions to the review were invited by PM&C through its website. Public submissions closed on 24 January 2014. PM&C provided EY with summaries of each submission along with a copy of each full submission. In addition to those listed below, three submissions were received which requested anonymity. This brings total public submissions to PM&C to 26.

| Public submissions |  |
|--------------------|--|
| No.                | Organisation/Individual  |
| 1                  | Mick Estens  |
| 2                  | Morrugul Pty Ltd   |
| 3                  | Western Australian Government  |
| 4                  | Toga Hotels  |
| 5                  | Tiwi Land Council  |
| 6                  | Toby Gorringe  |
| 7                  | Outback Global Australia   |
| 8                  | Carpentaria Land Council Aboriginal Corporation                      |
| 9                  | Centrefarm & TopEndfarm  |
| 10                 | Martang Pty Ltd  |
| 11                 | Lhere Artepe Enterprises Pty Ltd                                     |
| 12                 | Corporate Connect AB   |
| 13                 | Message Stick Communications Pty Ltd                                 |
| 14                 | Monique Shepherd   |
| 15                 | Native Title Services Victoria                                       |
| 16                 | Community and Public Sector Union                                    |
| 17                 | NTSCORP  |
| 18                 | Kimberley Land Council   |
| 19                 | Cape York Land Council   |
| 20                 | Yawuru Native Title Holders Aboriginal Corporation                   |
| 21                 | North Australian Indigenous Land and Sea Management Alliance Limited |
| 22                 | South Australian Attorney-General's Department                       |
| 23                 | Central Desert Native Title Services                                 |
| 24                 | Wunan  |
| 25                 | Anonymous  |
| 26                 | Anonymous  |

EY received additional submissions directly from stakeholders and via IBA after the close of public submissions. These are noted in the table below.

In the interests of embracing the widest possible range of inputs, EY has included these submissions in its considerations.

### Other submissions

| No. | Organisation/Individual                           |
|-----|---|
| 1   | Quandamooka Yoolooburrabee Aboriginal Corporation |
| 2   | Credit Suisse                                     |
| 3   | Westpac   |
| 4   | National Native Title Council                     |
| 5   | New South Wales Aboriginal Land Council           |
| 6   | Queensland South Native Title Services            |
| 7   | Social Ventures Australia                         |

## Appendix C Meetings held with IBA and ILC Boards

| Meetings with the ILC and IBA Boards                                    |                  |  |
|---|------------------|--|
| Organisation  | Date             | Location                               |
| Introductory meeting with Chair and CEO of the ILC                      | 17 December 2013 | Level 9, 300 Elizabeth St, Surry Hills |
| Introductory meeting with Chair and CEO of IBA                          | 17 December 2013 | Level 9, 300 Elizabeth St, Surry Hills |
| ILC<br>Introductory meeting, introducing team, approach and methodology | 18 December 2013 | NCIE, 180 George St Redfern            |
| IBA<br>Introductory meeting, introducing team, approach and methodology | 19 December 2013 | Level 9, 300 Elizabeth St, Surry Hills |
| ILC<br>EY Facilitated workshop  | 23 January 2014  | Level 9, 300 Elizabeth St, Surry Hills |
| IBA<br>EY Facilitated workshop  | 24 January 2014  | Level 9, 300 Elizabeth St, Surry Hills |

## Appendix D Key Themes from Consultation and Submissions

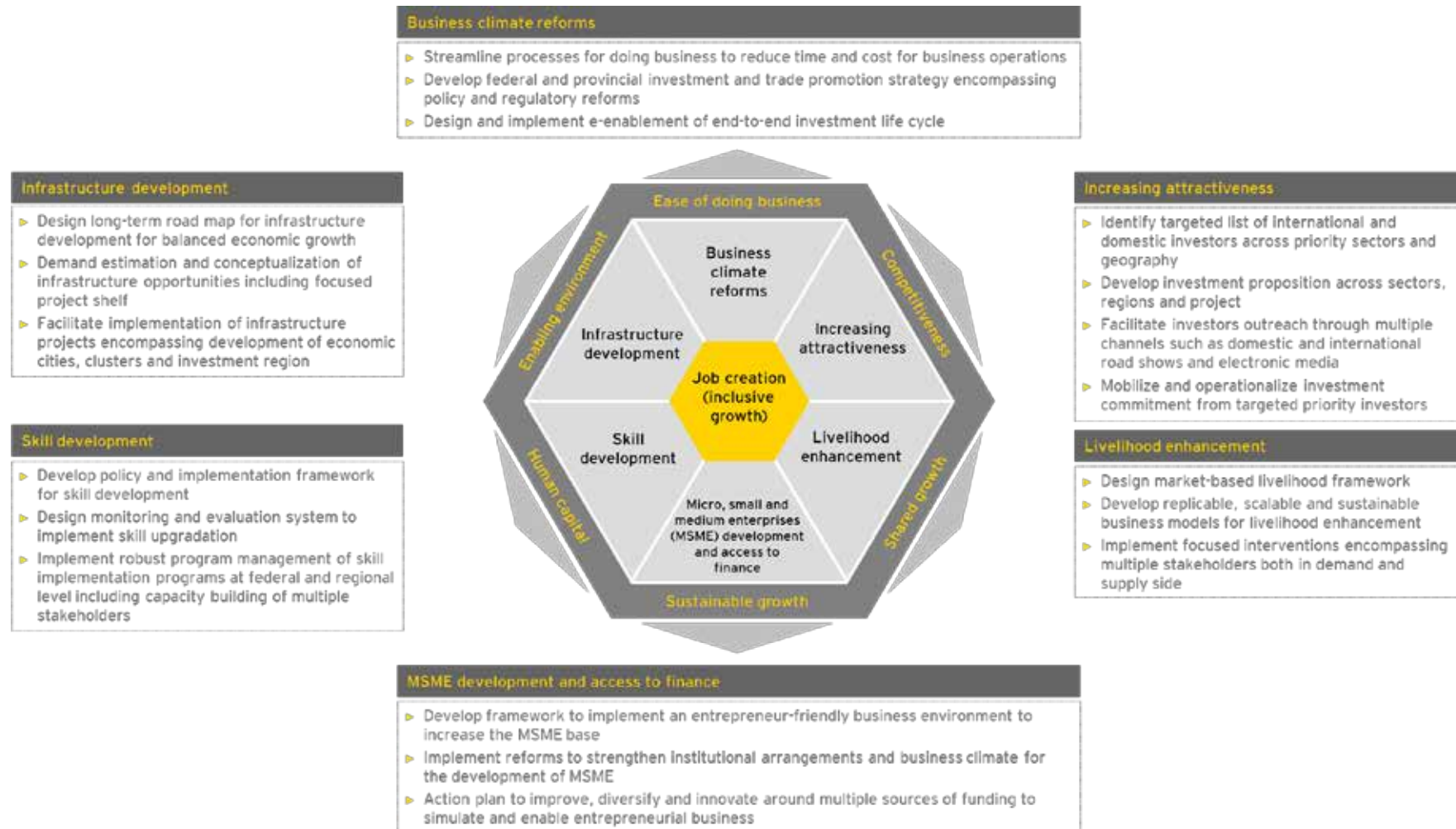
| Theme                           | Comments   |
|---------------------------------|--|
| Statutory Authority model       | <p>Some stakeholders identified that a statutory body was the most suitable delivery vehicle as it created the best opportunity for Indigenous people to be Board members and decision makers.</p> <p>While others made comment that this model does not provide an Indigenous organisation and that profits/investments do not necessarily provide benefit to Indigenous people</p> <p>Some stakeholders also commented that a government arm was not the best delivery model of the services provided at IBA and ILC</p>   |
| Size and scale of organisations | <p>There was a diverse range of views as to whether the organisations were currently appropriately sized to achieve the greatest benefit to the Indigenous community</p> <p>Many stakeholders commented that the organisations needed greater scale to access more capital, larger commercial deals and greater outcomes</p> <p>Other stakeholders commented that at the current size the organisations maintained an amount of agility and adaptability that was required to capitalise on opportunities in the market that would be lost through a larger organisation</p> |
| Targets and accountability      | <p>Multiple stakeholders discussed the requirement to set targets and outcomes for IED and assign responsibilities of these to agencies, departments and bodies. This would allow for people to be held to account on the achievement of these targets, while accountability currently was missing (also mentioned below in 'Missing Elements from IED')</p>   |
| Performance of the IBA          | <p>The overwhelming comments made by stakeholders and submissions were complimentary of the IBA's current leadership team and operational performance against their current functions. Several indicated that IBA has significantly improved its performance over the past 3 years and that it was in a good position now to drive greater outcomes for IED</p> <p>A minority of stakeholders expressed criticisms of IBA on either the investment performance or their lack of aggressiveness in facilitating commercial investment opportunities</p>                       |
| Purpose of the IBA              | <p>Several stakeholders indicated that the IBA was too narrow in its field of operations and that they should be seeking to do more under its legislative mandate to drive IED and employment outcomes.</p> <p>In addition, some stakeholders indicated that the IBA's legislative mandate should expand so as to give IBA additional operational flexibility to drive IED.</p>  |
| Purpose of the ILC              | <p>There was a lack of consensus as to whether the ILC's original mandate was being met and whether the current functions and activities were in alignment with this mandate. Specifically the diverse range of views as to whether the current activities and operations within the ILC were within the scope of the legislative mandate of the ILC meant that some views were aligned with ILC's current activities and some thought they had strayed from the original purpose.</p>   |
| Divestment of land by the ILC   | <p>Several stakeholders and individuals indicated frustration with ILC's performance around divesting land to traditional indigenous owners or Aboriginal or Torres Strait Islander corporations. Frustrations were in regard to the number of purchased properties held by the ILC (i.e. not yet divested)</p>  |
| ILC's Operating Model           | <p>Several stakeholders indicated concern that the ILC has a 'service delivery mindset' and doesn't collaborate effectively with the private sector. Stakeholders expressed criticisms that ILC is a low risk organisation which lacks aggressiveness in driving IED and employment outcomes.</p>  |
| Land Account                    | <p>Some stakeholder indicated that the ILC could receive additional capital in which to deliver its functions if the investment parameters of the Land Account are expanded.</p> <p>There was concern expressed by numerous stakeholders regarding changes in legislation and what that may mean for the land account.</p>   |
| Native Title                    | <p>Concerned was expressed with the lack of speed in which native title settlements can be reached.</p> <p>Some indicated that the Government or either the IBA or the ILC could enhance the level of coordination and investment in native title settlements across all relevant Commonwealth agencies and statutory authorities so as to better enable business development opportunities resulting from Title agreements.</p>   |

|   |   |
|---|---|
| Land tenure   | <p>Stakeholders expressed the view that an organisation needed to take on the role as the lead agency for resolving land tenure complications.</p> <p>Land tenure is a significant issue impacting on:</p> <ul style="list-style-type: none"> <li>• The ability to attract private investment, as investors require tenure that is 'bankable'</li> <li>• Negotiations with industry can only commence after tenure and infrastructure have been established</li> </ul>  |
| Prescribed Bodies Corporate (PBC)                         | <p>Several stakeholders and public submissions expressed concerns over the capacity of PBCs to operate effectively. Some indicated that many PBCs require significant assistance with corporate governance, anthropological responsibilities legal advice, financial management and other aspects of management in order to realise the economic potential of the land and provide benefit to their members.</p>  |
| Indigenous Economic Development (IED)                     | <p>Several stakeholders and submissions indicated that the term IED had a wide interpretation. Some indicated that IED was wider than the creation of jobs and included home ownership, entrepreneurship, investment, skills development, civic and cultural participation and other spheres of economic and social participation.</p>  |
| Green industry  | <p>Several stakeholders expressed an interest in IBA and/or ILC moving further into clean technologies in a way such as capacity building in local organisations to engage in the green economy; further development of carbon projects on Indigenous held land; invest in skills linked to commercial outcomes in environmental services</p>   |
| Role of Government in driving IED and employment outcomes | <p>Several stakeholders indicated their criticism and frustration at the underlying thinking of Indigenous policy and program design and delivery over governments across Australia. In particular, several stakeholders indicated their frustration with the overall performance of the Commonwealth bureaucracy in driving IED and employment outcomes.</p> <p>Views were also expressed on the complexity of accessing Indigenous programs given the number of programs available as well as different Departments involved in delivering the programs. The view was expressed by multiple stakeholders that this needed to be consolidated and simplified</p>   |
| Inhibitors to IED   | <p>Several stakeholders indicated that the following issues were on-going inhibitors to IED in Australia:</p> <ul style="list-style-type: none"> <li>• Human Capital limitations</li> <li>• Professional Services</li> <li>• Infrastructure Deficits</li> <li>• Lack of Indigenous Governance Capacity</li> <li>• Fragmented Federal and State and Territory Government Approach to IED</li> <li>• Land Tenure</li> <li>• Lack of access to appropriate financial capital that can be used to drive IED</li> <li>• Economic and Income Support Policy Settings</li> <li>• Inadequate data collection and poor data quality</li> </ul>   |
| Missing elements from IED                                 | <p>Several stakeholders indicated that the following were 'missing' elements from Australia's existing IED architecture:</p> <ul style="list-style-type: none"> <li>• An active use of government policy levers such as government procurement to drive IED forward;</li> <li>• An active venture capital market which can assist in facilitating indigenous start-up organisations;</li> <li>• An active infrastructure player who can assist in meet the gaps in economic infrastructure which currently exists, particularly in regional, rural and remote Australia;</li> <li>• Significant levels in capability and capacity training that develops job ready, entrepreneurial, managerial and governance skills of Indigenous Australians;</li> <li>• Available professional services and skills which can assist Indigenous investors, entrepreneurs and corporations to develop investment and business proposals, conduct scoping, feasibility and other planning activities as well as project management;</li> <li>• Greater government involvement and coordination in native title settlement services which would drive greater numbers of settlement outcomes;</li> <li>• Significant investment in and active involvement from Indigenous social ventures in driving both economic and social outcomes; and</li> <li>• 'Hard targets' for both broader government effort and for statutory authorities (such as IBA and ILC) which holds organisations and individuals directly accountable for failure to achieve outcomes.</li> </ul> |

|                                 |   |
|---------------------------------|---|
| Amalgamation of IBA and ILC     | <p>There is mixed support for an amalgamation of the IBA and the ILC.</p> <p>Several individuals and organisations expressed their opposition to any change in their existing structure given that IBA and the ILC currently undertake two very different purposes and that there lacks alignment between the purposes, function, activities and clients of the IBA and the ILC.</p> <p>Within this cohort, some stakeholders and submissions expressed that there is an opportunity for the IBA and the ILC to work more closely with each other and legislation could be changed to ensure collaboration improves</p> <p>Alternatively, there are other individuals and organisations who provided 'qualified' support for an amalgamation of IBA and ILC on the basis that the purpose of the new entity changes and incorporates additional functions and activities beyond the existing IBA and ILC functions as well as that an amalgamation provides cost savings which could be reinvested in the operations of an amalgamated entity. There was also some support for a model where the organisations operated under a single Board.</p> |
| Ministerial Powers of Direction | <p>There was a consistent indication from stakeholders and submissions that to be effective within the IED space, both IBA and the ILC (or an amalgamated entity) needed to have significant financial and political independence from the Minister and Government in order to facilitate better board and executive decisions, assume risk to achieve IED and employment outcomes.</p>   |
| Remote Australia                | <p>There was a wide range of views put forward on the ability to drive IED and employment outcomes in remote Australia.</p> <p>Stakeholder views ranged from remote Australia is uneconomic, the need to have a greater focus on the mobility of workers for seasonal work to a focus on micro-enterprises in remote areas and outsourcing elements of large corporate work to remote organisations to bring funds into the region and capacity building.</p>   |



## Appendix E Private Sector Development Framework and Case Study



## Private Sector Development Framework

The growth of the private sector as the engine for economic growth is fundamental to lifting people out of poverty through job creation.<sup>50</sup> Research shows that in more than 80 percent of cases where a person within a household retains a job this is the decisive factor in protecting the entire household from poverty.<sup>51</sup> In both developed and developing countries the private sector is the main source of jobs.<sup>52</sup> The private sector is responsible for approximately 90 percent of jobs in developing countries.<sup>53</sup>

The creation of stable jobs encourages economic activity as people consume more, pay taxes, start businesses and employ others. In turn both the public and private sectors benefit from the creation of a vibrant and stable private sector. A 10 percent increase in per person income results in a 12.7 percent increase in tax revenue and 11 percent increase in health and education expenditure.<sup>54</sup> Ultimately, it is the development of a strong Indigenous private sector, complemented by public sector and civil society organisations, that will see communities elevated from poverty and reduce their reliance upon welfare.

## A Proven Framework

The framework emerged from the G20 findings on financial inclusion for growth which helps federal and jurisdictional governments, welfare agencies, international economic development agencies and not-for-profit organisations to drive inclusive growth through job creation. It is designed to encourage entrepreneurial activity in organisations of all sizes and attract domestic and international investment. The framework covers six core elements required to increase employment opportunities:

- **Infrastructure development:** develop sustainable infrastructure roadmaps to aid economic growth including demand estimation, conceptualisation and implementation of infrastructure projects.
- **Skill development:** develop a robust skills development implementation framework that monitors and evaluates progress.
- **Business climate reforms:** develop streamlined business processes that ensure fast and cost effective mechanism for preparing business for doing business and promotes investment and trade.
- **Increasing attractiveness:** identifying targeted lists of investors and creating a fertile investment landscape.
- **Livelihood enhancement:** develop a market-based livelihood framework that is replicable, scalable and sustainable.
- **Micro, Small and Medium Enterprise (MSME) development and access to finance:** develop an investment framework and nurture an entrepreneur-friendly business environment.

A detailed description of the framework can be found at Attachment E, including a case study of how the framework was applied in India.

## Observations and Conclusions

Multiple alternative approaches are required to drive IED and employment outcomes are required if the Government and COAG are to meet the 'closing the gap' employment target by 2018. These alternative approaches require Government to adjust existing policy levers to improve overall economic and employment conditions as well as generate greater contributions from the private sector through facilitating leadership, investment and employment creation.

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<sup>50</sup> AusAID (2012) *Sustainable economic development: Private sector development*, p. 6

<sup>51</sup> Pfeffermann, Guy (2003), *Paths out of Poverty*, cited in AusAID (2012) *Sustainable economic development: Private sector development*, p. 6

<sup>52</sup> *Ibid* p. 6

<sup>53</sup> World Bank (2005), *World Development Report 2005*, Pfeffermann, Guy (2003) cited in AusAID (2012) *Sustainable economic development: Private sector development*, p. 6

<sup>54</sup> United Kingdom Department for International Development (2008), *Prosperity for all: making markets work* cited in AusAID (2012) *Sustainable economic development: Private sector development*, p. 6

This private sector development framework demonstrates that:

- „ private sector facilitation of capital investment, entrepreneurship and infrastructure and skill development can result in the achievement of sustainable employment outcomes
- „ the private sector framework also provides guidance on the types of skills that board members and staff will require to stimulate job creation and drive IED
- „ the six elements that the framework have the ability to overcome the inhibitors of Indigenous economic development
- „ a proven private sector framework exists which can be customised to drive IED outcomes in Australia
- „ elements of this framework can be incorporated into the existing IED architecture through additions to either IBA's or ILC's functions and activities.

# Case study: Government of Madhya Pradesh, India

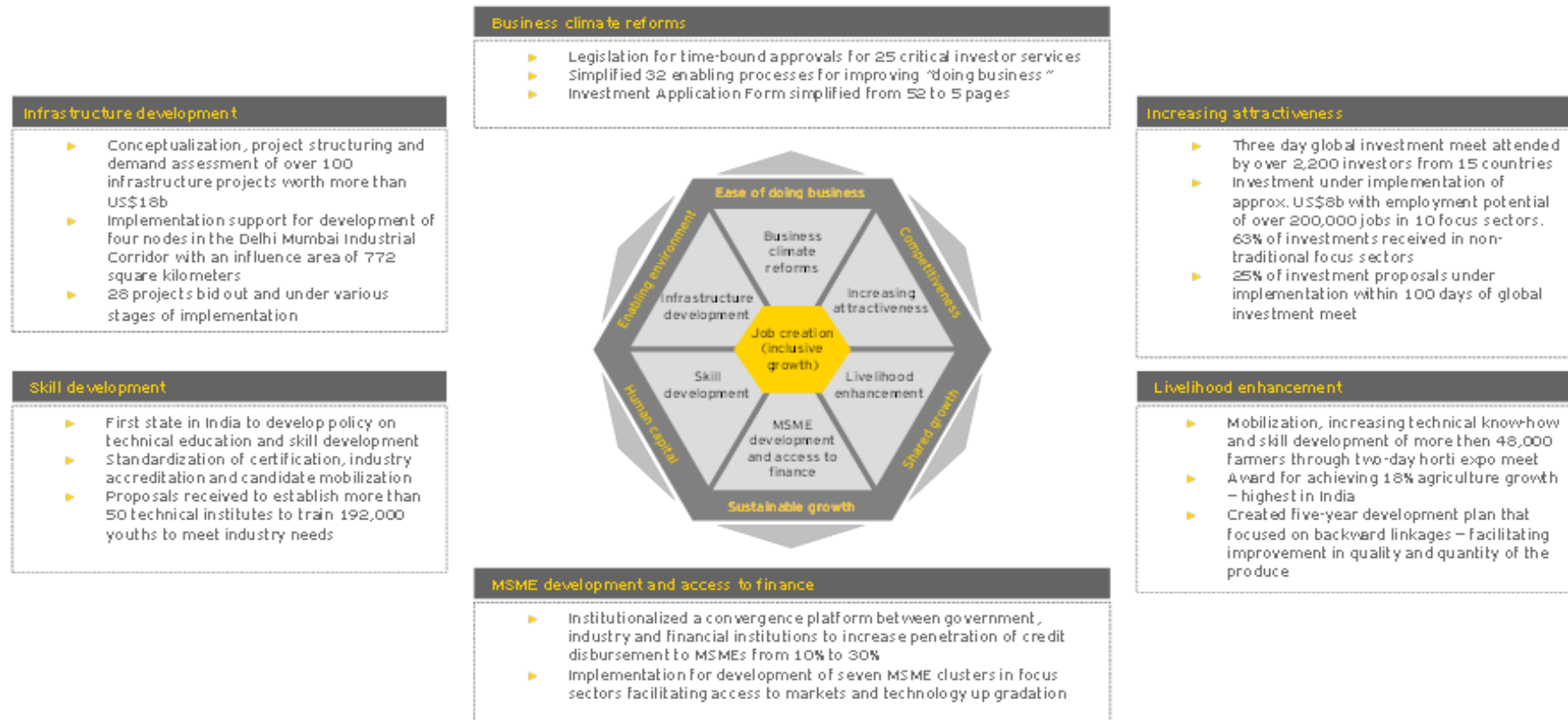
## About the client:

- ▶ Second largest state in India, constituting 9.4% of the total area
- ▶ Impressive GSDP growth of 9.5% over the past five years
- ▶ Strategic location and abundance of natural resources

## Challenges the client faced:

- ▶ Per capita income was half the national average at approximately \$US\$18
- ▶ Ranked 11 of 17 states in India for ease of doing business by IFC, World Bank
- ▶ 80% of the investments were in traditional sectors

## Our approach:



## Appendix F Initial Entity Structure Options

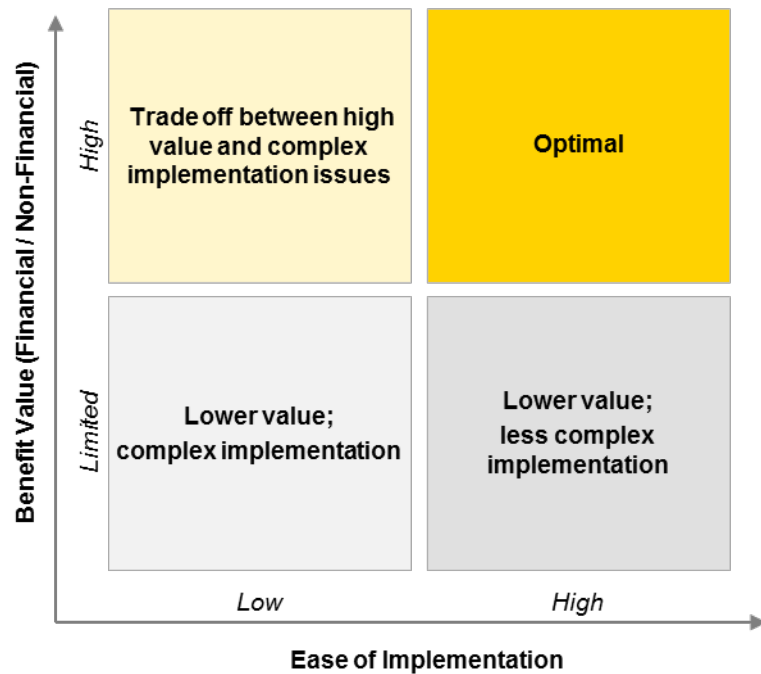
| No. | Option Description   | Impact on purpose and functions  | Impact on legislation   | Impact on entity resourcing level   | Impact on entity resourcing profile  | Why option was not considered            |
|-----|--|--|---|---|--|--|
| 1   | Keep Status Quo: Keep the IBA and ILC doing the same functions   | Nil  | Nil   | Nil   | Nil  | Does not address missing elements of IED |
| 2   | Keep Status Quo of IBA/ILC, but refresh objective and/or purpose (new direction or strengthened governance, ministerial power) | IBA/ILC are given a new organisational purpose and potentially additional functions                | Amend existing legislative framework  | Potentially more resources required or fewer resources required dependent on objective &/or purpose | Existing Board, CEO and staff retained                                       | Lacks clear purpose and benefit          |
| 3   | Retain IBA and/or ILC with expanded purpose and functions  | IBA/ILC are given expanded organisational purpose and additional functions                         | Amend existing legislative framework  | Potentially more resources required   | Existing Board, CEO and staff retained                                       | Considered                               |
| 4   | Shared Services Option: Keep IBA/ILC separate with one providing a back office function to the other (cost efficiency)         | Nil  | Nil   | Fewer Commonwealth Resources Required   | Board, CEO potentially retained and some staff released                      | Considered                               |
| 5   | Abolish IBA and ILC and establish a new CAC Body that will achieve identified government effort and purpose                    | Organisational purpose and functions may be retained or abolished, depending on what is happening. | Repeal existing legislation and introduce new legislation or amend existing legislation to remove IBA and ILC sections and introduce new sections for new CAC body. | Potentially fewer resources required  | Existing Board, CEO and staff removed and new board, CEO and staff appointed | Considered                               |

|    |  |  |  |                                       |  |   |
|----|--|--|--|---------------------------------------|--|---|
| 6  | Amalgamate IBA and ILC which operates under one entity structure but maintains existing purposes of the ILC & IBA. Amalgamated IBA/ILC operates with additional functions.                   | New entity maintains existing purposes of the ILC & IBA as well as operates with additional functions                        | Amend legislation (either whole Act or specific items of the Act)  | Fewer Commonwealth Resources Required | Existing Board, CEO and staff removed and new board, CEO and appointed. Operationally, the amalgamated body would have largely retained the same people, processes, and systems with very limited integration. | Lacks clear purpose and benefit   |
| 7  | Abolish IBA and ILC and divest functions to the States/Territories   | Purpose and functions are transferred to the States and Territories  | Repeal legislation (either whole Act or specific items of the Act) | Fewer Commonwealth Resources Required | Existing Board, CEO and staff removed  | Significant change required that would not address the missing IED elements |
| 8  | Abolish IBA and ILC and divest functions back into PM&C  | Purpose and functions are transferred to PM&C  | Repeal legislation (either whole Act or specific items of the Act) | Fewer Commonwealth Resources Required | Existing Board, CEO and staff removed  | Significant change required that would not address the missing IED elements |
| 9  | Abolish IBA and ILC and devolve responsibilities to Land Councils (similar to state/government devolution). Benefit is that it is the responsibility of aboriginal controlled organisations. | Purpose and functions are transferred to the Land Councils   | Repeal legislation (either whole Act or specific items of the Act) | Fewer Commonwealth Resources Required | Existing Board, CEO and staff removed  | Significant change required that would not address the missing IED elements |
| 10 | Abolish IBA and ILC as well as existing functions  | Existing purpose and functions abolished   | Repeal Legislation   | No Resources Required                 | Existing Board, CEO and staff removed  | There is an ongoing requirement for the activities provided at IBA and ILC  |
| 11 | Create a new private sector body to achieve identified government effort and purpose (either abolish or retain IBA and ILC)  | Existing purpose and functions are either retained or abolished with new private sector body given new purpose and functions | New legislation required for new body                              | Potentially more resources required   | Potentially existing board, CEO and staff removed (if IBA and ILC abolished) and new board, CEO and staff appointed for new private sector entity  | Inability to permanently secure ongoing funding. Less Government control    |

## Appendix G Entity Structure Evaluation Criteria

Our understanding of the PM&C requirements is that a preferred entity structure to effectively deliver financial and non-financial benefits with the highest ease of implementation – this has accordingly been used as the framework for evaluating each of the structures for benefits, costs and risks.

### An evaluation framework....



### Supported by a three dimension evaluation criteria and rating system

| Evaluation Criteria 1: Net Benefit Value |   |
|--|---|
| <b>Financial</b>                         | ▶ What is the associated net benefit for each option (after considering synergies, one-off costs and dissynergies)? |
| <b>Non-Financial</b>                     | ▶ What is the associated non-financial benefits and non-financial risks for each option?                            |

| Evaluation Criteria 2: Ease of Implementation |  |
|---|--|
| <b>Ease of Implementation</b>                 | ▶ How difficult is the option to implement? Are there significant operational or stakeholder impediments to successful implementation? |

| Rating System     |  |
|-------------------|--|
| <b>3 – High</b>   | ▶ Meets criteria to a high extent ( <b>best rating</b> ) |
| <b>2 – Medium</b> | ▶ Meets criteria to a medium extent                      |
| <b>1 – Low</b>    | ▶ Meets criteria to a low extent ( <b>worst rating</b> ) |

## Entity Structure Evaluation Criteria (continued)

| Categories             | Criteria  |
|------------------------|---|
| Financial              | <ul style="list-style-type: none"> <li>• Are there duplicate functions, services, systems, office that can be rationalised/shared?</li> <li>• Is there potential to realise economies of scale?</li> <li>• Can capital requirements be reduced as a result of combined entity? Can capital be more effectively allocated?</li> <li>• Will one-off costs be required to realise and manage the new state? (e.g. advisor costs – legal, project management, redundancies, office relocation, BAU resources allocated to the project)</li> <li>• Will additional ongoing costs be incurred as a result of increased size of entity (e.g. additional compliance/governance, wage harmonisation)?</li> <li>• What is the expected timeframe to realise synergies? Is there capability and capacity within the entities to implement activities?</li> <li>• Is the option likely to deliver net financial benefits after considering dis-synergies, one off costs and realisation period?</li> <li>• Can cost benefits be realised more economically through BAU activities rather than transaction initiatives?</li> </ul> |
| Non-Financial          | <ul style="list-style-type: none"> <li>• Does the option establish a clear purpose for the entity?</li> <li>• Does the option improve/leverage capability (e.g. resources, knowledge, branches, processes, methodology, relationships, scale) to facilitate more effective delivery of existing objectives (e.g. employment, training, business development, land acquisition and management, home ownership)?</li> <li>• Do changes to governance arrangements present improvements in the ability to set direction, make decisions, manage risk, apply controls and influence behaviour and culture?</li> <li>• Is there a risk that service levels and delivery may decline in the short/medium/long term (e.g. ability to collaborate with private/public sector, dilution/loss of knowledge)?</li> <li>• Is it likely that the option will increase access, participation or opportunities for Indigenous people to close the gap?</li> <li>• Does it provide appropriate balance between powers of Ministerial direction or government control and organisational independence?</li> </ul>                      |
| Ease of Implementation | <ul style="list-style-type: none"> <li>• How long will the transition period last?</li> <li>• Is there a cultural alignment between the ILC and IBA?</li> <li>• What IT system synergies exist between the organisations?</li> <li>• How many staff, materials and systems will require relocation?</li> </ul>  |



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