

## **Indigenous Land Corporation response to PBC Support Strategy: Consultation Paper, October 2016**

### General comments

#### *Support in the pre-determination phase*

The ILC recommends that specific streams of support and funding be made available to claim groups or their representatives in the pre-determination phase. In particular, economic-development advice early in the settlement process should be available to enable groups to make informed decisions prior to the acceptance of settlement terms. Timely and proper advice would help to ensure that commercial opportunities arising from settlements are maximised.

The ILC is aware of many examples where failure to consider economic development potentials in the pre-determination phase has undermined the capacity of Traditional Owners to generate economic development from the settlement terms of their determination. In some instances, land holding proves an economic burden rather than a source of benefit and growth.

The establishment of sound and effective governance models in the pre-determination phase allows for a more efficient and successful transition from prosecuting claim group to a beneficial land-holding entity. As NTRBs are primarily focused on claims prior to determination, there is limited scope for significant engagement in effective governance training and the development of post-determination corporate structures; support to this area may well mitigate some in-group conflict in the post-determination phase.

In situations where there are conflicts over group membership in the pre-determination phase, support and information must be provided equally available to all claimants and all other relevant parties. Pre-determination support must be tailored to the specifics of the claim group, with particular caution against favouring any specific claimants.

#### *Eligibility for Traditional Owner groups operating outside the Native Title Act*

The ILC recommends that funding and support be extended (on a needs basis) to the PBC-like entities established following the settlement of native title matters under alternative frameworks. These entities perform similar functions to PBCs, and are critical to enabling economic development through land held by Traditional Owner groups under these regimes. They should be eligible for the same support as PBCs.

#### *Guiding principles*

The ILC supports the guiding principles outlined in the consultation paper. Specifically, the ILC encourages the use of native title rights to enable economic and commercial development as directed by native title holders and PBCs as their representatives. The ILC recognises the critical importance of collaboration across and within levels of government

and the native title sector to deliver assistance for PBCs. It fully supports the notion of no reform without adequate consultation with the native title sector.

Questions:

*Question 3: What are your views of these proposed changes to funding arrangements?*

The ILC supports the proposed changes to funding arrangements where these allow for the needs-based and outcome-focused funding of activities as per the NTRB/s Statutory Support for PBCs Funding and PBC Basic Support Funding.

The ILC also supports the proposed changes under the PBC Capacity Building Funding, particularly the proposal for PM&C, or an agent, to collaborate proactively with PBCs in identifying unmet needs and developing capacity. The ILC is well positioned to fulfil the role of agent and would welcome further discussion with the Department on this issue.

The ILC currently provides land management and land acquisition assistance through its *Our Land Our Future* funding arrangements. These arrangements involve collaboration between the ILC and land holders (or prospective land holders) throughout the project lifespan, beginning with co-development of project ideas, through project co-design, identifying and establishing funding models, and providing guidance and support in the implementation phase, as required. The extension of these services to PBCs through the PBC Capacity Building Funding is within the scope of the ILC's mandate and capacity.

*Question 5: What are the current support services available to PBCs? How can this be better coordinated?*

The PBC Support Forum, convened by the National Native Title Tribunal, has established a comprehensive list of support services available to PBCs. The forum has identified that coordination of these services is key to providing effective support to PBCs. The development and implementation of coordination strategies are priorities for the forum. The ILC encourages ongoing collaboration with PBCs in determining effective strategies for service coordination, based on the needs and priorities of PBCs themselves.

The forum has also identified the need to enhance the capacity of the whole native title sector, including government agencies within the sector, to work effectively with PBCs. Responding to the emerging needs and developing aspirations of groups as they transition from pursuing claims to realising fully beneficial determinations requires flexible and proactive responses from an appropriately skilled sector. Innovative learning opportunities, including staff secondments across agents within the native title sector, can provide for a rapid development of whole-of-sector capacity.

*Question 6: Are PBCs interested in participating in these kinds of projects?*

The ILC is well placed to provide leadership in promoting information on the successful and innovative use of Indigenous-held land. The ILC has an established record in the development and implementation of activities in the tourism, pastoral and environmental-services industries. The ILC has been a leader in the development and implementation of carbon farming methodology on Indigenous-held land, including joint methodology development across various bioregions.

Through its subsidiary National Indigenous Pastoral Enterprises (NIPE) the ILC delivers training and employment outcomes alongside land management, cultural and environmental heritage protection and extensive pastoral production activities. The ILC has prior experience in the collaborative delivery of pastoral industry extension services and could leverage this experience in promoting successful and innovative use of Indigenous-held land.

The ILC's subsidiary Voyages Indigenous Tourism Australia (Voyages) manages commercial tourism assets in iconic cultural landscapes, including the Mossman Gorge Centre and Ayers Rock Resort. These businesses provide employment and economic development opportunities to Indigenous land holders and offer examples of what can be achieved.

The ILC's experiences in delivering outcomes similar to those sought by PBCs positions the ILC as a natural partner in the promotion of the beneficial, productive use of Indigenous-held land.

*Question 7: Is there interest in funding for this purpose? How can it be prioritised?*

The ILC has previously received significant numbers of applications for support for property management planning, including for landscape-scale projects encompassing native title determination areas. Support has been provided where applications met ILC program criteria and were competitive in the relevant funding round. The ILC believes there is likely a large unmet demand for land-use planning and feasibility assessment activities on native title determination areas.

The ILC recommends that support for PBCs be prioritised on the basis of need, ability to access to alternative income sources and the generation of benefit through project investment. Investment in establishment-phase consultation and forward planning is key to identifying economic and commercial opportunities and aspirations while balancing the 'in trust' relationship of PBCs to landholdings.

### *Conclusion*

The ILC is broadly supportive of the position proposed by the Consultation Paper and welcomes its focus on coordination and consultation within the native title system. The ILC is well placed 1) to support the strategy of promoting successful and innovative uses of Indigenous-held land, and 2) to undertake the role of an agent under the PBC Capacity Building Funding.

The ILC advocates ongoing consultation with the native title sector and a clear line of sight between the final development of this strategy and the policy directions of the *COAG Investigation into Indigenous Land Administration and Use* and the work of the Australian Human Rights Commission Property Rights Project.