



Chapter 6

The CATSI Act 2006

I am concerned about the effects of the new CATSI Act on the exercise and enjoyment of Indigenous people's human rights.

'CATSI' is an acronym for the *Commonwealth's Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), which came into effect on 1 July 2007. The Act 'primarily provides for the incorporation and regulation of Aboriginal and Torres Strait Islander Corporations'. It replaces the *Aboriginal Councils and Associations Act 1976* (Cth) (the ACA Act).

The CATSI Act significantly changes the law governing Indigenous corporations compared with the repealed ACA Act. We will have to wait to see how Indigenous corporations will experience the changes over the next year or so given the Act has just been enacted.

Notwithstanding, I am concerned about its effects on:

- Indigenous bodies or corporations that hold native title;
- Indigenous corporations that hold or manage other interests in land and sea; and
- interplay between the *Native Title Act 1993* (Cth) (the Native Title Act) and the CATSI Act.

More specifically, my main concerns are:

- that necessary support and resources are provided to Indigenous corporations auspiced by the CATSI Act;
- whether the CATSI Act adequately addresses the incorporation and governance needs of Indigenous people;
- whether the CATSI Act imposes extra administrative burden on Indigenous people (for example, the requirement to amend constitutions);
- that proper funding and guidance be made available for changes to constitutions;
- that there be free, prior and informed consent of members before accepting any changes to constitutions;
- that corporations are able to fulfil their obligations, especially where incorporation is compulsory and obligations are imposed. Examples are native title and corporations established by the Indigenous Land Corporation (the ILC);



- that safeguards included in the CATSI Act are adequate for the protection and exercise of rights, through the attainment of the corporations' objectives; and
- that the CATSI Act does not undermine community control or confine Indigenous self-governance.

About the CATSI Act

The CATSI Act is deemed in its preamble to be a special measure providing for the advancement and protection of Indigenous peoples in accordance with the Racial Discrimination Act 1975 (Cth) and international law (see the appendixes for details of 'special measures').

The CATSI Act provides for:

- the incorporation, operation and regulation of bodies registered under the Act and for duties of officers and their regulation; and
- incorporation of bodies incorporated for the purpose of becoming a registered native title body corporate (RNTBC).¹

The legislation is complex and lengthy and to its credit, the Office of the Registrar of Aboriginal and Torres Strait Islander Corporations (ORATSIC) has developed educational resources to assist understanding of the legislation and its obligations.² The challenge will be to deliver the education resources in a timely and linguistically and culturally appropriate way and to deliver the education materials to new corporations as they are registered.

The CATSI Act arose out of a review of the *Aboriginal Councils and Associations Act 1976* (ACA Act). The review's report, *A Modern Statute for Indigenous Corporations: Reforming the Aboriginal and Councils Associations Act, Final Report of the Review of the Aboriginal Councils and Associations Act 1976* (Cth) was finished in December 2002 (the ACA Report). No exposure-draft legislation was circulated. Extensive consultations were undertaken prior to the development of the bill. Public hearings on the bill were undertaken by the Senate Legal and Constitutional Affairs Committee in October 2005. Two associated legislation promulgated in 2006 were:

- The *Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Act 2006* (Cth), (allows two years for corporations to transfer from the ACA Act to the CATSI Act. The associated legislation also amends provisions in the Native Title Act dealing with prescribed bodies corporate (PBC) and registered native title bodies corporate (RNTBCs) to recognise their registration under the CATSI Act).
- The *Corporations Amendment (Aboriginal and Torres Strait Islander Corporations) Act 2006* (amends the *Corporations Act 2001* (Cth) (the Corporations Act) to remove contradictions and gaps between the CATSI Act and the Corporations Act).³ (Note that the CATSI Act and the Corporations Act are different pieces of legislation.)



Aims of the CATSI Act

The CATSI Act is aimed at promoting good governance and management of Indigenous corporations⁴ while taking into account the special risks and requirements of the Indigenous corporate sector. It is intended to:

- create opportunities for innovation and best practice to flourish within Indigenous corporations;⁵
- modernise corporate governance practices and accountability standards, and improve security for funding bodies, creditors and other parties doing business with Indigenous corporations; and
- provide flexibility for Indigenous groups and communities in designing the corporation's constitution.

Interaction of the CATSI Act and Native Title Act

A key aim of the CATSI Act is to ensure that it interacts appropriately with the Native Title Act.

The Explanatory Memorandum of the CATSI Act states:

The Act [CATSI Act] minimises the incompatibility between the Native Title Act and the CATSI Act through tailored provisions for RNTBCs or in relation to an application made for the purposes of becoming a RNTBC where necessary.⁶

Administration of the CATSI Act

The CATSI Act is administered by the Office of the Registrar of Aboriginal and Torres Strait Islander Corporations (ORATSIC).

Background to the CATSI Act

The CATSI Act came out of the review of the ACA Act and the ACA Act Report that was released in December 2002.

The ACA Act governed the operation of Indigenous corporations since 1976. Its intent was to provide Indigenous groups with a mechanism for flexible, appropriate, incorporation. About 2500 Indigenous corporations were registered under the ACA Act.

The ACA Act was different from mainstream corporations law in that it made provision for Indigenous representative membership, traditional laws and customs and decision-making processes. It also allowed for accountability to members by its governing committee, and a system of local and regional governance for Indigenous communities in the provision of services.



The ACA Act Report

The 2002 review of the ACA Act made two significant recommendations in its report. These were that:

- a thorough reform of the ACA Act be conducted (which resulted in the CATSI Act); and
- the need to retain a special incorporation statute to meet the needs of Indigenous people.⁷

Both of these recommendations are implemented through the CATSI Act.

The review found that:

- the ACA Act was failing to prevent corruption. Consequently it provided inadequate protection for members of corporations;
- the rigidity of corporate governance was too prescriptive⁸; and
- there was insufficient protection for other parties, including funding agencies.

The review argued that the ACA Act:

- was so significantly out of alignment with mainstream corporations law that it disadvantaged many Indigenous communities; and
- may have been discriminatory because it was failing to protect Indigenous corporations in the same way as non-Indigenous corporations were protected under the law.⁹

Accordingly, amendments to the ACA Act were required to:

- bring the law governing Indigenous corporations in line with the Corporation Act and the Native Title Act; and better reflect modern corporate governance requirements; and
- better provide for the specific requirements of Indigenous corporations and their varying responsibilities.

The CATSI Act was developed after independent review and consultation over two years. Further research was conducted by the Office of the Registrar of Aboriginal Corporations (now ORATSIC), but concerns were still raised about the timing of the consultation process, given the complexity of the legislation.¹⁰ As indicated, an extensive education program is being undertaken by the ORATSIC aimed at raising awareness and addressing problems arising from concerns over the consultation process.



Indigenous corporations

Some large Indigenous corporations could be considered quasi-local governments, particularly those located in remote and regional areas. Depending on the size of the corporation, they might deliver:

- essential services that would usually be provided by mainstream local government, including access to basic human rights such as health, housing and medical services;
- a range of services that are different to those of mainstream corporations;
- functions associated with native title;
- an interface to 'mainstream' society;
- infrastructure (such as power stations) to remote Indigenous communities; and
- hold land for Indigenous groups or manage the group's native title rights and interests.

These organisations include land-holding bodies such as state and territory land rights corporations and registered native title bodies corporate (RNTBCs) of which there are currently more than 216.¹¹

Incorporation options

Most Indigenous corporations are not required to incorporate under the CATSI Act¹² unless it is a condition of their funding or they are legislatively directed to do so. Depending on their structure and purpose, a corporation may choose to incorporate under the CATSI Act or under the Corporations Act. If they incorporate under the Corporations Act the Australian Securities and Investments Commission (ASIC) regulates their activities.

Indigenous corporations that were registered under the ACA Act will automatically be registered under the CATSI Act. This is facilitated through the Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Act.

Corporations have two years from 1 July 2007 to make the changes required to comply with the CATSI Act. The major effect on a corporation is the need to change their constitution.

Indigenous bodies may also have the option to incorporate under state and territory incorporation laws¹³ shown in the following table.



Options for incorporation under state and territory incorporation laws		
Jurisdiction	Legislation	Regulatory body
Northern Territory	<i>Associations Incorporation Act 2003</i> (NT)	Northern Territory Department of Justice – Consumer & Business Affairs Northern Territory Business Channel
Western Australia	<i>Associations Incorporation Act 1987</i> (WA)	Western Australian Department of Consumer and Employment Protection – Associations
South Australia	<i>Associations Incorporation Act 1985</i> (SA) [current on 1 January 2004]	South Australian Office of Consumer & Business Affairs – Associations
Australian Capital Territory	<i>Associations Incorporation Act 1991</i> (ACT)	Australian Capital Territory Registrar of Business Names and Associations Australian Capital Territory Indigenous Business Chamber
Tasmania	<i>Associations Incorporation Act 1964</i> (TAS)	Tasmanian Department of Consumer Affairs and Fair Trading – Associations
Queensland	<i>Associations Incorporation Act 1981</i> (Qld)	Queensland Office of Fair Trading – Associations
Victoria	<i>Associations Incorporation Act 1981</i> (VIC)	Consumer Affairs Victoria – Associations
New South Wales	<i>Associations Incorporation Act 1984</i> (NSW)	New South Wales Office of Fair Trading – Associations

Indigenous corporations holding land interests

Various types of corporate bodies may hold the land interests of Indigenous people, including:

- a prescribed bodies corporate (PBC);
- a registered native title body corporate (RNTBC); and
- land trusts, and state and territory land rights corporations.

Some of these corporations may comprise of traditional owner groups, whilst other corporations may hold the title on behalf of an Indigenous group or community. There is information on RNTBCs and PBCs later in this chapter.



RNTBCs and PBCs are Indigenous corporations set up specifically to manage native title rights and interests on behalf of the common law holders (the traditional owners).

The establishment of the Indigenous Land Corporation, through the Native Title Act, has led to the transfer of various land interests to Indigenous groups. Under ILC policies, these interests must be held in trust by ACA Act corporations (now CATSI Act corporations).¹⁴

See an appendix at the end of the report for types of corporations that hold land interests.

Prescribed bodies corporate (PBCs)

As provided for in the Native Title (Prescribed Bodies Corporate) Regulation 1999, a PBC is:

- an Indigenous corporation prescribed under Section 59 of the Native Title Act;
- registered with the Registrar of Aboriginal Corporations in accordance with Regulation 3(1) and 4(1) of the Native Title (Prescribed Bodies Corporate) Regulations; and
- in the process of becoming a registered native title body corporate to manage the native title rights and interests on behalf of the common law holders.

In determining if a corporation is a PBC, the court will consider the objects of the corporation which must include the purpose of holding and managing native title rights and interests, and whether the corporation is in the process of becoming a registered native title body corporate.

Section 59 of the Native Title Act details the kinds of prescribed bodies corporate that may be determined under Sections 56, 57 or 60 of the Native Title Act.

The court will determine whether the most appropriate structure for the PBC is as a trust or agency under Sections 56 and 57 of the Native Title Act.

Indigenous corporations that hold and manage land interests are known as PBCs prior to their determination and inclusion on the National Native Title Register. When the court determines native title it will decide which PBC is to hold the native title. The name of that PBC is added to the Native Title Register as a RNTBC.

Registered native title bodies corporate (RNTBCs)

A registered native title body corporate in accordance with the Native Title Act:

- is the legal body which conducts business on behalf of the native title holders related to native title rights and interests as recognised by the court in a determination of native title;
- is determined by the court and entered on the National Native Title Register; and
- is registered with the Registrar of Aboriginal Corporations in accordance with the CATSI Act.



The CATSI Act requires that RNTBC have the words 'registered native title body corporate' or the abbreviation RNTBC as part of its name. A RNTBC is known as a PBC prior to the determination. Thus, if the Indigenous corporation was previously a prescribed body corporate, it is required to change its name to reflect the new status of RNTBC.

At the time the Federal Court makes a determination of native title, it must make a determination whether the native title is to be held in trust, and if so by whom. The court may determine that it is to be held in trust by a PBC (a trust PBC). If the court determines it is not to be held in trust, the court must take certain steps to determine which PBC is, after becoming a registered native title body corporate, to perform functions given to it as a registered native title body corporate under the Act or under regulations. Regulations provide for a registered native body corporate to do the functions set out in Section 58 of the Act. These include to act as agent or representative of the common law holders in respect of matters relating to native title.

RNTBCs and native title

The exercise and enjoyment of Indigenous peoples' native title rights and interests is a fundamental concept in native title. RNTBCs are intended to be key elements in native title. This is because their effective operation maximises the ability of native title holders to exercise their native title rights and interests to gain cultural, social and economic benefits.

Crucially, a RNTBCs is required by law to maintain the relationship between the native title holders and their native title rights and interests. Further, they are the contact point for other parties, including industry and government, to access native title lands.

Up to 60% of all Indigenous corporations are remotely located,¹⁵ and they have widely different access to resources. Thus, how functional and effective RNTBCs are, can vary extensively from one corporation to the next.

Complex regulation

The CATSI Act links to the Native Title Act by defining a 'native title legislation obligation' as those obligations imposed by the native title legislation on a registered native title body corporate. The obligations include to:

- consult with the common law holders of native title;
- act in accordance with the directions of the common law holders of native title;
- act only with the consent of the common law holders of native title; and
- take any other action in relation to the common law holders of native title.¹⁶



However, PBCs and RNTBCs are governed by a complex legislative framework that sets out functions and responsibilities for RNTBCs through the Native Title Act and the Native Title (Prescribed Bodies Corporate) Regulations. While the CATSI Act aims to remove conflicts and uncertainty about how the two Acts operate together, the corporation may also have added responsibilities. The responsibilities may be under other Commonwealth, state or territory legislation. They are often expected to address broader community social and cultural issues that exceed legislative requirements and responsibilities.

A prescribed body corporate must be registered under the CATSI Act.¹⁷ Additionally, they are regulated by a number of other complex and sometimes conflicting sources of law, including:

- the law of trusts and agency;
- the Federal Court's determination of native title; and
- aspects of traditional law and custom recognised by the Federal Court.¹⁸

This legislative framework is also supported by an array of administrative arrangements that involve:

- the Department of Families, Housing, Community Services and Indigenous Affairs;¹⁹
- the Office of the Registrar of Aboriginal and Torres Strait Islander Corporations;
- Native title representative bodies;
- state and local governments where Indigenous land use agreements and other native title agreements have been negotiated; and
- the private sector supporting the operations of registered native title bodies corporate.

Effects of the complexity

The complexity of statutory obligation demands a high-level of governance and management by a RNTBC. To achieve this there must be:

- good funding at an appropriate time;
- funding that is free from buck-passing between Commonwealth and states or territories;
- access to high quality advice (legal, accounting, management);
- good education for officers; and
- efficient office facilities.



RNTBC's responsibilities in native title

RNTBCs provide a mechanism that can facilitate the exercise and enjoyment of Indigenous peoples native title rights and interests. For example, their functions as detailed in Regulation 6 and 7 of the Native Title (Prescribed Bodies Corporate) Regulations 2007 include:

- to manage the native title rights and interests of the common law holders;
- to hold money (including payments received as compensation or otherwise related to the native title rights and interests) in trust;
- to invest or otherwise apply money held in trust as directed by the common law holders;
- to consult with the common law holders in accordance with Regulation 8;
- to perform any other function relating to native title rights and interests as directed by the common law holders;
- to consult with other persons or bodies;
- to enter into agreements;
- to exercise procedural rights; and
- to accept notices required by any law of the Commonwealth, a state or a territory to be given to the common law holders.²⁰

The Australian Government has recognised that these corporations are also central to discharging the native title holder's obligations to manage their lands.²¹

Administrative capacity in Indigenous corporations is usually limited, and every effort is needed to minimise 'red tape'. Evidence suggests that, of the RNTBCs established to date, most are struggling to meet the legislation requirements under which they are governed²².

Number of RNTBCs

On 30 May 2007: of the 69 claimant determinations recognising native title, there were 49 RNTBCs determined, and 11 RNTBCs still waiting to be determined.²³ (The anomaly occurs because some RNTBCs hold more than one determination.)

FaCSIA²⁴ Land Branch has estimated that within the next 10-15 years there will be 100-150 RNTBCs.²⁵ These figures are likely to be underestimated according to RNTBCs, native title representative bodies, and native title service providers (NTSPs).



**Number of RNTBCs advised, and waiting to be advised, on 30 May 2007.²⁶
Types of RNTBC (trustee or agent) are shown.**

State/Territory	No. of claimant determinations recognising native title	No. of determined RNTBCs	No. of Trustee RNTBCs	No. of Agent RNTBCs	No. of RNTBCs waiting to be determined
New South Wales	1	1	1	0	0
Northern Territory	8	3	0	3	5
Queensland (mainland) ²⁷	16	8	1	8	1
Queensland (Torres Strait)	22	20	19	2	0
South Australia	2	0	n/a	n/a	2
Victoria	2	2	2	0	0
Western Australia	18	15	14	1	3
Total	69	49	37	14	11

Interplay with other land corporation interests

As identified in the Explanatory Memorandum to the Native Title Amendment Bill 2006,²⁸ RNTBCs have important functions under the Native Title Act and the PBC Regulations, that PBCs do not have (for example, being a party to agreements and receiving future act notices).

The First National Meeting of Prescribed Bodies Corporate took place in April 2007. Out of that meeting the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) report pointed out that the reforms aimed for in the CATSI Act:

...do not account for the needs of those corporations that have been established by native title groups prior to a determination, or to manage native title outside determination processes, or those which sit alongside the RNTBC or manage other funds or economic development opportunities. Many of these corporations may be carrying out the functions of PBCs such as management of future acts, negotiating a range of native title related agreement, and/or managing related benefits.²⁹



The meeting noted that ‘there is a need to develop better understandings of the growing corporatisation of native title groups and their relationships with other Indigenous community organisations.’³⁰

RNTBCs are unique Indigenous corporations in that they have special land interests and responsibilities under the Native Title Act. The CATSI Act provides special protections for officers of RNTBCs.³¹

Corporations holding land and the CATSI Act

Arising from the *ACA Act Report* a number of key elements of the CATSI Act have relevance to Indigenous corporations holding land interests, particularly native title corporations. Eight of these elements are discussed here.

Indigenous and non-Indigenous membership

The *ACA Act Report*³² recommended that Aboriginal corporations and their governing boards continue limitation of membership to ‘Indigenous natural persons’ and their spouses.

Contrary to that recommendation, the CATSI Act requires at least 51% of members and directors of Indigenous corporations be Indigenous people. Thus, 49% of members can be non-Indigenous people, including corporate partners who would hold full member rights.

This provision was made because the ORATSIC argued that non-Indigenous and corporate members could assist communities improve governance, provide access to expertise and assist with economic development in communities. However, in remote communities and townships, where essential services come only from Indigenous councils or corporations, non-Indigenous membership could ensure that non-Indigenous members are not disadvantaged.

While Indigenous people have views supporting non-Indigenous members (particularly in the service sector), some Indigenous stakeholders retain concerns (especially in native title). Undermining community control and Indigenous self-governance remain particular concerns.

The Central Land Council argued that non-Indigenous memberships ‘will not serve the ‘special needs’ of the Aboriginal people of Central Australia’. It asserts that while the CATSI Act allows ‘for a minority membership of non-Indigenous people, this will not be sufficient to ensure Aboriginal control’.³³

There is the potential for governments and corporations to take advantage of the changes that allow for non-Indigenous and corporate membership to increase their control over Indigenous community affairs, services and assets.³⁴

Protections

RNTBCs have the protection of the Native Title (Prescribed Bodies Corporate) Amendment Regulations. The regulations provide that only native title holders of a RNTBC can be a member or a director. Provisions in the CATSI Act to allow non-Indigenous and corporate membership do not apply to RNTBCs. Thus, RNTBCs are less at risk to the erosion of community control under the CATSI Act than are other



Indigenous corporations including land trusts and state and territory land rights corporations.

For other corporations, non-Indigenous membership is only allowed where the rules of the corporation allow it. Therefore members must approve non-Indigenous membership, and there must be a majority of Indigenous members and Indigenous directors.

Further, members and directors have responsibilities under the CATSI Act and are subject to penalties for misconduct. A potential conflict of interest (where a government or industry partner was to apply for membership or directorship) must be considered and, practically, that would most likely exclude them from directorships. The interest of the corporation must be the priority of both members and directors rather than any personal agendas.

Constitutional amendments

Because the CATSI Act must interact appropriately with the Native Title Act, RNTBCs must have constitutions and internal governance rules that are consistent with the Native Title Act.

The Explanatory Memorandum to the CATSI Act requires corporations to provide for the success and sustainability of Indigenous corporations by encouraging responsible incorporation practices and internal governance that compel the corporation to focus on important matters that would otherwise be difficult to resolve without clear rules and guidelines.³⁵

For example, the CATSI Act requires Indigenous corporations to include dispute resolution processes in their rules. However, corporations may require additional funding for advice on developing dispute resolution mechanisms and to ensure that appropriate consultation and the free, prior and informed consent of its members is obtained to change the constitution.

RNTBCs are concerned that:

- requirements to amend their constitutions and governance rules will be an added administrative and logistical burden on RNTBCs; and
- they already have little or no resources to hold meetings necessary to make the changes. This is particularly relevant to those RNTBCs in remote areas where members are widely dispersed, and for those who live in the Torres Strait or the Tiwi Islands. All may have to travel long distances or between islands to attend meetings.

North Queensland Land Council³⁶ has highlighted the increased expense:

The process of changing rules can be quite expensive involving the calling of a SGM (Special General Meeting). It is noted that in most cases the proposed changes to rules must be advertised in a notice calling the SGM and in many cases, corporations may well need legal advice to prepare the appropriate notices and detailed suggested changes.



There has been no indication of increased funding to meet these expenses. Accordingly, the Senate Standing Committee on Legal and Constitutional Affairs recommended:

that the government monitor funding to assist corporations with the transition to the new regime and make provision in the 2007-2008 budget to increase funding if necessary.³⁷

The CATSI Act has offered some solutions including a two-year transition period—rules could be considered at an appropriate meeting during that time. And the registrar has the power to extend the time and to allow corporations bi-annual general meetings.

Statutory reporting obligations

Statutory reporting has been, and still is likely to remain, a burden on Indigenous corporations. Smaller bodies are especially affected. The *ACA Act Report* gives a good example:

A small, passive land-holding body may receive little or no income, and undertake few if any activities. As such, the reporting requirements would have to be met by the board of directors, who are drawn from the local community, and may have little formal education or appropriate training. The requirement to hold AGMs and provide detailed audited reports would clearly be onerous for such corporations. There is also little public interest in a high level of reporting and disclosure, as the corporation is not engaged in any significant activities.³⁸

In the past the ACA Act required all bodies to report in the same way, irrespective of size and financial capacity. Even now, many corporations (particularly RNTBCs, land trusts, and state and territory land rights corporations) have small memberships that serve a large constituency spread over large geographic areas. Management is often voluntarily, and there is usually no income or start-up funds available.

Issues of size and land

Under the CATSI Act, Indigenous corporations will be classed as small, medium, or large. The reporting requirements will be determined according to their income, assets and number of employees rather than the size of their membership.³⁹

While the asset base for some corporations could be in the millions of dollars (depending on the land value and other assets value) many face the same lack of resources and capacity as those that might be classified as 'small' with minimal reporting requirements.

The lands they hold in trust have not been gained through the native title process and are physical assets rather than native title rights and interests. Such grants of land may suggest these corporations should be in the 'medium' or 'large' category, and thus they might have to meet the more stringent reporting requirements. However, under the CATSI Act, native title rights and interests held by a RNTBC will not be included in determining the value of the assets for reporting purposes. Thus, many RNTBCs will fall into the category of 'small' and will have fewer reporting requirements.⁴⁰



RNTBCs may now only need to provide a 'general report', and may only have to provide this every second year if approved by the registrar. While some will no longer be required to provide audited financial statements, RNTBCs will have to give some basic membership and contact data. It is not clear whether exemptions from providing audited financial statements will also be applicable to those corporations who may hold highly valuable land assets in trust.

Land trusts and land rights corporations

Some land trusts and state and territory land rights corporations may be better off under the Corporations Act. Take, for example, a corporation with Indigenous Land Council land valued at \$3 million and three employees. It may incorporate:

- under the Corporations Act where they would report as a small company; or
- under the CATSI Act where they would report as either a medium or large corporation and be required to meet more onerous reporting requirements.

While incorporating under the Corporations Act could reduce the administrative burden, it would also limit the information provided to the members about the status of the corporation and its assets. This is a particular problem where land assets are held on behalf of traditional owner groups, and there is a potential to lose their asset and risk de-registration due to non-compliance.

The need to build capacity and support mechanisms in Indigenous corporations is very pressing.

An appendix at the end of this report gives a brief summary of how corporations may be classified and what reporting requirements may be applicable.⁴¹ They are contrasted with requirements under the Corporations Act.⁴²

'Involuntary' incorporation?

A critical feature of many Indigenous corporations is that they are formed pursuant to a legislative requirement or as a result of government policy. Arguably they are not truly 'voluntary' corporations of individuals. For example:

- in certain circumstances, Indigenous groups are required by the Native Title Act to establish an Indigenous corporation (PBC) and incorporate under the CATSI Act;
- in certain circumstances, Indigenous groups are required by the *Aboriginal Land Rights (Northern Territory) Act 1976* and/or other State and Territory land rights regimes, to establish an Indigenous corporation and incorporate under the CATSI Act; and
- Commonwealth and state governments have adopted policies of 'self management', which give the responsibility for the delivery of a wide range of essential services (such as housing, health, employment/CDEP) to Indigenous communities themselves. Government funding bodies often require the communities to form corporations before they are eligible to receive the funding to perform these services.



As identified in the *ACA Act Report*.⁴³

an increasing emphasis on economic development, and its policy linkage to self-determination at the community or group level, has led to the establishment of many corporations for commercial purposes. There are also increasing numbers of Indigenous associations being formed to represent the interests and reflect the identities of Indigenous groups and communities.

The report⁴⁴ went on to identify a number of consequences to involuntary incorporation for Indigenous corporations including:

- people who would not otherwise have formed a corporation, and who may not understand the consequences or technical requirements of incorporation, are required to do so;
- the requirement for incorporation can force together Indigenous groups which would not otherwise have joined together, and which might not share the same views or goals, making the corporation vulnerable to destabilising competition between groups; and
- the requirement for the establishment of community corporations to perform community services can result in confusion between the membership of the community and the membership of the corporation itself.

Once incorporated, the onus is on Indigenous corporations to perform functions and meet statutory obligations imposed upon them.

Membership numbers in Indigenous corporations

The CATSI Act requires a corporation registered under it to have at least five members. Corporations can be granted an exemption from this number if it is appropriate and reasonable to do so.

RNTBCs are required by the Native Title (Prescribed Bodies Corporate) Regulations to consult and obtain consent from common law native title holders when making native title decisions. Evidence can be a document certifying that the common law holders have been consulted and given consent to the decision. Such documents must be signed by at least five common law holders who are members of the RNTBC. The Registrar of Aboriginal and Torres Strait Islander Corporations has the power to grant exemptions from this requirement. At the same time, the registrar is aware that groups registering under the CATSI Act as a RNTBC (or anticipated RNTBC) are also required to comply with the Native Title Act and will take that into account when receiving applications for such an exemption.

Prescribed bodies corporate that want to register under the CATSI Act are required to advise the registrar of their intention for the purpose of operating as a RNTBC.⁴⁵ The registrar is obliged to be mindful of compliance with the Native Title Act.⁴⁶

Under the CATSI Act corporations have the ability to impose restrictions on their membership (for example being part of a particular Indigenous group) as was also the case under the ACA Act.⁴⁷ This is particularly relevant to the requirements for RNTBCs which are bound by regulation to ensure that all of their members are persons who have native title rights and interests in relation to the land or waters to which the native title determination relates.⁴⁸



Members' benefits in Indigenous corporations

The *ACA Act Report* was critical of the ACA Act for not significantly discouraging corruption and nepotism within Indigenous corporations. There were concerns about the need to protect the rights of members of Indigenous corporations against oppression and abuse by officers of the corporation and external stakeholders,⁴⁹ (particularly for those without the capacity to act themselves).

Following the review, the CATSI Act aligns the remedies for members with corporations law. The registrar has a new power to seek solutions to issues on behalf of members in circumstances where a corporation may not be acting fairly towards its members.⁵⁰

Those provisions aim to increase the capacity for members to participate in managing the corporation by ensuring transparency and accountability. For example members now have the right to:

- apply to a court to inspect a corporation's books, or to stop a corporation from acting in a way that is unfair to its members;⁵¹
- ask for information about directors' payments; and
- members may be required to approve transactions that involve the business or personal interest of a director or even a relative of a director (these provisions are included to limit nepotism).⁵²

While the intention of these provisions is good, in practice members' access to courts is often limited. To bridge the gap between Indigenous members of corporations and the courts, the CATSI Act provides the registrar with the power to seek remedies on behalf of the members.

For native title and registered native title bodies corporate, the CATSI Act provides an assurance that:

- the CATSI Act cannot be used to frustrate decisions of an RNTBC made in accordance with obligations under the Native Title Act; and
- a duty conferred upon a corporation or individual by the Native Title Act does not put the corporation or individual at risk of breaching provisions in the CATSI Act.

Directors and their functions

A board of directors governs Indigenous corporations. The board is made up of members of the corporation. (In many Aboriginal corporations the board of directors is known as the governing committee.)

- Under the ACA Act, governing committees were elected by the membership.
- Under the CATSI Act, directors can now be *appointed* by the corporation rather than being selected only through election.



Duties

The directors hold authority over the corporation and are ultimately accountable for it. It is important to remember that each director may be personally liable at law for decisions. Directors have the duties of:

- loyalty to the corporation as a whole (which includes all its members and creditors);
- care and diligence;
- good faith;
- disclosure of conflicts of interest;
- not to improperly use positions or information; and
- not to trade while insolvent.

The duties of the directors also apply to officers of the corporation such as senior staff (like the chief executive officer, general or executive director), and the public officer under the CATSI Act.⁵³

Generally speaking, the functions of the board can include appointing staff; setting goals, strategy, and policy; properly handling finances.

The chief executive officer, general manager, or executive director usually manages the day-to-day operations of a corporation rather than the board of directors or governing committee. However, the CATSI Act allows the directors to exercise all the powers of the corporation (except any powers that the CATSI Act, or the corporation's constitution requires a general meeting of members to exercise). This benefits corporations with limited budgets.

Where directors have little training in business management or corporate governance, the registrar must assist Indigenous corporations to fulfil their duties.

Number of directors

The CATSI Act sets the maximum number of directors for Indigenous corporations at twelve. This avoids large boards that can be difficult to manage. However, this restriction has caused some concern for native title representative bodies. Submissions to the Senate Legal and Constitutional Affairs Committee Inquiry into the provisions of the Corporations (Aboriginal and Torres Strait Islander) Bill 2005 argued that this number may be too low to ensure representation across what are often broad geographic areas. The CATSI Act does provide some flexibility for corporations to apply for a variation in the number of directors.

Director's term of office

The CATSI Act limits all directors to two years maximum term of office. Some think this is too short for stable corporate governance. Arguments include:

- shorter terms may encourage more participation by members, yet often lose valuable management skills; whilst
- longer terms allow for stability and the transfer of acquired management skills.



For a two-year term, the Explanatory Memorandum to the CATSI Act argues that a critical feature of membership rights is participation in corporate affairs (including directorships).⁵⁴ Also, ORATSIC argues that a two-year term reduces the opportunity for corporations to be 'captured' by non-member interests.⁵⁵

In favour of a longer term the North Queensland Land Council argues for a three-year term consistent with other elected terms, like those of governments.⁵⁶ Importantly, specialised corporate training is essential at the start of each term, to avoid directors and members being vulnerable to breaking laws they do not understand. A longer term requires less frequent training, and thus less money to pay for the training.

No matter what term of office, significant resources are needed to change management both now and in the future.

In an endeavour to accommodate longer terms of office for directors the CATSI Act allows corporations to change their constitutions to provide for the reappointment of directors.⁵⁷ However, changes to a corporations constitution requires the approval of the registrar.

Directors of RNTBCs and the Native Title Act

The CATSI Act ensures that the provisions for directors and their duties are consistent with those required by the Native Title Act, and that directors, officers, and employees of RNTBCs will not be placed in a conflicting position under the Native Title Act: '... regulations provide for the modification of the CATSI Act provisions to ensure sufficient flexibility should the circumstances of RNTBCs change over time.'⁵⁸

RNTBCs are also offered extra protection under the CATSI Act. It provides that a court cannot grant orders on the grounds that the corporation is acting in a way that is oppressive to the members as a whole or oppressive to, or discriminatory against, a member or members if the action is done in good faith with the belief that it is necessary to ensure that the corporation complies with obligations under the Native Title Act.

Strict liability offences

'Strict liability offences' involve serious personal obligations that could leave directors personally liable in certain circumstances. The CATSI Act includes a number of strict liability offences developed specifically for it, whilst others are equivalent to offences in the Corporations Act. Strict liability offences include not keeping the membership register up to date, not making the register available as required by the rules, and improper cancellation of membership.

Registrar's powers

Under the CATSI Act, the Registrar of Aboriginal and Torres Strait Islander Corporations has increased powers. They aim to give maximum flexibility to protect corporations, their members and their communities, and to improve the corporate governance of Indigenous corporations.



The Registrar of Aboriginal and Torres Strait Islander Corporations draws powers from the CATSI Act (based on similar functions in the *Australian Securities and Investments Commission Act 2001* (Cth)) to incorporate, monitor and regulate Indigenous corporations.

Good management skills are crucial to the success of Indigenous corporations. The registrar can help with advice, assistance, education, the ability to conduct research, develop policy, and provide public information.

The importance of this role is highlighted in the Explanatory Memorandum to the CATSI Act:

Conducting research and public education campaigns about good corporate governance for Aboriginal and Torres Strait Islander corporations is an important tool to support the development of improved corporate governance standards in corporations.⁵⁹

Increased powers

The powers of the registrar have been significantly increased under the CATSI Act. In particular the registrar has discretion to:

- exempt corporations from reporting requirements;
- reject applications for incorporation;
- make changes to a corporations constitution;
- the power to seek assistance of certain people in prosecutions;
- disqualify directors;
- deregister corporations who are non-compliant; and
- appoint external administrators to minimise risk factors.

These powers confirm the registrar's obligation to administer the CATSI Act to contribute to the effectiveness and efficiency of Indigenous corporations, through both monitoring and regulation that promote good governance.

Power to deregister

The registrar has the power to deregister corporations where a corporation is being (or has been) wound up, and where a corporation has amalgamated, particularly those administratively amalgamated. These provisions are similar to those in the Corporations Act.⁶⁰

Where a native title body has been replaced (or a default PBC has been determined and is therefore no longer a registered native title body corporate under the Native Title Act) the registrar is able to deregister the corporation. However, the CATSI Act prevents the registrar from deregistering a RNTBC because, under the Native Title Act, RNTBCs must be registered under the CATSI Act as Aboriginal and Torres Strait Islander corporations.

The CATSI Act also provides that regulations will deal with the deregistration of Indigenous corporations that hold land or have interests in land—other than RNTBCs.⁶¹ This is particularly significant because many such corporations have land assets that are held in trust on behalf of its Indigenous members. The most important issue to be considered is the capacity for Indigenous people to retain their lands. The CATSI Act and the registrar must guarantee that land-holding corporations are not wound up due to non-compliance.



Power to protect from abuse

The CATSI Act provides for the registrar to make application to the court to have 'rogue' directors and officers disqualified. The CATSI Act has aligned these provisions with those of the Corporations Act (which, as a general rule, prohibits disqualified people from managing corporations). Disqualification under the Corporations Act means automatic disqualification under the CATSI Act.⁶²

Power with discretion

The registrar has the discretion to consider factors that impact on the governance of Indigenous corporations, including the fact that many of them are located in very remote regions and the availability of directors may be limited.

Recommendations

- 6.1** That ORATSIC report on the effects of the CATSI Act on under-resourced corporations, such as:
 - land trusts, state and territory land rights corporations; and
 - other corporations that hold title to Indigenous lands as a result of an Indigenous Land Corporation (ILC) divestment, or land purchase, or transfer of lands under land rights regimes.
- 6.2** That ORATSIC report on the financial burdens resulting from corporations redrafting their constitutions so that, if necessary, future Commonwealth budgets can increase funding for this work.
- 6.3** That the CATSI Act be amended so that:
 - decisions of the registrar be open to review in the Administrative Appeals Tribunal;
 - a requirement for appointment of a registrar must be that the applicant has a good understanding and experience of Indigenous peoples and communities; and
 - the Minister for Families, Housing, Community Services and Indigenous Affairs does not have complete discretion in the appointment of a registrar.
- 6.4** That ORATSIC report on non-Indigenous and corporate membership of PBCs. The report should consider whether non-Indigenous, corporate members and directors exercise their powers detrimentally to their Indigenous corporations and the communities that the corporations serve.



- 1 Corporations (Aboriginal and Torres Strait Islander) Bill 2005, *Revised Explanatory Memorandum, Corporations Aboriginal and Torres Strait Islander Bill 2005*, p21, available online at: http://www.austlii.org/au/legis/cth/bill_em/catsib2006520.txt/cgi-bin/download.cgi/download/au/legis/cth/bill_em/catsib2006520.txt, accessed 7 November 2007. Also see Division 1-25 of the CATSI Act.
- 2 See the ORATSIC website at http://www.orac.gov.au/about_orac/legislation/reform_act.aspx#2 for information about the communication strategy. It will include plain English guides, fact sheets, and a video animation explaining the changes. The strategy has been designed specifically for remote community access and communities where English is the second or third language spoken. This will be particularly important for communities with little understanding of the legal system and in particular, in assisting them to ascertain the potential risks and benefits associated with the reforms.
- 3 Office of the Registrar of Aboriginal Corporations, *Get in on the Act: A guide to the start of the Corporations (Aboriginal and Torres Strait Islander) Act 2006*, November 2006, available online at: www.orac.gov.au, accessed 10 July 2007.
- 4 Corporations (Aboriginal and Torres Strait Islander) Bill 2005, *Revised Explanatory Memorandum, Corporations Aboriginal and Torres Strait Islander Bill 2005*, p1, available online at: http://www.austlii.org/au/legis/cth/bill_em/catsib2006520.txt/cgi-bin/download.cgi/download/au/legis/cth/bill_em/catsib2006520.txt, accessed 7 November 2007.
- 5 The terms 'Indigenous corporations' and 'Aboriginal and Torres Strait Islander corporations' are used interchangeably throughout this chapter/part to refer to Indigenous corporations registered under the CATSI Act.
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- 7 Corporations (Aboriginal and Torres Strait Islander) Bill 2005, *Revised Explanatory Memorandum, Corporations Aboriginal and Torres Strait Islander Bill 2005*, pii, available online at: http://www.austlii.org/au/legis/cth/bill_em/catsib2006520.txt/cgi-bin/download.cgi/download/au/legis/cth/bill_em/catsib2006520.txt, accessed 7 November 2007.
- 8 Corrs Chambers Westgarth, Anthropos Consulting, Mick Dodson, Christos Mantziaris, Senatore Brennan Rashid, *A Modern Statute for Indigenous Corporations: Reforming the Aboriginal and Councils Associations Act*. Final Report of the Review of the *Aboriginal Councils and Associations Act 1976*(Cth), December 2002, p157. Report commissioned by the Office of the Registrar of Aboriginal Corporations, available online at www.orac.gov.au/publications/legislation/final_report.pdf, accessed 11 July 2007.
- 9 Corrs Chambers Westgarth, Anthropos Consulting, Mick Dodson, Christos Mantziaris, Senatore Brennan Rashid, *A Modern Statute for Indigenous Corporations: Reforming the Aboriginal and Councils Associations Act*. Final Report of the Review of the *Aboriginal Councils and Associations Act 1976*(Cth), December 2002, p24. Report commissioned by the Office of the Registrar of Aboriginal Corporations, available online at www.orac.gov.au/publications/legislation/final_report.pdf, accessed 11 July 2007.
- 10 Northern Land Council, *Submission to the Senate Legal and Constitutional Committee Inquiry into the provisions of the Corporations (Aboriginal and Torres Strait Islander) Bill 2005*, 4 October 2005, p1; and Dr Lisa Strelein as cited in Corrs Chambers Westgarth, Anthropos Consulting, Mick Dodson, Christos Mantziaris, Senatore Brennan Rashid, *A Modern Statute for Indigenous Corporations: Reforming the Aboriginal and Councils Associations Act*. Final Report of the Review of the *Aboriginal Councils and Associations Act 1976*(Cth), December 2002. Report commissioned by the Office of the Registrar of Aboriginal Corporations, available online at www.orac.gov.au/publications/legislation/final_report.pdf, accessed 11 July 2007.
- 11 Corrs Chambers Westgarth, Anthropos Consulting, Mick Dodson, Christos Mantziaris, Senatore Brennan Rashid, *A Modern Statute for Indigenous Corporations: Reforming the Aboriginal and Councils Associations Act*. Final Report of the Review of the *Aboriginal Councils and Associations Act 1976*(Cth), December 2002, p72. Report commissioned by the Office of the Registrar of Aboriginal Corporations, available online at www.orac.gov.au/publications/legislation/final_report.pdf, accessed 11 July 2007.
- 12 Prescribed Bodies Corporate are Aboriginal and Torres Strait Islander Corporations that are required to incorporate under the CATSI Act. The objects of the CATSI Act provide for the incorporation, operation and regulation of bodies that are incorporated for the purpose of becoming a registered native title body corporate. See CATSI Act, Part 1, Division 1-25.
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- 14 Corrs Chambers Westgarth, Anthropos Consulting, Mick Dodson, Christos Mantziaris, Senatore Brennan Rashid, *A Modern Statute for Indigenous Corporations: Reforming the Aboriginal and Councils Associations Act*. Final Report of the Review of the *Aboriginal Councils and Associations Act 1976*(Cth), December 2002, p16. Report commissioned by the Office of the Registrar of Aboriginal Corporations. Available online at www.orac.gov.au/publications/legislation/final_report.pdf, accessed 11 July 2007.



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- 16 Corporations (Aboriginal and Torres Strait Islander) Bill 2005, *Revised Explanatory Memorandum, Corporations Aboriginal and Torres Strait Islander Bill 2005*, p12, available online at: http://www.austlii.org/au/legis/cth/bill_em/catsib2006520.txt/cgi-bin/download.cgi/download/au/legis/cth/bill_em/catsib2006520.txt, accessed 7 November 2007. See s700-1 of the CATSI Act.
- 17 *Native Title (Prescribed Bodies Corporate) Regulations 2007*. Regulation 3(1) which provided a definition for Aboriginal association has been repealed and applies a new definition of Aboriginal and Torres Strait Islander corporation, as defined in the CATSI Act that is a corporation registered under the CATSI Act. See sections 700-1 and 16-5 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2007*.
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- 20 *Native Title (Prescribed Bodies Corporate) Regulations 2007*. Regulation 6 and 7.
- 21 Brough, M. (Minister for Families, Housing, Community Services and Indigenous Affairs), Ruddock, P. (Attorney-General), *Reforms to Improve Management of Native Title Rights*, Media Release, 27 October 2006, available online at: <http://www.atsia.gov.au/media/media06/7206.aspx>, accessed 6 July 2007.
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- 27 Queensland (mainland) includes the Wellesley Island Sea Claim *Lardil Peoples V Qld (2004)*.
- 28 Native Title Amendment Bill 2006, *Explanatory Memorandum*, 2006, p75.
- 29 Bauman, T. and Tran T., 2007, *First National Prescribed Bodies Corporate Meeting: Issues and Outcomes*, Canberra 11-13 April 2007, Native Title Research Report No.3/2007, p18, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra. Available online at: http://ntru.aiatsis.gov.au/major_projects/PBC%20Workshop%20Report%2011-13%20April%202007%20final.pdf, accessed 11 July 2007.
- 30 Strelein L. and Tran T., 2007, *Native Title Representative Bodies and Prescribed Bodies Corporate: native title in a post determination environment*, Native Title Research Report No. 2/2007, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra. As cited in Bauman, T. and Tran T., 2007, *First National Prescribed Bodies Corporate Meeting: Issues and Outcomes*, Canberra 11-13 April 2007, Native Title Research Report No.3/2007, p19, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra. Available online at: http://ntru.aiatsis.gov.au/major_projects/PBC%20Workshop%20Report%2011-13%20April%202007%20final.pdf, accessed 11 July 2007.
- 31 For example, see Section 487-5 of the CATSI Act.
- 32 Corrs Chambers Westgarth, Anthropos Consulting, Mick Dodson, Christos Mantziaris, Senatore Brennan Rashid, *A Modern Statute for Indigenous Corporations: Reforming the Aboriginal and Councils Associations Act. Final Report of the Review of the Aboriginal Councils and Associations Act 1976(Cth)*, December 2002. Report commissioned by the Office of the Registrar of Aboriginal Corporations. Available online at www.orac.gov.au/publications/legislation/final_report.pdf, accessed 11 July 2007.
- 33 Central Land Council, *Submission to the Senate Legal and Constitutional Affairs Committee Inquiry into the provisions of the Corporations (Aboriginal and Torres Strait Islander) Bill 2005*, September 2005, Attachment B, p1. Available online at http://www.aph.gov.au/Senate/committee/legcon_ctte/corporations/submissions/sub09.pdf, accessed 3 July 2007.



- 34 To illustrate by example: the Government and a community enter into SRA negotiations. The government agrees to provide \$100 000 for community infrastructure to be delivered by a community corporation. The community people making the SRA are also the members of the corporation. One SRA obligation is that the community/members agree to change the corporation's constitution to allow for government officials to serve as directors or members.
- 35 Corporations (Aboriginal and Torres Strait Islander) Bill 2005, *Revised Explanatory Memorandum, Corporations Aboriginal and Torres Strait Islander Bill 2005*, p22, available online at: http://www.austlii.org/au/legis/cth/bill_em/catsib2006520.txt/cgi-bin/download.cgi/download/au/legis/cth/bill_em/catsib2006520.txt, accessed 7 November 2007. Also see Division 1-25 of the CATSI Act.
- 36 North Queensland Land Council, *Submissions on Corporations (Aboriginal and Torres Strait Islander) Bill, 2005*, p1.
- 37 The Senate, Standing Committee on Legal and Constitutional Affairs, *CATSI Bill 2005 [Provisions], and Corporations Amendment (Aboriginal and Torres Strait Islander Corporations) Bill 2006 [Provisions], Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Bill 2006 [Provisions]*, October 2006, p37.
- 38 Corrs Chambers Westgarth, Anthropos Consulting, Mick Dodson, Christos Mantziaris, Senatore Brennan Rashid, *A Modern Statute for Indigenous Corporations: Reforming the Aboriginal and Councils Associations Act*. Final Report of the Review of the *Aboriginal Councils and Associations Act 1976(Cth)*, December 2002, pp263-264. Report commissioned by the Office of the Registrar of Aboriginal Corporations. Available online at www.orac.gov.au/publications/legislation/final_report.pdf, accessed 11 July 2007.
- 39 See s37-10 of the CATSI Act, and Division 333 of the *CATSI Regulations, 2007*.
- 40 Registrar of Aboriginal Corporations, *Native Title*, Fact Sheet, published July 2007. Available online at http://www.orac.gov.au/publications/CATSI_Act/Factsheet_Native-title_Jul2007-A4col.pdf, accessed 11 July 2007.
- 41 Office of the Registrar of Aboriginal Corporations, Corporations (Aboriginal and Torres Strait Islander) Bill 2005 – Attachment E: Overview of possible size thresholds for Indigenous corporations for determining if they are small, medium or large, *ORATSIC Submission to the Senate Legal and Constitutional Affairs Committee Inquiry into the provisions of the Corporations (Aboriginal and Torres Strait Islander) Bill 2005 and associated bills*, available online at: http://www.aph.gov.au/Senate/committee/legcon_ctte/corporations/submissions/sub05a_att_e.pdf, accessed 20 August 2007.
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- 43 Corrs Chambers Westgarth, Anthropos Consulting, Mick Dodson, Christos Mantziaris, Senatore Brennan Rashid, *A Modern Statute for Indigenous Corporations: Reforming the Aboriginal and Councils Associations Act*. Final Report of the Review of the *Aboriginal Councils and Associations Act 1976(Cth)*, December 2002, p67. Report commissioned by the Office of the Registrar of Aboriginal Corporations. Available online at www.orac.gov.au/publications/legislation/final_report.pdf, accessed 11 July 2007.
- 44 Corrs Chambers Westgarth, Anthropos Consulting, Mick Dodson, Christos Mantziaris, Senatore Brennan Rashid, *A Modern Statute for Indigenous Corporations: Reforming the Aboriginal and Councils Associations Act*. Final Report of the Review of the *Aboriginal Councils and Associations Act 1976(Cth)*, December 2002, p6. Report commissioned by the Office of the Registrar of Aboriginal Corporations. Available online at www.orac.gov.au/publications/legislation/final_report.pdf, accessed 11 July 2007.
- 45 See s21-1(2)(b) of the CATSI Act.
- 46 See s66-1(5)(d) of the CATSI Act.
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