Australian Government

Indigenous Business Australia

Submission by Indigenous Business Australia (IBA) to the Review of Indigenous Business Australia and the Indigenous Land Corporation

January 2014

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Executive Summary

This submission is made to inform the Review by EY into the effectiveness of Indigenous Business Australia (IBA) and the Indigenous Land Corporation (ILC).

IBA's statutory role and purpose

IBA is an independent Commonwealth Statutory Authority operating within the portfolio of the Department of Prime Minister and Cabinet.

IBA was created to assist and enhance the economic development opportunities of Aboriginal and Torres Strait Islander people across Australia. Its purpose and functions are set out in the *Aboriginal and Torres Strait Islander Act 2005* (the ATSI Act) which requires IBA to accumulate and use a substantial capital asset base for the benefit of Aboriginal and Torres Strait Islander people and to engage in commercial activities to promote self-management and economic self-sufficiency.

IBA's contribution to Indigenous Economic Development

The IBA Board believes that self-management and economic independence are at the heart of Indigenous Economic Development.

Economic development is a broad concept that can range from 'measurable 'monetary income per capita' (Throsby 2001, pp. 61-71) to the much less measurable 'capability of people to lead the lives they desire' (Sen, 2001).

IBA's statutory purpose places it at the commercial end of the economic development spectrum.

The IBA Board believes that Aboriginal and Torres Strait Islander people must determine for themselves the best actions and strategies to improve their personal and economic well-being. The capacity to make such choices is directly linked to financial independence which in turn, is defined as 'the ability and resources to take care of yourself and your family without government assistance'[1].

It is well documented that Aboriginal and Torres Strait Islander people are unable to access the same opportunities for self-management and economic independence as others in the wider community. Finance industry research shows that Aboriginal and Torres Strait Islander people 'are the predominant group of people consistently associated with financial exclusion.'[1] This is demonstrated by 'poor access to fair, safe and appropriate products and services, low understanding of financial matters and a greater likelihood of experiencing difficulties.'

The IBA Board believes that sustained, consistent action is necessary to ensure that Aboriginal and Torres Strait Islander people are able to achieve both self-management and economic independence. Further, the pathway to independence requires access to commercial opportunities, the capital to take advantage of those opportunities, and the existence, or development, of sufficient capability to transform opportunity into economic success. It is these ideas that underpin the IBA business model and sit at the heart of IBA's three key programs - the Indigenous Home Ownership Program (IHOP), the Business Development and Assistance Program (BDAP) and the Equity and Investments Program.

Evidence shows that IBA's programs are successful in providing Aboriginal and Torres Strait Islander people with pathways to the real economy and the opportunity to benefit from an increased standard of living.

IBA and the ILC are fundamentally different

IBA and ILC reflect the different purposes for which they were established and the different legislation under which they operate. IBA (then called the Aboriginal and Torres Strait Islander Commercial Development Corporation (CDC)) was established in 1990 in recognition by government of the need for

[1] ANZ - Home ownership and Indigenous Australians: Final report and response August 2008

it to establish a specialist organisation to assist Aboriginal and Torres Strait Islander people to take up the challenges of commercial development, and exert influence in the private sector as well as the public sector. As IBA is predominantly self-funding it has, of necessity, a strong commercial culture. IBA focuses on advancing the commercial interests of Aboriginal and Torres Strait Islander people through the accumulation and use of a substantial asset base. IBA occupies a unique place on the Indigenous Economic Development spectrum providing pathways to independence through competitive commercial activities.

The Indigenous Land Corporation (ILC) was established in 1995 in response to the recognition by Australian courts of the continued existence of native title rights and interests. In exchange for the acceptance by Indigenous negotiators of the validation of past grants of land (in the Native Title Act), the Government agreed to establish an Indigenous Land Fund (the ILF) to buy land for Aboriginal and Torres Strait Islander groups. In using payments from the ILF, the ILC is focused on acquiring land and assisting Aboriginal and Torres Strait Islander people manage that land for a very broad range of benefits, including economic, environmental, social and cultural benefits. The statutory purposes and functions of ILC require it to put in place actions and strategies to promote Indigenous Economic Development in places and circumstances where market solutions may only be partially achievable (or not achievable at all).

The IBA Board acknowledges the strong contribution made by the ILC to Indigenous Economic Development and the important role it plays in acquiring and managing land for Aboriginal and Torres Strait Islander people and in assisting to create employment and training opportunities. The IBA Board believes IBA is also a successful organisation making an important contribution in increasing home ownership, building businesses and investing in partnership with Aboriginal and Torres Strait Islander people and the private sector to deliver broad economic benefits. IBA is a well run mature organisation which continues to achieve its outcomes.

The IBA Board believes that IBA and ILC occupy different but necessary places on the overall Indigenous Economic Development spectrum that are each appropriate and necessary.

Optimal structure of government effort

The IBA Board has had regard to the history of the organisational arrangements for the delivery of Aboriginal and Torres Strait Islander commercial programs to see what has worked and what has not worked. History shows that there can be unintended adverse affects when commercial objectives are mixed with non-commercial objectives.

A merger of IBA and ILC would be a merger of two important, complex and very different organisations. As a commercial organisation, the IBA Board is conscious that there are costs and risks involved in any merger of complex businesses. Research quickly uncovers many cases where the expected savings, efficiencies and performance improvements never eventuate. These risks are significant to the proposed merger as there are few functional overlaps in the program and service delivery of IBA and the ILC. Neither organisation operates in a high volume environment where economies of scale can be easily achieved. In the absence of these synergies, it is the view of the IBA Board that there is little utility in integrating the two agencies.

The IBA Board is also concerned that a merger of IBA and ILC would put at risk the significant achievements of both organisations and would represent a retrograde step for Aboriginal and Torres Strait Islander self-management and economic self-sufficiency. It may dilute the focus and expertise with the effect of reducing the effectiveness of both agencies.

The IBA Board has also carefully considered alternative delivery mechanisms for its lending programs, including delivery by banks or other financial institutions. The IBA Board does not believe that such

alternatives are viable. There are regulatory and commercial limits to the capacity of banks to make loans to IBA's customers.

IBA's statutory independence

This submission also addresses the appropriateness of current arrangements relating to the independence of IBA and its Board. Departments are subject to a different financial framework to statutory authorities. The regulatory framework restricts the capacity of government departments to act commercially, including in relation to making loans and recovering debts. Government agencies may not invest the money of the Commonwealth without the consent of the Finance Minister and therefore could not effectively deliver IBA's Equity and Investments program.

The IBA Board notes that there are important limits to the existing 'independence' of IBA, including the power of Parliament to approve appropriations of money to IBA, the power of the Minister to give general directions to the Board, to request changes to the Corporate plan and to review expenditure and performance. No Minister has ever sought to issue IBA with a direction, nor has any IBA Board failed to respond to changes in Commonwealth policy. The IBA Board considers that the existing controls strike an appropriate balance between necessary independence and proper accountability to the Minister and Parliament.

The IBA Board acknowledges that all service delivery agencies must continuously focus on increasing access, reducing red-tape and increasing efficiency. This is why IBA's self-generated consolidated revenue has increased from $130 million in 2011-12 to $140 million in 2012-13. It is also why IBA's overhead costs were reduced from 28% of its overall expenditure in 2011 to 22% of overall expenditure in 2013. It is why the IBA Board has invested significantly in technological improvements to IBA's service delivery capability and put in place a number of important new initiatives to improve access and efficiency.

Conclusion

In conclusion, the IBA Board believes that IBA is a mature organisation which is achieving its objectives. It is important that the mistakes of the past are not repeated, particularly by creating confusion of purpose between commercial and other development objectives. In the experience of the IBA Board, changing a delivery mechanism rarely addresses the true challenges.

CHAPTER 1: How IBA contributes to Indigenous Economic Development

IBA is an independent Commonwealth Statutory Authority operating within the portfolio of the Department of Prime Minister and Cabinet. IBA was created to assist and enhance the economic development opportunities of Aboriginal and Torres Strait Islander peoples across Australia. Its purpose and functions are set out in the *Aboriginal and Torres Strait Islander Act 2005* (the ATSI Act) which requires IBA to:

- accumulate and use a substantial capital asset base for the benefit of Aboriginal and Torres Strait Islander people; section 146(b)
- engage in commercial activities to promote self-management and economic self-sufficiency; section 146(a).

The IBA Board believes that IBA's objectives of self-management and economic self-sufficiency are at the heart of Indigenous Economic Development.

Economic development is a broad and highly contested concept covering a definitional spectrum from 'measurable 'monetary income per capita' (Throsby 2001, pp. 61-71) to a much less measurable 'capability of people to lead the lives they desire' (Sen, 2001). Economic development is a normative concept - meaning that it referable to community ideas of what is normal and appropriate in terms of a broad range of standards, rights and entitlements. Within the context of Indigenous Economic Development these normative reference points have been variously expressed as 'equality of opportunity', 'special measures', 'closing the gap' and 'building the asset base'. As contemporary ideas of Aboriginal and Torres Strait Islander development are broad, the actions and strategies put in place to achieve development objectives range from pure economic programs, to health and housing initiatives, language and cultural programs and even measures to facilitate improvements in self-esteem, community safety, freedom and personal choice.

The contribution that can be made by IBA is constrained by its legislation which creates a focus at the commercial end of the Indigenous Economic Development spectrum.

In the wider international context, community development has been central to international aid and development strategies for more than two decades. Within the international development sector, there is strong agreement that 'people need to participate in and shape their own development, and that having capable institutions is essential to achieving development outcomes'.

The IBA Board considers that it is for Aboriginal and Torres Strait Islander people to determine for themselves the best actions and essential strategies to improve their personal and economic well-being. The capacity to make such choices is directly linked to financial independence which in turn, IBA defines as 'the ability and resources to take care of yourself and your family without aid, subsidies or financial support (whether from governments or others)'.

It is well documented that many Aboriginal and Torres Strait Islander people are unable to access the same opportunities for self-management and economic independence as others in the wider community. Looking at access to capital alone, Finance industry research makes it clear that Aboriginal and Torres Strait Islander people 'are the predominant group of people consistently associated with financial exclusion.'[2] This is realised in 'poor access to fair, safe and appropriate products and services, low understanding of financial matters and a greater likelihood of experiencing difficulties'.

[2] ANZ - Home ownership and Indigenous Australians: Final report and response August 2008

IBA believes that sustained, consistent action is necessary to ensure that Aboriginal and Torres Strait Islander people are able to achieve financial independence. Such action is best achieved at arm's-length from the day to day political and news cycle and the ever-changing public policy environment.

Viewed through IBA's legislatively mandated commercial lens, the IBA Board believes that the pathway to independence requires access to appropriate commercial opportunities, capital to participate in commercial opportunities and the capacity to ensure that opportunity can convert to success. It is these ideas that underpin the IBA business model and sit at the heart of IBA's three key programs - the Home Ownership Program (IHOP), the Business Development and Assistance Program (BDAP) and the Equity and Investments Program.

IBA's impact investment model

The *Aboriginal and Torres Strait Islander Act* establishes IBA as an impact investor - it must engage in commercial activities to deliver self-management and economic self-sufficiency for Aboriginal and Torres Strait Islander people. Like other impact investors, IBA's business model is based on a shared value proposition.

The public value that IBA generates is measured both in terms of the accumulation of its capital and the broader economic benefits it delivers in terms of Aboriginal and Torres Strait Islander self management and economic independence. IBA's investment portfolio is self-funded, with no government appropriation since 1999. IBA's share of the portfolio is now valued at $206 million (excluding cash and cash equivalents), and through prudent investment has grown to more than 2.5 times the seed funding received from Government.

The shared value generated by IBA is measured in terms of the accumulation of its capital and the broader economic benefits it delivers in terms of Indigenous economic independence.

It is important to understand that the broader benefits sought by the Commonwealth through its investment in IBA did not initially include employment.

This deliberate omission resulted from concerns existing at that time concerning the performance of the Aboriginal Development Corporation (ADC) and specifically, concerns that its effectiveness had been impaired by mixing commercial and welfare-oriented programs.

Parliament's intention was that the new commercial corporation (later IBA) operate on a strict commercial basis was apparent from the outset. The Second Reading Speech to the Bill (insofar as it refers to the Aboriginal and Torres Strait Islander Commercial Development Corporation) records the Minister's comments as follows:

> The legislation provides for the establishment of a statutory corporation, under the control of Aboriginal and Torres Strait Islander people, with a broad charter to engage in commercial and financial activities.
>
> The Corporation's primary function is to engage in commercial activities in accordance with sound business principles. In performing its functions the Corporation is required to have regard to various matters which might be summarised as advancing Aboriginal and Torres Strait Islander economic interests. The Government expects that the Corporation will enhance the opportunities for Aboriginal and Torres Strait Islander people to be able to break free from the web of dependency and achieve a significant degree of economic independence. It is only when Aboriginal and Torres Strait Islander people are able to take up the challenges of commercial development, and exert influence in the private sector as well as the public sector, that they will be able to participate fully as equals in the nation's economic and political life.

The Bill to establish both Aboriginal and Torres Strait Islander Commission and the CDC was substantially debated and redrafted. A new Bill was introduced in 1989. However, there was little amendment to the clauses relating to the Corporation. Once again, the 2nd Reading Speech, reinforced the commercial focus:

> A new body, the Aboriginal Economic Development Corporation (AEDC), providing finance and services on an independent commercial basis for major Aboriginal enterprises … clarifies the distinction between commercial and non-commercial activities - a problem which has bedevilled the ADC.

The issues that gave rise to these concerns are further described in Annexure A to this submission and will not be discussed in detail here. IBA is required under the ATSI Act to have regard to specific development outcomes, including:

a) encouraging and facilitating Aboriginal and Torres Strait Islander participation in commercial projects and enterprises
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
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
d) making specialist commercial expertise available to Aboriginal persons and Torres Strait Islanders engaged in commercial activities.

To this end, IBA's programs extend across the spectrum of Indigenous Economic Development practice and go well beyond the creation of employment. IBA has been very successful in achieving specific economic development outcomes. At this point, it should also be noted that IBA does not deliver land management programs or services, except to the extent that one of its funded entities might undertake these activities on an ordinary commercial basis from time to time.

IBA's home loan portfolio demonstrates how the impact investment model operates in practice to improve Indigenous Economic Development outcomes.

How IBA assists to increase Aboriginal and Torres Strait Islander home ownership

The Indigenous Home Ownership program (IHOP) was established in 1975 and is one of the most enduring specific purpose programs established by the Commonwealth. IBA assumed delivery of the program following the abolition of ATSIC in 2005. The IHOP provides Aboriginal and Torres Strait Islander people who do not qualify for bank finance with an affordable home loan.

The public value of IHOP is shared between Aboriginal and Torres Strait Islander people and the Commonwealth (through IBA).

In 2005, the Commonwealth transferred the Program's $416 million loan portfolio to IBA. Since 2005, a further $179 million has been invested in the IHOP. IBA has grown the Commonwealth's investment to a loan and liquid asset portfolio of $865 million (as at 30 June 2013). This represents a growth of the Commonwealth's investment of $270 million through earnings. Over the same period, IBA has used the IHOP funds to assist over 4,250 Aboriginal and Torres Strait Islander households to purchase their own home. The value of the loans made exceeds $1 billion. IHOP also provides indirect benefits to the Commonwealth in terms of savings to the budget. While these savings are more difficult to measure, the Urbis report[3] estimates the potential future savings to Government that could arise due to IHOP clients not seeking Government-supported housing upon discharging their loans to be in the order of $167 million to $669 million per 100 households over a twenty year period.

To maximise the impact of the Commonwealth's investment, IBA funds as many loans as possible in partnership with mainstream lenders (these loans are known as 'split loans'). Last financial year, 196 such loans were made representing 30% of new loan approvals. The private sector contribution was equivalent to $42 million in additional funding for Aboriginal and Torres Strait Islander home buyers.

IBA protects the Commonwealth's investment by providing high levels of support to its customers to reduce default, and subsequent loss.

IBA's loan customers are considered a high-risk market segment when benchmarked against the customers of mainstream banks and financial institutions. Consequently the level of loan arrears in the IBA portfolio is expected to be higher than the market average. This is evident in the loan arrears date which shows that, as at 30 June 2013, 2.34% of IBA loans were 90 days+ arrears as compared to the market average of 0.59%.

However, IBA's arrears rates compare favourably when viewed against the industry benchmark for non-conforming loans (high risk, non-standard loans). As measured by Standard and Poors the banking industry average of non-conforming loans 90 day+ in arrears is 3.39%.[4] IBA has only 2.34% of loans in this category. The reduction results from IBA's service delivery model, and in particular from its commitment to strong pre and post-loan support. This support reduces the risk of default and ensures IBA's customers make the transition from borrowers to home owners successfully.

The value to IBA's customers from home ownership has been considerable. This value includes both direct economic benefits (measurable by, for example, increases in personal asset value and savings), to broader indirect benefits such as security, privacy and control. IBA estimates that capital gains resulting directly from home ownership have created an additional $1.9 billion in personal asset value for its customers.

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[3] Urbis Pty Ltd. (2010). *Cost effectiveness assessment of IBA's home ownership program* (Report: Stage Two). Sydney: Author.

[4] Standard & Poors Residential Mortgage-Backed Securities (RMBS) Performance Watch Report, March 2013.

IHOP has made an important contribution to the increase in Aboriginal and Torres Strait Islander home ownership participation rates in Australia. IBA estimates that 20% of the improvement in participation rates from 1976 is attributable to IHOP.

IHOP also enables Aboriginal and Torres Strait Islander people to access finance to buy a home on Aboriginal land. In 2012-13, an expansion of this program resulted in 18 new borrowers in the remote Northern Territory communities and 8 borrowers located in far north Queensland communities. Over the past six months, IBA has approved a further 24 loans in Emerging Markets. While these numbers are low in absolute terms, the loans represent a significant development milestone for owners of Aboriginal and Torres Strait Islander land.

In the last financial year, IBA made 664 new home loans, valued at $173 million. The program made 75% of these loans to regional and remote customers.

Many people believe that banks could provide IBA's home loan product and its services more effectively. However, IBA operates in a different regulatory and commercial environment to banks. The implications of these differences for IHOP are considerable.

First, IBA is not an Authorised Deposit-taking Institution (ADI) and therefore is not required to comply with Basel III legislation which sets out international standards and regulations in relation to credit risk and minimum capital requirements of financial institutions for ADIs. Under applicable capital adequacy rules, Australian banks are required to hold additional capital for lending with high loan-to-value ratio (LVR), amongst other risk metrics. This lending is closely scrutinised by Australian Prudential Regulation Authority and shareholders.

IBA's loan portfolio does not meet the characteristics that are inherent in a bank home loan portfolio. A recent analysis by a leading bank, found that 85.6% of IBA loans had a LVR of 72% or more, relative to 32.2% across the broader lending market. In 2012-13, 90% of the mortgages written by IBA had an LVR of greater than 80%. This equates to over 600 families in 2012-13 that would either have had difficulty securing a mortgage due to mortgage insurance requirements, or had increased costs related to paying for the insurance.

Since 1975, IHOP has assisted 16,000 Aboriginal and Torres Strait Islander families to purchase their own home.

IBA estimates that the resultant capital gains have resulted in a total increase in personal asset value of over $1.9 billion for IHOP customers.

Credit providers typically require a customer to pay for mortgage insurance for any home lending that has an LVR over 80%. The insurers have guidelines that the loan profile must meet which include customer type and location of the asset to ensure it is in a market that is considered 'liquid'. The cost of this insurance is passed on to the customer. IBA does not require mortgage insurance.

The *National Consumer Credit Protection Act* (NCCP) also has significant implications for mainstream lenders. IBA is exempt from this legislation (in recognition that it would preclude the customer group that IBA was created to facilitate in to home ownership), but mainstream banks are not. This legislation is supervised by Australian Securities and Investment Commission (ASIC) and is far reaching in how lenders must assess and provide regulated credit, such as mortgages. Credit providers are legally obliged to determine that borrowing is 'not unsuitable' for the customer. The different banks approach this in different ways, however typically they will take in to account evidence such as genuine savings (i.e. whether the person has saved their own deposit), and that there has been no evidence of significant hardship in the last two years. A very large number of IHOP customers don't have genuine savings and face hardship.

IBA's exemption from the regulations and licensing requirements of mainstream lenders does not result in lower standards of transparency or higher levels of consumer risk because it is a Commonwealth agency. As such, it is open to the Administrative Appeals Tribunal to review its lending decisions, its documents can be accessed under Freedom of Information laws, its policies and programs are subject to the oversight of the Minister and Parliament, the Commonwealth Ombudsman and the Information Commissioner. It is expected to uphold the standards of the Commonwealth in its dealings with its customers. The different environment permits IBA to take on additional risk and manage it in a way that differs significantly from the banks.

Banks cannot provide the levels of customer support that are provided by IBA. Banks run systems and processes that deal with large volumes and are geared towards providing services to informed borrowers who have the means and capacity to pay back a loan. Apart from the fact that most IBA customers do not meet the loan criteria of mainstream banks the numbers of Aboriginal and Torres Strait Islander clients and their special requirements would not represent a viable business segments for the banking sector.

The impact of business development

Businesses create real and lasting benefits for their owners, employees, families and communities and also drive the creation of jobs, through direct employment and also the multiplier effect.

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 (BDAP). BDAP provides business finance to Aboriginal and Torres Strait Islander people who are unable to access bank finance. It supports Aboriginal and Torres Strait Islander business owners to succeed.

Since 2004-05, BDAP has assisted 734 Aboriginal and Torres Strait Islander people to become business owners.

IBA's research demonstrates that each successful business loan (with an average loan size of $200,000) directly supports 2.3 Aboriginal and Torres Strait Islander jobs. However, the broader economic benefits are much wider as Aboriginal and Torres Strait Islander businesses are increasingly a provider of goods and services in the supply chains of corporate Australia, consumers and government.

In 2012-13 IBA made 95 new loans valued at $22 million. A further 16 loans valued at $1.03 million were referred by IBA to other finance institutions.

The Commonwealth's overall investment in BDAP is difficult to calculate because the program has been delivered since 1974 by a number of different agencies.

The value of business ownership to IBA's customers is substantial and ranges from increases in standard of living to pride, confidence and independence. Aboriginal and Torres Strait Islander entrepreneurs are role models, leading the way for others and contributing to Australia's growth and productivity.

Consistent with its legislative functions, IBA actively promotes the benefits of business ownership to the Aboriginal and Torres Strait Islander community. Last year, IBA responded to over 2,200 business related enquiries for assistance. 1,723 Aboriginal and Torres Strait Islander people participated in IBA's Into Business Workshops which were held across Australian and on the Torres Strait Islands.

For Aboriginal and Torres Strait Islander people who are already in business, BDAP provides support to Aboriginal and Torres Strait Islander business owners to succeed. Business support is tailored to the needs of individual business. It is provided by independent experts, including accountants, financial advisors and industry specialists. The types of support include:

- help to prepare a business plan
- training in how to operate a business
- assistance to develop financial management skills or systems
- advice on business improvement or growth options
- access to a business mentor.

To overcome some of the challenges for new business owners, IBA invests heavily in business skill development at the commencement of a customer relationship and will take longer than private sector financiers to assess loan proposals because of the inherent high risk involved in proposals that do not meet standard bank lending criteria.

Each IBA loan (average loan size of $200,000) directly supports 2.3 Aboriginal and Torres Strait Islander jobs.

IBA's longitudinal study on Aboriginal and Torres Strait Islander business owners provides evidence that the provision of this support to Aboriginal and Torres Strait Islander business owners is critical to their business success.

The support means that despite the high risk nature of IBA's loans, and the challenges facing all small businesses, IBA's customers achieve business survival rates that equal or exceed the survival rates of businesses in the broader economy. IBA business loan clients are achieving business survivability rates of 90% after one year, 79% after two years and 68% after three years respectively.

IBA has designed the BDAP to do more than support the overall number of Aboriginal and Torres Strait Islander businesses in the economy. It is also focused on building the depth of the Aboriginal and Torres Strait Islander business sector - that is, the size and scale of Aboriginal and Torres Strait Islander businesses to enable business growth. Moving up the supply chains of corporate and government Australia is critical to Aboriginal and Torres Strait Islander business success at every level in the Australian economy.

Larger and more profitable businesses will support higher employment. The evidence is strong that Aboriginal and Torres Strait Islander businesses support Aboriginal and Torres Strait Islander jobs. In 2010 Supply Nation conducted a national survey of its membership. It found that 72% of Aboriginal and Torres Strait Islander businesses had employees that were also Aboriginal or Torres Strait Islander. This trend is also apparent in IBA's small business customers. Last year, IBA's business loan customers employed 300 people. 79% of these employees were Aboriginal and Torres Strait Islander peoples. Work is also underway to measure the additional impact of IBA business support on broader employment outcomes, and anecdotal evidence suggests this is considerable.

IBA has capitalised on its close working relationship with Supply Nation to offer growing, established Aboriginal and Torres Strait Islander businesses opportunities to access support and finance in a streamlined, efficient manner. New initiatives such as IBA's fast-track loan assessment and marketing package for Supply Nation members provides established business owners access to fast loan assessments and a suite of marketing products to complete new supply contracts with large corporations or to get businesses to a bigger market. Last financial year, this new product enabled Aboriginal and Torres Strait Islander businesses to win an additional $4 million in major contracts. Financial year to date, fast track loans have enabled approximately $24.4 million in contracts.

Specifically, IBA is working on a proposal to significantly scale up Aboriginal and Torres Strait Islander business access to public and private sector supply contracts, by establishing an open and information-rich market exchange. IBA's business development and assistance would fall in behind supply relationships, supporting Aboriginal and Torres Strait Islander supplier businesses to achieve and sustain the capability and capacity required by real market needs. These initiatives will help IBA to support

Aboriginal and Torres Strait Islander businesses to create further Aboriginal and Torres Strait Islander employment.

IBA also recognises that Aboriginal and Torres Strait Islander business ownership can take many forms. In conjunction with Social Ventures Australia and Reconciliation Australia, IBA is currently piloting the Aboriginal and Torres Strait Islander Social Enterprise Fund (ISEF) opening new avenues for Aboriginal and Torres Strait Islander social enterprises that utilise commercial business models as a basis for funding social activity. ISEF is a venture capital product to provide targeted support services and fund growth and diversification, with a view to increasing Aboriginal and Torres Strait Islander business and employment outcomes.

Building economic independence and commercial capability through investment

IBA's investment activity commenced in 1990 with the establishment of the Aboriginal and Torres Strait Islander Commercial Development Corporation (commonly known as CDC). CDC was renamed Indigenous Business Australia in 2001.

The Commonwealth made intermittent investments of seed-capital, (in aggregate $70.4 million) until 1999. Since that time, IBA's Equity and Investment program has been entirely self-funded. Our investment returns fully fund all of the program's costs and activity. As at 30 June 2013, IBA's share of the portfolio was valued at $206 million, with Aboriginal and Torres Strait Islander and private sector partners holding a further $80 million and $29 million in equity respectively.

IBA investments facilitates sustainable commercial investment by:

- applying our capital, experience and skills to access financially sound opportunities
- bringing together Aboriginal and Torres Strait Islander people, industry specialists and private investors
- building commercial capability through partnership, hands-on mentoring, employment and training.

The program provides Aboriginal and Torres Strait Islander people with meaningful opportunities for:

- asset ownership
- stable and enduring income streams
- capacity development
- employment and training
- supply chain contracts.

IBA investments facilitates sustainable commercial investment by:

- **applying our capital, experience and skills to access financially sound opportunities**
- **bringing together Aboriginal and Torres Strait Islander peoples, industry specialists and private investors**
- **building commercial capability through partnership, hands-on mentoring, employment and training.**

The program focuses on investments of between $5 million and $25 million in commercially sound ventures across sectors and industries, using a range of business structures. IBA's key investment criteria have been developed specifically to maximise Indigenous Economic Development outcomes.

Prudent financial investment is, and has always been, at the core of IBA's investment philosophy.

Accordingly, IBA believes that Indigenous Economic Development should not focus only on Aboriginal and Torres Strait Islander employment, nor should it be limited to initiatives in remote Australia. Although such initiatives play a role within the economic development continuum, effective economic development requires also strategic, planned and astute investment in wider commercial opportunities, so that Aboriginal and Torres Strait Islander people can derive value and returns from participating fully in commercial markets.

IBA's investment portfolio is self-funded, with no government appropriation since 1999. IBA's share of the portfolio is valued at $206 million (excluding cash and cash equivalents), and through prudent investment has grown to more than 2.5 times the seed funding received from Government.

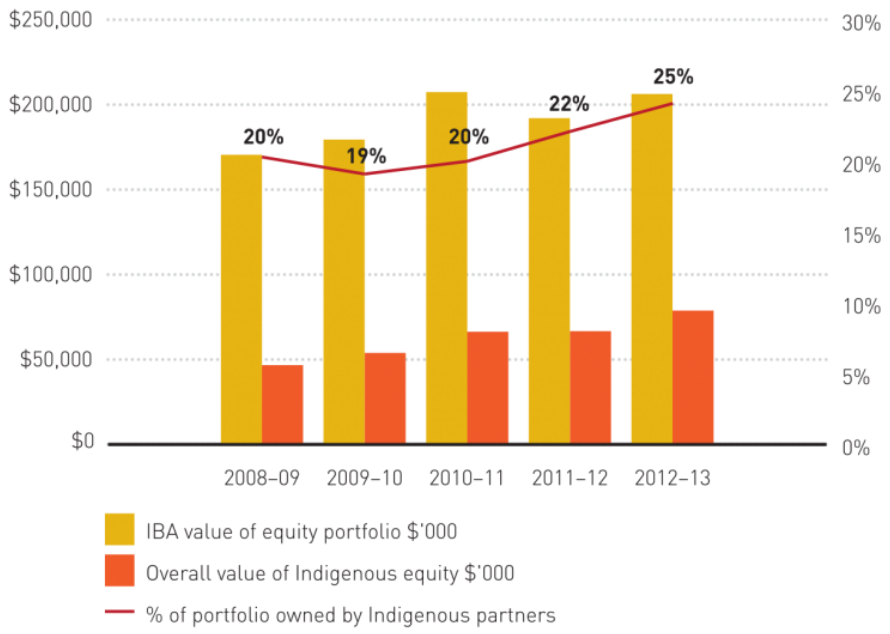
Our Investment Portfolio

IBA currently has investments across Australia, and over its history has invested in every State and Territory. 59% of IBA's portfolio is invested in regional or remote Australia. See Annexure E for a snapshot of the Investments program.

In 2012-13, the portfolio generated a surplus of $10.5 million for IBA. We use our surplus funds to pursue new investment opportunities, and to reinvest in existing investments to enable their growth and ongoing plans.

IBA's Aboriginal and Torres Strait Islander partners, including co-investors and employees, benefited from $24 million in distributions, salaries and supply chain and other payments. As at 30 June 2013, 25% of the portfolio ($80 million in equity) was owned by Aboriginal investment partners. With a concerted and strategic approach, enhanced in recent years, the level of Aboriginal and Torres Strait Islander equity, both in absolute terms and relative to overall portfolio size, is increasing. This is illustrated by Diagram 1 below.

DIAGRAM 1: Value and percentage of Aboriginal and Torres Strait Islander equity in the investment portfolio and percentage owned by Aboriginal and Torres Strait Islander partners



Creating sustainable investment partnerships

IBA plays a key role in bringing together private sector capability partners, private investors and Aboriginal and Torres Strait Islander people into sustainable commercial partnerships. Across its portfolio, and over two decades, IBA has been able to attract private investors and leading industry capability partners from the resources, tourism, retail and other sectors into ventures that generate Aboriginal and Torres Strait Islander economic impact.

IBA is able to do this because:

- Aboriginal and Torres Strait Islander organisations, businesses and entrepreneurs place a high premium on investing alongside a trusted and aligned partner, with a statutory mandate to facilitate economic independence and self-management
- With more than 23 years of experience investing alongside Aboriginal and Torres Strait Islander people, IBA is commercially-oriented, agile and able to bring-to-bear its cultural capability and commercial expertise. Our partners draw a high degree of confidence from IBA's commercial approach and co-investment of capital, which are underpinned by rigorous due diligence
- IBA has a long-term investment horizon, risk appetite, investment and exit strategies which are specifically designed to facilitate ownership and control, or other desired outcomes, for our Aboriginal and Torres Strait Islander investment partners
- With its self-funded capital base IBA brings scale to projects, enabling Aboriginal and Torres Strait Islander organisations, businesses and entrepreneurs to access opportunities otherwise not available to them
- IBA has a specific and concerted focus on developing the commercial capability of its Aboriginal and Torres Strait Islander partners who participate directly on the boards of our portfolio companies, engaging deeply in commercial, strategic and economic development decisions.

CREATING INVESTMENT PARTNERSHIPS: A CASE STUDY

The Minjerribah Camping Pty Limited business venture was the result of lengthy negotiations between IBA and the Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC) Registered Native Title Body Corporate.

The island's original camping business - Straddie Holiday Parks were run by Redland City Council. A historic Native Title Determination transferred ownership of the business and control of the land on which it was operating from the Council to QYAC.

IBA and QYAC signed their commitment to the joint venture on North Stradbroke Island in November 2012. The camping business, now known as Straddie Camping has taken over administration and management of the island's six holiday parks and two foreshore camping grounds (a total of 1,200 sites).

With more than 85,000 people visiting North Stradbroke Island each year, the venture is producing significant employment and income outcomes for the Quandamooka community.

50 per cent of employees are Aboriginal and Torres Strait Islander, with further employment expected from a capital works program.

Aboriginal and Torres Strait Islander economic impact

Over the past two years, IBA has implemented a systematic approach to drive and measure outcomes in Aboriginal and Torres Strait Islander employment, training, supply chain outcomes, skills and capability development. The Investment program in particular, has been at the forefront of impact measurement in Australia, through development of an innovative Aboriginal and Torres Strait Islander economic impact

measurement tool. This has resulted in an increased strategic focus on broader economic outcomes from our investments (see ‘Creating Broader Economic Impact’ below).

In addition to employment, training and supply chain outcomes, capacity development is a key focus of our investment activity. In 2013, IBA established a dedicated unit to support Traditional Owner groups and Native Title holders to maximise economic development opportunities from their rights in lands and waters, by assisting them to build their capacity to make informed strategic and investment decisions. Through this unit, IBA is broadening its reach beyond current partners to build the pipeline of well-governed, well-advised, investment-ready Aboriginal and Torres Strait Islander organisations, positioning them for self-sufficiency and self-management.

Innovation

IBA has developed innovative strategies and investment products for Aboriginal and Torres Strait Islander investors that aim to generate employment and supply chain outcomes in addition to strong financial returns. In each case we have drawn on our investment experience and internal capability, as well as input from seasoned professionals from our customers, and senior members of the investment advisory, private equity and corporate finance sectors.

MOBILISING THE ABORIGINAL AND TORRES STRAIT ISLANDER INVESTMENT MARKET: A CASE STUDY

Aboriginal and Torres Strait Islander people are increasingly accessing funds through settlements, royalties and commercial activity. Many community and Traditional Owner groups have indicated a strong desire for IBA to co-invest with them in broader commercial opportunities from which they derive sustainable returns for current and future generations. In 2013, IBA established the first Australia-wide Aboriginal and Torres Strait Islander-owned, Indigenous Real Estate Investment Trust (I-REIT) to enable Aboriginal and Torres Strait Islander investors to access a diversified, professionally managed commercial property portfolio, with integrated economic development outcomes (through the property management services contracted to the assets). Investors in the I-REIT will be able to re-invest distributions into Indigenous Economic Development activity such as local business and supply chain opportunities.

IBA is developing a number of other initiatives, such as Indigenous Entrepreneurs Fund, to support Aboriginal and Torres Strait Islander entrepreneurs with growth capital, mentoring, education and access to corporate networks. We are also developing new financing structures to attract private capital to Indigenous Economic Development (such as Indigenous Convertible Bonds and financing structures).

Creating Broader Economic Impact

Over the past two years IBA has enhanced its approach to generating broader impact. Often our activities have a multiplier effect, creating impact beyond the immediate investment or venture.

MULTIPLIER EFFECT AND BROADER ECONOMIC IMPACT

In May 2013, IBA engaged EY to report on the economic contribution of Tjapukai Cultural Park to the Cairns and Queensland economies.

EY estimated that 87 people were directly employed by Tjapukai, and a further 47 people were employed as a result of the indirect impacts of the business. Similarly, Tjapukai's activities in FY13 are estimated to have contributed $4.7 million in value add for the Cairns region and a further $5.06 million from indirect impacts (for a total of $9.75 million).

At a state level, these impacts are somewhat larger. For the State as a whole, Tjapukai's activities resulted in the indirect employment of an additional 64 people, contributing to a total of 151 people employed in FY13.

In terms of multipliers, which is the proportional increase from the direct to total contributions (direct plus indirect):

- The value add multiplier is 2.08 for the Cairns region and 2.55 for Queensland
- The employment multiplier of 1.54 for the Cairns region and 1.74 for Queensland.

These are similar to the multipliers of the tourism industry throughout Queensland as a whole which show a GSP multiplier of 2.10 and an employment multiplier of 1.77.

Supply chain opportunities

Through its small business program, IBA works with Supply Nation, Indigenous Chambers of Commerce and other local networks to support Aboriginal and Torres Strait Islander-owned businesses to grow their customer base and access commercial opportunities. IBA is also considering innovative new approaches, such as the establishment of an information rich exchange or platform through supply chain outcomes can be enhanced.

During the 2012-13 financial year, IBA's investments procured more than $4 million worth of goods and services from Aboriginal and Torres Strait Islander suppliers, and IBA is implementing new approaches to increase supply chain outcomes from its investment activity.

Additionally, in 2012-13, IBA itself procured goods and services from more than 63 Aboriginal and Torres Strait Islander suppliers, creating more than $4.2 million in financial benefits for Aboriginal and Torres Strait Islander people.

Employment

Although IBA was never intended to, and does not, operate purely as an employment program, IBA assists to drive Aboriginal and Torres Strait Islander employment in a number of ways:

- we employ and hire Aboriginal and Torres Strait Islander people
- we support and lend to Aboriginal and Torres Strait Islander businesses that create jobs
- we invest in commercial joint ventures that create jobs, often in places with few job alternatives
- our investments deliver strong returns to Aboriginal and Torres Strait Islander joint venture partners, many of whom re-invest in community enterprises which in turn, create jobs
- we promote Aboriginal and Torres Strait Islander employment in our dealings with commercial partners
- we support leading Aboriginal and Torres Strait Islander entrepreneurs, many of whom are leading employers of Aboriginal and Torres Strait Islander people and can be influential role models for others.

Last year, 1,205 jobs were directly created by IBA. Of these, 496 were Aboriginal and Torres Strait Islander jobs. This represents an Aboriginal and Torres Strait Islander employment rate of 41%.

Employment through investment activity

The majority of IBA's investments create direct employment opportunities for Aboriginal and Torres Strait Islander people. To ensure its investments support Aboriginal and Torres Strait Islander employees, IBA:

- develops partnerships with Aboriginal and Torres Strait Islander people and local employment service providers
- promotes inclusive and culturally aware workplaces
- implements best-practice Aboriginal and Torres Strait Islander employment and retention strategies
- assists staff members who move or plan to move from Aboriginal and Torres Strait Islander communities to pursue employment opportunities.

In 2012-13, IBA's investments provided employment for 225 Aboriginal and Torres Strait Islander people, resulting in total salaries of $15.7 million.

Employment through small business support

Our model in small business support is to assist entrepreneurs into sustainable businesses, by providing advice and concessional business finance. These businesses do not meet bank criteria (mainly due to insufficient security), so they would not be able to get started without IBA assistance. On average, each small business we support (with an average loan size of $200,000) creates 2.3 jobs, creating sustainable self-employment for an Aboriginal and Torres Strait Islander family. Last year, IBA's small business customers employed 300 people. 79% of them were Aboriginal and Torres Strait Islander.

IBA WORKING IN PARTNERSHIP FOR BROADER GOVERNMENT OUTCOMES: A CASE STUDY

The Indigenous Economic Development Trust (IED Trust) was established in 2007 through an agreement between the Australian Government and IBA. Under the agreement, IBA as trustee of the IED Trust receives funds for future acquisitions, and proceeds from rentals or sales of assets. IBA draws on its property management expertise to manage these assets and gives priority to Aboriginal and Torres Strait Islander individuals or organisations when leasing them.

In 2012-13, the IED Trust delivered key projects for Commonwealth departments and is expanding its network, to provide essential service infrastructure in remote communities.

In partnership with Department of Health, IBA (through the IED Trust) helped re-establish the Mareeba Therapeutic Community with the Queensland Drug and Alcohol Council (QDAC). The property previously hosted an Indigenous alcohol and rehabilitation centre run by the Aborigines and Islanders Alcohol Relief Services (AIARS), which closed in 2009 when the service providor went into administration. In 2011, the property was transferred to the IEDT by the Department of Health's Office of Aboriginal and Torres Strait Islander Health (OATSIH).

QDAC entered into a lease with the IEDT to provide residential rehabilitation services (as a contracted service provider to OATSIH). Opening in May 2012, the Mareeba Therapeutic Community provides Aboriginal and Torres Strait Islander peoples in Cairns and surrounding areas with access to an effective and culturally appropriate drug and alcohol residential rehabilitation service. Previously, they would have to leave their home communities to travel interstate to access services.

The organisation also provides employment opportunities for the local community; 75 per cent of staff members are of Aboriginal and Torres Strait Islander descent. The property also has 14 hectares of agricultural land that QDAC plans to incorporate into its program of training and accreditation in agriculture.

Training and capability development

IBA believes that job-relevant training significantly improves Aboriginal and Torres Strait Islander people's ability to become economically self-sufficient. As such, IBA actively encourages its investee businesses and capability partners to provide training for their Aboriginal and Torres Strait Islander employees. This training includes formal skills development, on-the-job training, traineeships, apprenticeships, cadetships and mentoring. In 2012-13, IBA invested $0.16 million in training for 114 Aboriginal and Torres Strait Islander people.

Throughout the 2012-13 financial year, 1,723 Aboriginal and Torres Strait Islander people participated in a total of 412 IntoBusiness (ITB) workshops. The purpose of these workshops is to help participants determine the viability and sustainability of their business ideas, and to prepare them to plan the next steps of their business models. As of 31 October 2013, 118 workshops have been attended by 549 participants since the beginning of the 2013-14 financial year.

IBA provides support to potential customers for pre-enterprise training and post-enterprise acquisition training. In the 2012-13 financial year, 374 requests for post-loan mentoring were approved. Between July and November 2013, there have been 146 business support approvals. Business consultants may assist the customers to produce their mandatory business plan prior to loan assessment, and help decide whether to expand operations, retract operations, or exit the business.

CHAPTER 2: The optimal structure of government effort

Understanding the scope of current effort

The Review has been asked to consider the optimal structure of government effort to address Indigenous Economic Development and is specifically tasked with considering the option of merging IBA and ILC into a single entity.

The IBA Board notes that efforts to address Indigenous Economic Development are shared across a wide range of agencies. For example, in addition to ILC and IBA, other agencies making a significant contribution include Aboriginal Hostels Limited, Torres Strait Regional Authority, Native Title Representative Bodies, Land Councils, Office of the Registrar of Indigenous Corporations, Aboriginal medical services, Aboriginal legal services, local government authorities, many government departments and the community and private sectors. This reflects the reality that economic development encompasses endeavour in areas as diverse as health, education, infrastructure, social services, law, culture, land, business, corporate regulation and finance.

The Review will need to consider the full scope of this current effort, and what part different agencies play, in order to determine appropriate options for optimising the structure of that effort. For example, support to the Aboriginal and Torres Strait Islander small business sector is currently provided by a number of organisations delivering parallel programs that could benefit from better integration.

In relation to the specific proposition to integrate ILC and IBA, the IBA Board considers a merger would not deliver savings or better outcomes, and would involve significant execution risk and disruption to delivery of services to Aboriginal and Torres Strait Islander people.

Both organisations are mature organisations successfully playing important roles in driving Indigenous Economic Development. However their roles are very different.

ILC is focussed on acquiring land and assisting Aboriginal and Torres Strait Islander people manage land for a broad range of social and cultural purposes. This reflects the history of ILC, which was established as part of a settlement of native title rights and interests when the *Native Title Act* was first negotiated.

Social and cultural functions were not included as part of IBA's role. IBA is a commercially focussed organisation and most of its income is self-generated. Parliament was careful to ensure that IBA should operate in a commercial framework, and not combine social and commercial programs.

The history of the effectiveness of Indigenous Economic Development organisations demonstrates that commercially focussed programs have been less effective where they have been integrated with non-commercial or welfare oriented programs as part of a single agency. For further information about this history see **Annexure A**.

IBA's statutory independence

IBA is an independent statutory authority with a different financial framework to government departments. This enables sustained consistent action necessary with a long term plan, which is necessary to deliver self-sufficiency and self-management for Aboriginal and Torres Strait Islander people.

Conversely, the financial framework for Commonwealth departments restricts their capacity to act commercially, including in relation to making loans and recovering debts. Government departments may not invest the money of the Commonwealth without the consent of the Finance Minister and therefore could not deliver IBA's Equity and Investments program.

The IBA Board notes that there are important limits to the existing 'independence' of IBA, including the power of Parliament to approve appropriations of money to IBA, the power of the Minister to give general directions to the Board, to request changes to the Corporate plan and to review expenditure and performance. No Minister has ever sought to issue IBA with a direction, nor has any Board failed to respond to changes in Commonwealth policy. The Board considers that the existing controls strike an appropriate balance between necessary independence and proper accountability to the Minister and Parliament.

The IBA Board acknowledges that all service delivery agencies must continuously focus on increasing access, reducing red-tape and increasing efficiency. This is why IBA's self-generated consolidated revenue has increased from $130 million in 2011-12 to $140 million in 2012-13. It is also why IBA's overhead costs were reduced from 28% of its overall expenditure in 2011 to 22% of overall expenditure in 2013. It is why the Board has invested significantly in technological improvements to IBA's service delivery capability and put in place a number of important new initiatives to improve access and efficiency.

Risks of a merger

The IBA Board is concerned to ensure that the needs of Aboriginal and Torres Strait Islander people are at the centre of this Review's consideration of structural change. We set out below some key areas of concern in relation to a merger of IBA and ILC, which we believe could adversely affect IBA's Aboriginal and Torres Strait Islander customers. In particular, the IBA Board considers that a merger carries the following risks:

- it could inhibit IBA's commercial focus
- it may not result in material cost savings
- it could have adverse downstream effects on investments and business ventures
- it carries large execution risk
- it may negatively impact the financial sustainability of IBA's investment activity.

These risks are discussed in further detail below:

A merger of IBA and ILC could inhibit IBA's commercial focus

Given their different place on the Indigenous Economic Development spectrum, IBA and ILC have developed over time different approaches to suit their service offerings, which are underpinned by different organisational cultures and focus.

Even in the commercial context, without the many additional challenges faced by those involved in Indigenous Economic Development, difficulties in integrating organisational cultures stand at the forefront of reasons for failed mergers. The broad lesson from this history is that integrating non-commercial developmental functions with commercial functions is ineffective.

Further, there is a significant risk of customer confusion arising within a merged entity. Given its commercial focus, IBA does not operate a grants-based platform. IBA has worked hard over many years to develop an approach and product suite which is commercially oriented, and has delivered strong Indigenous Economic Development outcomes. In particular, following the transition of programs from ATSIC to IBA, the focus of lending activity has become increasingly commercial. If IBA were merged with ILC, the combination of commercial activity with grant-making could cause significant confusion, with customers seeking grant-based support which is not conducive to developing commercial capability and longer-term economic independence. As stated above this is indeed one of the fundamental reasons for the separation of IBA and ILC.

The IBA Board is not aware of any evidence of demand from our existing or prospective customers for a merger. In fact, to a large extent, neither our customers nor Aboriginal and Torres Strait Islander people generally have had the opportunity to express their views on a merger through a proper consultation process.

A merger may not result in material cost savings

IBA and the ILC have very little program overlap in the development of Aboriginal and Torres Strait Islander small business ownership. Greater gains can be obtained from integrating/investing in IBA's BDAP with the Indigenous Employment Program, Supply Nation and procurement reform to bolster Aboriginal and Torres Strait Islander participation in supply chains of corporate Australia and government agencies.

Where a joint funding/lending relationship is required for Aboriginal and Torres Strait Islander customers, IBA and the ILC have partnered successfully to deliver economic development outcomes. Last year, IBA and the ILC worked co-operatively and partnered to provide grant and loan funding to assist the Hopevale Foundation to purchase a banana farm in Hopevale.

Merging two organisations is never cost neutral. Generally, the pay-off in terms of centralising corporate and other administrative functions will need to be relatively high in order to off-set the associated and often significant and unforseen costs of such a transaction. Some of the costs will include the cost of integrating different IT and other administrative support systems, loss of efficiency in handling of transactions and loss of expertise.

IBA and ILC are mature organisations which have optimised their controls, processes and systems over time. IBA's overhead costs are relatively low compared to other government departments and agencies, and have been strategically driven down to 22% in 2013 of spending on service delivery. IBA is largely self-funded and with appropriate legislative amendments, has the capability to self-fund more of its activity (and to attract third party capital to co-invest in economic development initiatives).

Accordingly, IBA believes that a merger will realise only very marginal savings at best, given the specialised nature of the services offered, the limited program overlap, differing customer bases and relatively small volumes of corporate transactions and staffing base of both organisations in the overall context of the Aboriginal and Torres Strait Islander affairs portfolio.

Conversely, given the complexity of products, group structures and activity, it will consume and draw valuable financial and human resources away from service delivery and into a complicated and time-consuming integration process.

A merger could have downstream effects on investments and business ventures

It is inevitable that a merger will have downstream consequences beyond the administration of IBA and ILC, affecting IBA's Aboriginal and Torres Strait Islander and private sector investment partners.

IBA's investments are conducted through its subsidiaries and associates, and involve co-investment with Aboriginal and Torres Strait Islander people and private sector organisations, in addition to commercial and management arrangements with external (Government, non-government and private sector) organisations. Each of these commercial ventures has been established and carefully structured to achieve financial, commercial and Indigenous Economic Development outcomes, with the rights and obligations of respective parties negotiated commercially and documented in legally-binding contracts.

Accordingly, as with a merger in a commercial context, it is important to model and consider the extent to which a merged/restructured entity will be able to meet financial obligations in respect of its joint venture and trust arrangements. There should also be careful consideration of the legal, tax and regulatory implications of a merger or other restructure. For example: what rights and obligations would a

merger/restructure trigger in contractual documentation? Are there pre-emptive rights, changes in control or other provisions that need to be investigated and/or any consent obtained?

A merger carries a large execution risk

IBA and ILC are each substantial organisations, each with a significant balance sheet, and operations, systems and processes that have been developed over time to meet customer needs. Together, they hold or are involved in the administration of assets in excess of $3 billion and are involved in many of commercial and business ventures across many sectors/industries.

IBA itself is involved in over 35 commercial ventures, many of which are conducted through subsidiaries and other investee entities. Further, many of these ventures involve co-investment and/or other commercial relationships with Aboriginal and Torres Strait Islander organisations, entrepreneurs and private sector partners. Each of these commercial ventures has been established and structured to achieve financial, commercial and Indigenous Economic Development outcomes.

Any merger of IBA and ILC is therefore more akin to a merger of two substantial corporations, rather than an amalgamation of government service delivery programs. It is fundamentally different to a more typical merger of government departments, or simpler service delivery agencies which have higher volumes of often homogenous type transactions.

One must analyse such a transaction with a commercial lens. In particular, analysis of the benefits and risks of a merger or other restructure of IBA and ILC requires the same level of detailed financial, commercial, operational, legal and other due diligence carried on, as a matter of course, in relation to corporate/commercial mergers.

In the commercial context, despite the goal of increasing performance (and therefore shareholder value), results from mergers are often disappointing compared with results predicted or expected, particularly regarding anticipated savings and synergies.[5]

A merger of IBA and ILC would need to be viewed in light of transactions of equivalent size and complexity in the commercial sphere, with the additional layer of complexity posed by the entrenched disadvantage experienced by both organisations' customers.

[5] Indeed, there are a range of studies which show that at least 50 percent of the time and due diligence conducted before a merger fails to provide an adequate roadmap to capturing synergies and creating value. One of the most comprehensive studies, by Johannes Gerds and Gerhard Schewe (Post Merger Integration (Berlin: Springer Verlag, 2009), 3rd edition), involved a comprehensive empirical analysis, based on an evaluation of one of the world's largest post-merger integration databases of more than 45,000 data points from post merger transactions in all important sectors worldwide, comprising both large enterprises and mid-sized companies. It found that when assessed against objective criteria across four key areas (synergy realisation, organisational structure, people and project risks) almost 50% of post-merger integrations failed. More strikingly, post-merger integrations were grouped into four identified tiers or classes depending on the overall degree of risk, with three out of the four classes/tiers exhibiting a failure rate of 73% or higher.

A merger may negatively impact the financial sustainability of IBA's investment activity

IBA's Investment activity is entirely self-funded, having not received any Commonwealth Government appropriation since 1999. Through its investment activity, IBA has grown its portfolio to $206 million (excluding cash and equivalents) as at 30 June 2013. In order to sustain this, IBA's Investment Strategy contemplates a disciplined and rigorous approach to investment selection, due diligence, portfolio management and governance, drawing on over two-decades of direct investment experience alongside Aboriginal and Torres Strait Islander organisations since the formation of the Aboriginal and Torres Strait Islander Commercial Development Corporation in 1990.

Our Investment Strategy includes carefully weighted risk limits by sector, which was developed in conjunction with leading strategic asset allocation advisers. These are designed to minimise the impact of market conditions or risk events on the portfolio. If IBA were merged with ILC, the combined entity would be heavily weighted towards tourism investments, with more than 50% of portfolio equity (by value) comprising a single investment in Ayers Rock Resort, which carries significant debt.

In addition to over-exposing the combined portfolio to the tourism industry, which is suffering a significant and sustained downturn, IBA's annual portfolio surplus would need to sustain interest costs and any future write-downs. This would present fundamental challenges to the self-sufficiency of IBA's investment activities. It may well also inhibit future investment in other opportunities (including alongside or with Aboriginal and Torres Strait Islander organisations or entrepreneurs) which are otherwise profitable in their own right and capable of generating meaningful Indigenous Economic Development outcomes.

ANNEXURE A

Learning from history: Aboriginal and Torres Strait Islander commercial programs and historical delivery structures

Following the 1967 referendum, the Australian Government became directly involved in the funding and delivery of a range of Aboriginal and Torres Strait Islander programs. Commercially oriented programs have been an ongoing feature, albeit small in comparative monetary terms. Even in the early years, specific structures were established to provide enterprise loans and investments and home loans. However, those structures had varying degrees of success. Interestingly, the basic purpose of the programs has not changed - most of the changes have focused on the delivery mechanism or entity.

Between 1969 and 1980, five (5) organisations were established to assist Indigenous Economic Development. They were:

- Commonwealth Capital Fund for Aboriginal Enterprises (1969-1974)
- Aboriginal Loans Commission (1974-1980)
- Aboriginal Land Fund Commission (1974-1980)
- Department of Aboriginal Affairs (1972-1990)
- Aboriginal Development Commission (ADC) (1980-1990).

The clear theme emerging from the history of the effectiveness of these organisations is that the commercial programs have been less effective where they have been integrated with non-commercial or welfare oriented programs as part of a single agency. The history of these agencies, as well as the historical background to the establishment of IBA, is summarised in more detail below.

Department of Aboriginal Affairs (1972-1990)

As a first step following the referendum, the Commonwealth established the Office of Aboriginal Affairs, which was located in three different departments until the Department of Aboriginal Affairs (DAA) was established in December 1972. For the period to 30 June 1974, the DAA had an Aboriginal business enterprises grants scheme incongruously forming part of its Welfare head of expenditure. Although the location of enterprise grants for accounting purposes changed periodically, the DAA enterprise grants scheme continued until it was transferred to the Aboriginal Development Commission on 1 July 1980.

After the transfer, the DAA retained an interest in economic development. Apart from policies relating to land and mining, the department continued to focus on employment and was instrumental in developing the Aboriginal Employment Development Policy.

Commonwealth Capital Fund for Aboriginal Enterprises (1969-1974)

The first significant individual initiative following the 1967 referendum was the Aboriginal Advancement Trust Account which was established by the Coalition Government in its 1968-69 Budget. This fund was divided almost equally between:

- non-repayable grants to the states and Northern Territory for Aboriginal advancement, particularly in the fields of housing, education and health; and
- the Commonwealth Capital Fund for Aboriginal Enterprises which was established by the *Aboriginal Enterprises (Assistance) Act 1968*.

The Capital Fund was a revolving fund used to make loans to potentially successful enterprises established by Aboriginal and Torres Strait Islander people either individually or cooperatively. Moneys in the Capital Fund could be applied in making loans, providing security for those loans, subscribing for shares or stocks, making payments for the investigation or supervision of a business or meeting any liability under a guarantee.

According to a 2006 research paper, '*Indigenous development - without community, without commerce*' *(Smith 2006)*, the Capital Fund:

> … became a principal source of finance for Aboriginal business ventures. The Commonwealth's Capital Fund was in fact begun by [Dr] Coombs and was devised to alleviate burgeoning rural unemployment and poverty. Coombs' expressed intention was to prevent Aboriginals from becoming a 'dependent, landless proletariat with no other options'… The Capital Fund was initiated when the scale and scope of Indigenous commerce had begun to increase. Importantly, the growth of Indigenous businesses now occurred in an environment in which governments offered positive forms of assistance, in stark contrast to the earlier period of state trusteeship. The stratum of Aboriginal leaders that either held or were seeking land were now able to gain public funds for economic activities and enterprise development on their land', and elsewhere. As a result, Indigenous commercial activities began to proliferate.

The Capital Fund operated until 27 November 1974, when its functions were expanded and embodied in the functions of the Aboriginal Loans Commission.

Aboriginal Loans Commission (1974-1980)

The Aboriginal Loans Commission (ALC) was established by the *Aboriginal Loans Commission* Act *1974* and commenced operations on 28 November 1974. The ALC was constituted as a corporation with perpetual succession subject to the direction of the Minister for Aboriginal Affairs on matters of policy. The ALC Act established two funds:

- The Aboriginal Enterprises Fund (which differed from the Capital Fund in that the ALC could use it to acquire property for the purpose of a business enterprise and, to enable Aboriginals to engage in that enterprise, could sell, lease or otherwise make the property available to an Aboriginal or an approved Aboriginal body)
- The Aboriginal Housing and Personal Loans Fund which could be used to provide loans for:
    - erection or purchase of dwellings or the purchase of land
    - payment of medical, dental and funeral expenses
    - purchase of household effects
    - purchase of vehicles for purposes connected with earning income
    - payment of expenses for or in connection with education
    - repayment of existing debts.

The ALC had mixed success. It was not given the authority to employ its own field network and relied on staff of the Department of Aboriginal Affairs (DAA). This caused considerable friction due to differing priorities and the differing skill sets required to assess loan applications. During its six years of existence, the ALC was subject to general directions given by the Minister for Aboriginal Affairs to set strict lending criteria, restrict housing and personal loans to housing and essential furniture and apply a minimum interest rate to housing loans. These directions imply that the ALC was considered to be insufficiently commercial.

The ALC ceased to exist with the establishment of the Aboriginal Development Commission in 1980 (see below).

Aboriginal Land Fund Commission (1974-1980)

The Aboriginal Land Fund Commission (ALFC) was established by the *Aboriginal Land Fund Act 1974*, which was assented to on 17 December 1974. The ALFC controlled a new Aboriginal Land Fund to purchase land for Aboriginal groups throughout Australia. The legislation required the ALFC to perform its functions in accordance with general directions from the Minister for Aboriginal Affairs. Such directions were given at the outset and included:

- securing land granted against disposal

- obtaining the best form of land title
- acquiring land only on request from an Aboriginal community
- acquiring land for groups that did not already have adequate land available to them
- providing land direct to communities, rather than state land trusts
- generally restricting land purchases for other than purely housing purposes and to non-metropolitan areas
- having regard to economic needs of communities (particularly in NSW and Victoria) which, while not being able to claim traditional ties, have had a long association with particular areas since European settlement.

The ALFC could only provide funds to the value of the land and fixed improvements on it. This meant that the DAA was called on to provide operational and developmental funding to enable communities to conduct 'enterprise' activities on the land. The DAA was requested to provide funding regardless of the weighting of economic and social considerations underlying each purchase.

The conflict between economic and social goals and the inevitable conflicts between the ALFC and the DAA when the department was called upon to provide funds for operations and the development of properties without consultation prior to purchase ultimately contributed to the ALFC's demise. The ALFC's functions were embodied in those of the Aboriginal Development Commission in 1980 (see below).

Aboriginal Development Commission (1980-1990)

The Aboriginal Development Commission (ADC) was established by the Aboriginal Development Commission Act 1980. Having taken on the functions of the former ALC and ALFC, and the DAA Enterprise Program, the ADC's functions were broadly defined as to:

- acquire land for Aboriginal communities and groups
- lend money to Aboriginals for homes
- lend and grant money to Aboriginals for business enterprises.

The ADC adopted a strong commercial focus from the outset. However, shortly after its establishment, the Government transferred the DAA's Housing Grants-in-Aid Program to the Commission. The transfer caused considerable friction, as the DAA retained responsibility for the funding of infrastructure and services, and cooperation between the two agencies was often strained. This resulted in poor planning and missed opportunities. The impact of placing this program into a commercial body was highlighted in Volume 4 of the report of the Royal Commission into Aboriginal Deaths in Custody (1991). The following extracts highlight the issues:

> 4.1.12 The ADC became an important agency in the delivery of social welfare programs to Aboriginal people, particularly after it assumed responsibility for the DAA housing programs in 1983. However, social welfare objectives became increasingly positioned as conflicting with economic independence. Welfare dependence became stigmatised. In 1982, the then Chairman of the ADC, Charles Perkins, stated: 'A sound economic basis will help us to cut the welfare umbilical cord that binds us. Increasingly, we must become active producers, instead of passive users, in the context of the Australian economy. We must develop sound economic and social infrastructures … in order to take control of our own destiny. Unless these imperatives are achieved, Aborigines will continue to be gripped by a counter-productive-hand-out mentality and destined to be a race of economic cripples and perpetual dependants.'
>
> 34.1.13 The transfer of the housing program to ADC brought with it substantial responsibility for the social welfare of Aboriginal people. Before the transfer was effected, the National Aboriginal Conference Chairman, Bill Bird, warned the Minister (Senator Peter Baume) that the welfare orientation of the program was at odds with the ADC's economic development charter. He argued that it would be difficult to reconcile

> the two within the one organisation, as staff skills and outlooks could not be expected to combine such different perspectives.
>
> 34.1.14 In response to the pressing and visible housing needs of Aboriginal people, ADC continued to allocate the bulk of its grant expenditure to social welfare programs. Evidence given to the 1984 House of Representatives Standing Committee on Expenditure's Inquiry into ADC described 96 per cent of land acquisition as being for either social or mixed social/economic purposes, and at the time the committee met, 79 per cent of total program expenditure was in grants and loans for houses. In 1989-90 the cumulative total of enterprise grants represented 15.6 per cent of total grant expenditure by ADC to the end of 1989-90.

These extracts demonstrated that the decision to transfer high-demand non-commercial functions to the ADC effectively required that body to reprioritise, giving less attention to its legislated functions. Thus, the original intent of parliament was to some extent undermined.

The ADC also had administrative problems over its life, many of which were caused by the conflict between social and economic goals. By 1988-89, the Minister for Aboriginal Affairs had issued eight directions in an attempt to remedy perceived administrative deficiencies. In 1988-89, the ADC reported improved practices, such as a newly introduced policy for home loans that included a scheme for prioritising applicants. In the area of commercial development, the commission placed greater emphasis on loans rather than grants, and proposals needed to demonstrate clear prospects of viability. However, the relationship with the Minister was becoming more strained - a number of Ministerial directions were successfully challenged in the courts.

A number of external reviews between 1984 and 1990 criticised the way in which commercial viability criteria were not adhered to in approvals for funding. Three of these reviews, by the Australian National Audit Office (ANAO), the Department of Finance (DOF) and the Office of Evaluation and Audit within ATSIC each concluded that the confusion of social and economic objectives created major difficulties in effectively operating and evaluating the program. The DOF review included a detailed examination of 37 projects. It report concluded that the program had performed badly both in terms of the success of the enterprises funded and also the meeting of government employment targets. There were major omissions in assessing the capability of loan recipients, assessment of project viability, assessment of community support for projects, and in giving priority to projects on the basis of the employment generated.

The review by the Auditor-General, found there were '*serious defects*' in almost all projects and that these resulted from '*defective approval procedures and management controls within the ADC*'. The ADC's enterprise program had, as the audit report saw it, '*occasionally been treated as a welfare program rather than a development program*'; the audit report believed the ADC '*should be careful to distinguish*' between these types of programs. The only consolation which the audit report offered in relation to the ADC's enterprise program was an admission that enterprise support is a program area in which it is difficult to succeed since in '*most communities, success in business is something that many strive for but few achieve …*'

In November 1989 the Aboriginal Development Commission Act 1980 was amended and the ADC lost its legal power to fund social facilities unlikely to be commercially successful.[6] The Minister subsequently sacked eight out of the ten Commissioners.

The Aboriginal and Torres Strait Islander Commission (1989 - 2005)

The next organisation with a blended social and commercial charter was ATSIC. It was established in 1989 and came into existence in March 1990. The work of ATSIC is too significant to summarise here. As a result, this submission limits its focus to ATSIC's business and home lending programs.

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[6] A CAEPR paper, Reconciling public accountability and Aboriginal self-determination/self-management: Is ATSIC succeeding? (Sanders 1993), provided a detailed background to these criticisms and the outcomes of the various reviews.

It is apparent that the government sought to separate social and commercial programs in the establishment of ATSIC, but did not appear to fully appreciate the commercial aspects of lending as these functions were placed in ATSIC. In the second reading speech, the Minister said that the Bill would also create the Commercial Development Corporation (precursor to IBA) which '*is intended to operate on a totally commercial basis. To transfer to it functions of the ADC containing as they frequently do concessional elements such as grants and lower interest loans would jeopardise the commercial standing of the Corporation in the marketplace*.'

In the same speech he stated that the Bill '*clarifies the distinction between commercial and non-commercial activities - a problem that bedevilled the ADC*'.

The available evidence suggests that ATSIC inherited dysfunctional commercial programs from the ADC.[7] While the home loan program fared well, the business loans program needed major restructuring. By 1992-93, ATSIC had overhauled the program and tightened commercial criteria. Through its life, ATSIC struggled with arrears rates and the level of skills available in the field. ATSIC also went through a raft of broad conceptual changes, which resulted in confusion about the objectives of its commercial programs. Such changes occurred frequently and appear to have been triggered by the imposition of other programs. Despite consistent efforts, ATSIC could not balance pressure for community-based funding, and community asset building, with the need for more disciplined lending.

On 1 July 1992, ATSIC inherited a further non-performing program from the then Department of Employment, Education and Training (DEET). The Aboriginal Enterprise Incentive Scheme was a small interest-free loan scheme approved by the Commonwealth Development Bank, acting as agent for DEET. ATSIC conducted a review in the first year and reported a significant reduction in new loan approvals, reflecting ATSIC's requirement that, for a proposal to be funded, the proposal must be assessed as likely to become commercially successful. The review of the existing Aboriginal Enterprise Incentive Scheme loans portfolio showed that most loans were in arrears and many businesses had ceased operations. This program was consequentially incorporated into the normal business lending program from 1 July 1993. However, ATSIC changed the rules of the business lending program to allow for these small loans - undoubtedly compromising the very strong commercial approach ATSIC was seeking to adopt.

Furthermore, ATSIC was part funded to create a new Community Economic Initiatives Scheme (CEIS), which began operating on 1 July 1993. The CEIS was developed in response to the Royal Commission into Aboriginal Deaths in Custody. The Royal Commissioner was critical of the stringent commercial eligibility criteria adopted by ATSIC and argued for a more socially oriented approach. The Royal Commission placed strong emphasis on the need for an economic base in Aboriginal and Torres Strait Islander communities. In particular, the CEIS was a response to Recommendation 311, which called for a clear distinction in ATSIC's enterprise program between projects supported according to commercial viability criteria and those supported according to social development or social service satisfaction criteria. ATSIC was to transfer $5.0 million per year from the Business Funding Scheme (set up under the 1987 Aboriginal Economic Development Policy) in addition to new funds appropriated by parliament.

The CEIS program was to prove to be short-lived, as communities became dependent upon the program to provide open-ended annual funding for 'enterprises' with no prospect of ever being self-sustaining. There was also some cost shifting from other program areas to get rid of problematic projects - for a period, the program was administered concurrently with the land management program.

In 1995-96, ATSIC was maintaining the Business Funding Scheme and the CEIS as separate programs. Continuing that arrangement would no doubt would have led to the same performance problems that confronted the ADC when it mixed commercial and social objectives. ATSIC stated clearly that the Business Funding Scheme was a commercial and not a social program, and that the scheme operated

[7] This view is supported by Australian National Audit Office (ANAO) and Department of Finance reports on those programs while the programs were still part of the ADC. For example, the 1984 House of Representatives Standing Committee on Expenditure Review of the ADC's effectiveness found that 75% of enterprise loans were in arrears and many projects would never be viable.

within commercial parameters - funding criteria were consistent with those applied by commercial lending institutions. The attractions of the scheme were low-interest loans and the availability of business advice and assistance to borrowers.

On the other hand, the CEIS was designed with a more traditional development focus. It contributed to the economic growth and social development of Aboriginal and Torres Strait Islander communities by providing grants to Aboriginal and Torres Strait Islander corporations for the establishment, development or acquisition of small-scale income-generating enterprises. Shortly after the commencement of the scheme, budget cuts significantly reduced its capacity to deliver these objectives. ATSIC announced a review of the CEIS which would examine the scheme's effectiveness in creating income and employment for Aboriginal and Torres Strait Islander people and the scheme's contribution to community service and community development. The following years Annual Report does not discuss the review findings. However, ATSIC decided not to continue the scheme after 30 June 1997.

The scheme was replaced in 1997-98 by the Indigenous Business Incentives Program. ATSIC stated that the replacement program would not be providing support to community organisations. Instead, it would support individuals and corporate structures and would form a '*crucial link*' between the Business Funding Scheme and the Community Development Employment Program (CDEP) which was also being used to support community enterprises.[8] Applicants for funding under the new program were required to undertake small business training before funding was approved. This signalled an intention by ATSIC to tighten the funding framework.

When subsequently introduced, the Indigenous Business Incentives Program was described as providing grant funding to individuals, members of partnerships and community organisations who had a sound business proposal and did not, or would not otherwise, meet the more commercial funding criteria of the Business Funding Scheme or mainstream financial institutions. The emphasis of this program was on seed funding, training and other support to newly established businesses.

By the following year, the Indigenous Business Incentives Program was also gone. ATSIC's annual report for that year stated that from 1 March 1999 the program was incorporated, 'with enhancements', into the Business Development Program, under which eligible applicants might be able to obtain:

- business support services, such as professional advice, training and mentoring
- business finance in the form of loans, grants and guarantees or a grant-loan mix.

Potential confusion remained, as the new funding criteria emphasised the importance of commercial viability, although non-commercial benefits arising from commercial activity were also recognised: '*As these contribute to ATSIC's broader objectives, they are considered in determining the nature and extent of financing that may be offered under the Business Development Program*.'

It is difficult to find any published external reviews of ATSIC's business programs. However, there was sustained criticism of ATSIC in relation to many funding decisions. The decision to abolish ATSIC was formally announced by the Minister on 15 April 2004. The majority of ATSIC/ATSIS programs and services were transferred to mainstream departments on 1 July 2004 through the budget process. A Bill to abolish ATSIC was first introduced into the Parliament in May 2004 and lapsed with Parliament's prorogation. The new Bill was introduced in December 2004. While the two Bills were substantially the same, there were some differences. Following passage and proclamation of the revised legislation, ATSIC effectively ceased in March 2005, although there were certain transitional arrangements.

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[8] For example, ATSIC's 1996-97 annual report reported that under the CDEP program support was provided for:

- five community stores
- trochus fishing and aquaculture
- tourism
- broadcasting and publishing
- performing arts

Legislative history of Indigenous Business Australia

Originally known as the Aboriginal and Torres Strait Islander Commercial Development Corporation (CDC), Indigenous Business Australia was established in March 1990 following the proclamation of the *Aboriginal and Torres Strait Islander Commission Act 1989* (ATSIC Act).

The purpose of the CDC was to enhance Aboriginal and Torres Strait Islander self-management and economic self-sufficiency through a strong Aboriginal and Torres Strait Islander presence in mainstream economic activities. The functions of the CDC were to engage in commercial activities to promote and encourage Aboriginal and Torres Strait Islander self-management and economic self-sufficiency. In the performance of its functions, the CDC was required to act in accordance with sound business principles and have regard to the desirability of:

- encouraging and facilitating Aboriginal and Torres Strait Islander participation in commercial projects and enterprises
- 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
- 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
- making specialist commercial expertise available to Aboriginal and Torres Strait Islander people engaged in commercial activities.

The Explanatory Memorandum to the original Bill makes it clear that the Commercial Development Corporation was originally intended to operate on a strict commercial basis and be treated as a conventional commercial entity. As originally envisaged it was to be liable for taxation and was required to pay a dividend to the Commonwealth after a grace period. The Bill was extensively debated. The Bill was introduced by the Honourable Gerry Hand, then Minister for Aboriginal Affairs. The Second Reading Speech (insofar as it refers to the CDC) is set out in full below:

> The legislation provides for the establishment of a statutory corporation, under the control of Aboriginal and Torres Strait Islander people, with a broad charter to engage in commercial and financial activities.
>
> The Corporations capital base will comprise the $20 million which has been allocated to the capital fund of the ADC since its establishment plus an additional $40 million to be allocated over this and the next three financial years. As a consequence the Corporation will have a very significant capital base.
>
> The Board of directors of the Corporation will comprise a Chairperson, a deputy chairperson and seven other members who will be appointed on a part-time basis by the Minister on the recommendation of the Commission (ATSIC). At least three directors will be members of the Commission.
>
> The Corporation's primary function is to engage in commercial activities in accordance with sound business principles. In performing its functions the Corporation is required to have regard to various matters which might be summarised as advancing Aboriginal and Torres Strait Islander economic interests. The Government expects that the Corporation will enhance the opportunities for Aboriginal and Torres Strait Islander people to be able to break free from the web of dependency and achieve a significant degree of economic independence. It is only when Aboriginal and Torres Strait Islander people are able to take up the challenges of commercial development, and exert influence in the private sector as well as the public sector, that they will be able to participate fully as equals in the nation's economic and political life.

Due to concerns about the performance of the Aboriginal Development Commission (ADC) and the Department of Aboriginal Affairs (DAA), the Bill to establish both ATSIC and the CDC was substantially debated and redrafted. A new Bill was introduced in 1989. There was little amendment to the clauses relating to the corporation, other than those dealing with dividends and taxation. The Government made these amendments to maximise the benefit for Aboriginal and Torres Strait Islander communities from the activities of the new corporation.

The 4 May 1989 second reading speech (Hand 1989) for the revised Bill reinforces the commercial focus:

> A new body, the Aboriginal Economic Development Corporation (AEDC), providing finance and services on an independent commercial basis for major Aboriginal enterprises … clarifies the distinction between commercial and non-commercial activities - a problem which has bedevilled the ADC.

Through various amendments, the corporation was formally created as the Aboriginal and Torres Strait Islander Commercial Development Corporation. It commenced operations on 5 March 1990 with assets transferred from the former Aboriginal Development Commission, mainly: Bonner House, a commercial property located in Woden, Australian Capital Territory; and approximately $9.6 million in funds. These funds were augmented by $10 million a year appropriated for the four (4) financial years 1990-91 to 1993-94.

In 2001, the Commonwealth Government legislated to change the name of the CDC to Indigenous Business Australia. The name change was the end point of a much more ambitious reform agenda commenced in 1997 with the announcement by the Minister of a review into Aboriginal and Torres Strait Islander business and commercial programs. A Ministerial Discussion Paper was released in March 1998 'Removing the Welfare Shackles' (Herron 1998). The paper commented on the merits of consolidating a range of commercial programs and activities administered by CDC and ATSIC under a new corporation (Indigenous Business Australia, or IBA). ATSIC responded by releasing a further Discussion Paper 'Getting on with Business' (ATSIC 1998) which supported retention of the status quo but with an ability for ATSIC to outsource its commercial program delivery. The House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs commenced its inquiry but the Government ultimately decided not to continue with the review and no report has been published. Evidence given to the inquiry was discussed in a paper published by the Centre for Aboriginal Economic Policy Research at the Australian National University (Arthur 1999). The paper states that:

> The evidence provides additional information on issues about which we are already aware. For example, there appears to be a continuing desire to clarify social and commercial goals within indigenous businesses. There is also some interest in establishing businesses that are owned by individuals and families rather than just communities, and in the strategy of joint venturing. A number of access issues were also raised during the Inquiry such as the ability to raise capital from inalienable land and some of the limits of the existing government structures.

In 2005, following the abolition of ATSIC, the Business Development Programs and Home Ownership Program were transferred to Indigenous Business Australia. IBA's enabling legislation was amended to include a specific power to enter into contracts to make loans on such terms and conditions as it thinks fit. The power to make grants and provide guarantees in relation to such loans was inserted into the listed powers of IBA; s152(2)(aa) and the making of loans (and making of grants and giving of guarantees in relation to such loans) were exempted from the requirement to act in accordance with sound business principles; s148(3). New sections 181A and 181B were inserted into the Act to make provision for the New Housing Fund and appeals from decisions about that fund to the AAT.

In 1997, the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs commenced an inquiry into Aboriginal and Torres Strait Islander business. However, after the federal election in late 1998, the Government decided not to continue the inquiry, and no report of the inquiry has been published.

A CAEPR discussion paper (Arthur 1999) summarised some of the evidence given to the inquiry:

> The evidence provides additional information on issues about which we are already aware. For example, there appears to be a continuing desire to clarify social and commercial goals within indigenous businesses. There is also some interest in establishing businesses that are owned by individuals and families rather than just communities, and in the strategy of joint venturing. A number of access issues were also raised during the Inquiry such as the ability to raise capital from inalienable land and some of the limits of the existing government structures.
>
> In March 1998, a Ministerial discussion paper, Removing the welfare shackles (Herron 1998), considered the merit of consolidating a range of commercial programs and activities administered by CDC and ATSIC under a new corporation (Indigenous Business Australia, or IBA). ATSIC responded in Getting on with business (ATSIC 1998), a paper that promoted retention of the status quo but with an ability for ATSIC to outsource its commercial programs to a third party.

ANNEXURE B

IBA - Frequently Asked Questions

Can't the major banks provide home loan products and services for Aboriginal and Torres Strait Islander people more efficiently?

IBA provides finance to people who are not able to satisfy mainstream lending criteria. Typically this is because our clients have insufficient deposits or lower incomes. IBA can provide a loan in these cases because we are exempt from holding an Australian Credit Licence under the National Consumer Credit Protection Act. IBA does not compete with mainstream banks or other home loan lenders.

IBA's decisions differ substantially from those of commercial lenders. IBA delivers a Commonwealth program for the purpose of assisting and enhancing Aboriginal and Torres Strait Islander self-management and economic self-sufficiency. When approving a housing loan, IBA is required to be satisfied that the making of the loan will further the social, economic or cultural development of its customers. Banks and other main stream lenders which are subject to ASIC's Prudent Lending Guidelines, could not lend to almost any of the customers who get finance from IBA.

Doesn't IBA lend primarily to wealthy Aboriginal and Torres Strait Islander people living in cities?

Last year 75% of IBA's new loans were to customers purchasing homes in regional and remote areas. This contrasts to mainstream lenders, where only 30% were to people living in regional and remote areas (Standard and Poors' RMBS Performance Watch Report March 2013). The geographic distribution of IBA's current housing lending is in line with 2011 Census data on the location of Aboriginal and Torres Strait Islander people.

IBA's regional focus is fundamental to delivering its targeted lending products for both established markets (in cities, regional and small towns) and emerging markets (discrete Aboriginal and Torres Strait Islander community townships).

How does IBA help Aboriginal and Torres Strait Islander people get bank loans?

Where an Aboriginal and Torres Strait Islander person qualifies for a bank loan but it not sufficient to buy a home IBA works with the banks to help and provide a split loan. Almost a third of IBA home loan clients receive a split loan.

Why can't the IBA home loan portfolio be sold off to mortgage investors, return the capital to government, and then banks could just provide loans to Aboriginal and Torres Strait Islander people?

Banks have confirmed that there is no appetite in the securitisation market for sale of home loans with IBA's credit quality profile. The credit risk is considered too high for mortgage-backed security investors. If sold, the value of the portfolio would be massively discounted, and would be a poor return to government. Additionally, the government would lose its capacity of self-generating over 500 new home loans each year from the earnings of the existing portfolio. IBA customers would be very unlikely to meet

bank criteria for a loan, as they have insufficient deposits, inadequate credit history, and insufficient income levels.

Wouldn't it be cheaper for governments to provide a social rental house for people, rather than encouraging them into home ownership? Aren't home ownership incentives a waste of money for the tax-payer?

Research has shown that home ownership is a crucial factor in encouraging employment stability, income growth, and social stability.

Other research has shown that the cost of home ownership incentives is significantly lower than the cost to government of providing social rental housing.

If Aboriginal and Torres Strait Islander people want to start a business why can't they borrow from a bank like everyone else?

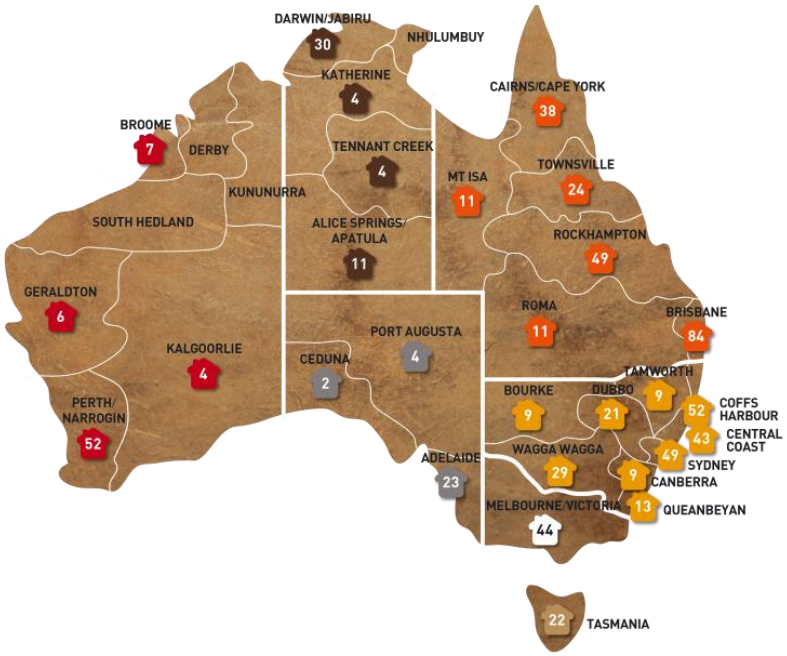
IBA's Aboriginal and Torres Strait Islander business entrepreneurs who are starting a new business would not be able to secure finance from a bank because they do not hold residential or commercial property security sufficient for a bank loan. Aboriginal and Torres Strait Islander people have not had the privilege and advantage of building intergenerational wealth compared to many other Australians. They have not had the opportunity of owning residential, commercial property, business assets, superannuation and other assets, and then using these assets to secure commercial finance needed to commence a business. For most Aboriginal and Torres Strait Islander businesses starting out, IBA is the first and last resort for business support and finance.

ANNEXURE C: Indigenous Home Ownership Program

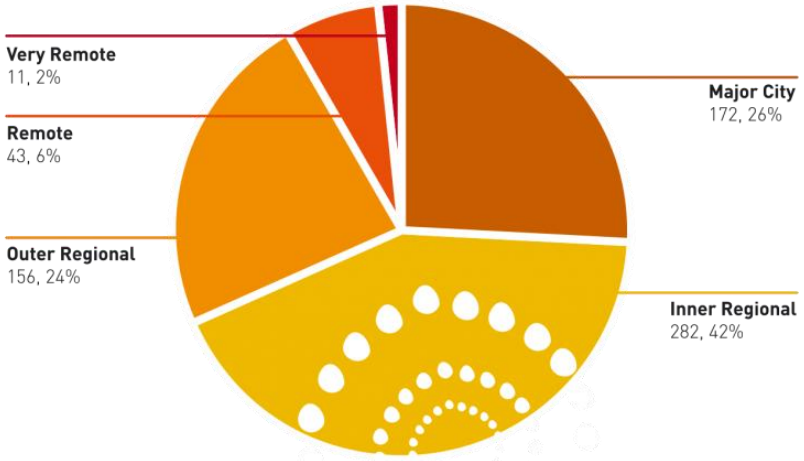
IBA's Indigenous Home Ownership program aims to increase the level of home ownership among Aboriginal and Torres Strait Islander peoples by addressing barriers such as loan affordability, low savings, impaired credit histories and limited experience with long-term loan commitments.

- Since its inception in 1975, the program has provided more than 16, 000 home loans valued at $2 billion and created an estimated $1.9 billion in wealth transfer to Aboriginal and Torres Strait Islander people.
- In 2012-13, IBA provided another 664 home loans to individuals/families.
- IBA currently manages 4,265 active home loans valued at $847 million.
- In 2012-13, 93.5 % of loans were to applicants who are first home buyers.
- IBA is facilitating home ownership opportunities in 12 remote communities.
- 196 loans (29.5 per cent of the total number of loans approved) were funded under a split loan arrangement in 2012-13, where customers obtained part of their funds from another lender.

Distribution of loans across geographic areas, 2012-13

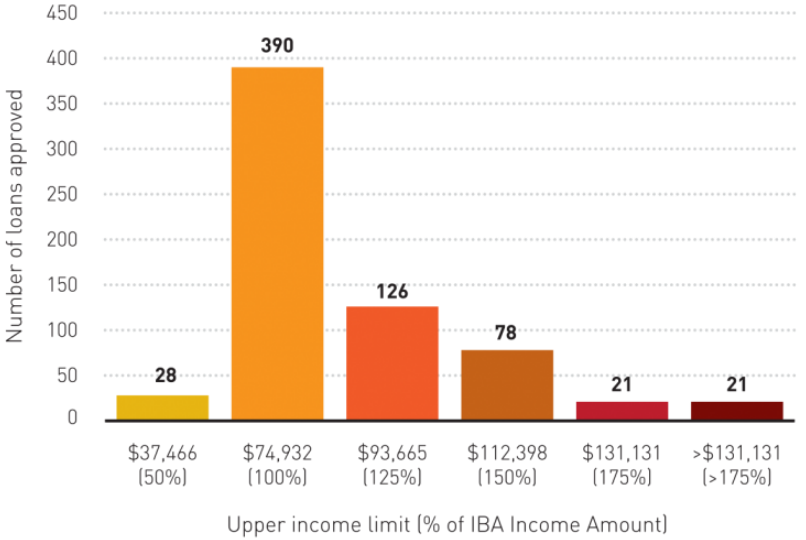


Number of loans by ARIA classifications*, 2012-13



* Based on Australian Indigenous Geographical Classifications.

Loan approvals by income band, 2012-13



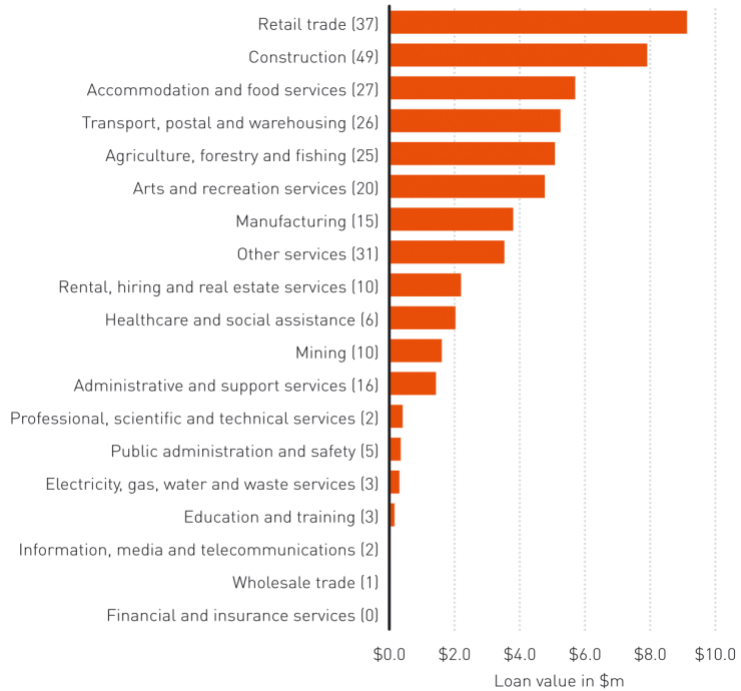
ANNEXURE D: Business Development and Assistance Program

The IBA Business Development and Assistance Program assists Aboriginal and Torres Strait Islander peoples to start, acquire or grow a viable business.

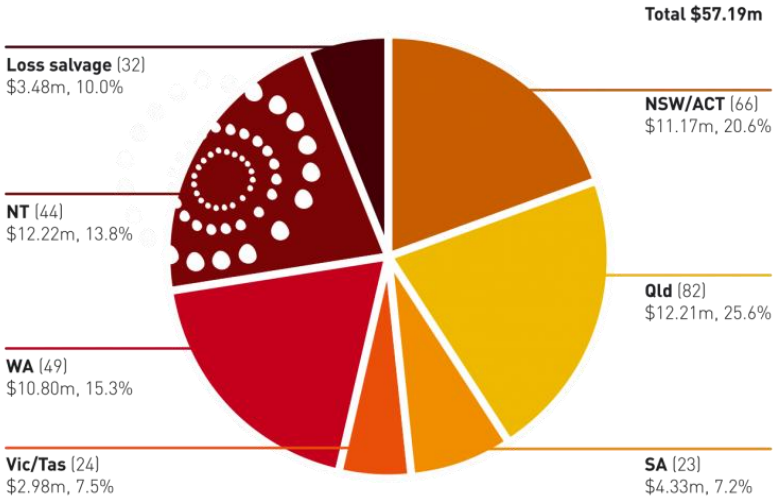
Key program features include *Into Business*™ workshops to build business skills, loans for small to medium businesses where clients do not satisfy bank lending criteria, business support services and funding for projects designed to increase Indigenous business and economic development opportunities.

- In 2012-13, IBA approved 95 new loans for $22 million representing a record year since 2001-02.
- 300 jobs were created through IBA business loans (222 for Aboriginal and Torres Strait Islander people) in 2012-13.
- 1723 participants attended *Into Business*™ workshops in 2012-13.
- As at 30 June 2013 there were 288 active loans in the portfolio.
- In 2012-13, 552 businesses or prospective businesses were provided with business advice or support.

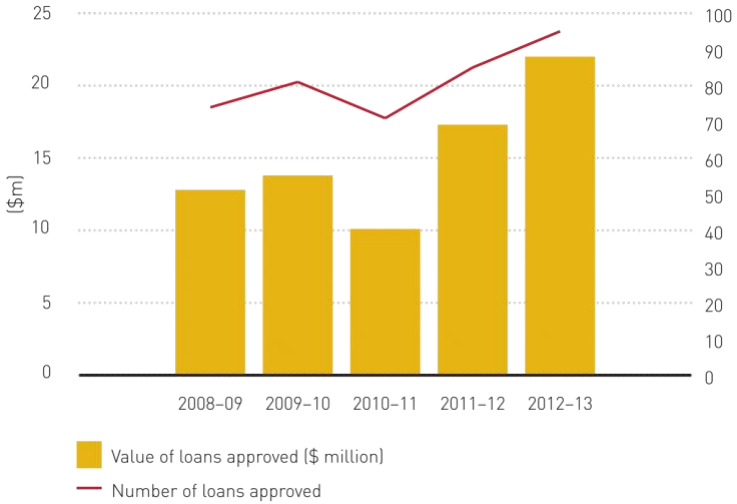
Number, value and industry of business loans as at 30 June 2013



Number, value and location of business loans as at 30 June 2013



Number and value of new business loan approvals, 2008-9 to 2012-13



ANNEXURE E: Equity and Investments Program

IBA's investment portfolio comprises 35 active investments across Australia in a range of sectors, including tourism and hotel accommodation, retail, commercial property and industrial (manufacturing, mining services and primary industries), as well as the Indigenous Economic Development Trust, Asset Leasing Trust and Dominican Indigenous Education Trust.

- Total portfolio equity of $286 million as at 30 June 2013, with Aboriginal and Torres Strait Islander partners holding $80 million.
- IBA's share of portfolio equity $206 million as at 30 June 2013. This is almost triple the government's seed investment of $70.4 million (made up to 1999).
- Completely self-funded since 1999. In 2012–13, the portfolio return was 6.4%.
- In 2012–13, IBA's investments provided employment for 225 Aboriginal and Torres Strait Islander people, resulting in total salaries of $15.7 million.
- In 2012–13, IBA invested $0.16 million in training for 114 Aboriginal and Torres Strait Islander people.
- In 2012–13, IBA procured goods and services from more than 63 Aboriginal and Torres Strait Islander suppliers, creating $4.2 million in financial benefits for Aboriginal and Torres Strait Islander people.

Principal investment sites by location as at 30 June 2013

Investment Portfolio by sector ($'000) and percentage, as at 30 June 2013

Values are based on IBA's share of equity in the relevant investment as at 30 June 2013.

Value of investment portfolio by metropolitan, regional and remote areas ($'000), as at 30 June 2013.