



The Hon Jenny Macklin MP
Minister for Families, Housing, Community Services
and Indigenous Affairs

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12 AUG 2008

Mr Anthony Beven
Registrar of Indigenous Corporations
PO Box 2029
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July 2008

Dear Mr Beven

Statement of Expectations

I am pleased to provide you with the Government's statement of expectations covering your role as the Registrar of Indigenous Corporations (the Registrar) and setting out strategic directions for the Office of the Registrar of Indigenous Corporations (ORIC).

This statement forms part of the implementation of the Government's response to the *Review of Corporate Governance of Statutory Authorities and Office Holders* by Mr John Uhrig in June 2003 (the Uhrig report).

The Uhrig report identified ways in which the governance of Commonwealth portfolio bodies may be improved. It recommended options for creating transparency, accountability and ensuring well-defined responsibilities and clear relationships between portfolio bodies and other arms of government.

The Government issues a statement of expectations to portfolio bodies, within the powers provided under legislative frameworks and taking into account statutory and judicial independence, and requests that portfolio bodies respond with a statement of intent. I look forward to receiving your statement within two months of the date of this letter. In the interest of public accountability, both of these documents will be made public. This statement will be reviewed as circumstances require.

This statement of expectations outlines the Government's current expectations with regards to the role and responsibilities of the Registrar and ORIC, the Registrar's relationship with the Government, transparency, accountability and operational issues. As recognised by the Uhrig report, I have considered the nature of the Registrar's independence in making this statement.

It is imperative that, in your role as the Registrar, you continue to act independently and objectively when exercising your powers.

Roles and responsibilities of the Registrar and ORIC

The role of the Registrar is to support the delivery of registration, regulation and related services to Indigenous corporations in accordance with the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (the CATSI Act). The CATSI Act commenced on 1 July 2007 and provides clarification of the powers and functions of the Registrar. The Registrar is assisted in his role by ORIC staff.

In performing his functions and powers under the CATSI Act, the Registrar must aim to:

- facilitate and improve the effectiveness, efficiency, sustainability and accountability of Indigenous corporations
- provide certainty for the members, officers and employees of an Indigenous corporation in their dealings with the corporation and with each other
- provide certainty for persons outside Indigenous corporations in their dealings with those corporations
- have regard to Aboriginal and Torres Strait Islander tradition and circumstances
- administer the laws of the Commonwealth that confer functions and powers on the Registrar effectively and with a minimum of procedural requirements
- ensure that information is available as soon as practicable for access by the public.

I acknowledge that due to the recent introduction of the CATSI Act a substantial amount needs to be done in terms of policy development and education to encourage corporations to make the transition to the new Act. A key role for the Registrar will be to develop the capacity and corporate governance of Indigenous corporations, while exercising sufficient vigilance and pursuing those corporations and individuals that breach the law. Enforcement outcomes should aim to encourage corporations to voluntarily comply with the law.

Relationship between the Registrar and the Minister

The Government recognises and will continue to respect the statutory independence of the Registrar. It is important for public confidence that the Registrar is, and is seen to be, exercising independent judgment about the application of the regulatory framework to individual circumstances.

It is important that you provide me, or other ministers as appropriate, with accurate and timely information on significant issues in your core area of business. This may include matters that the Government is likely to be accountable for in Parliament, important operational or budgetary issues and key policy proposals or legislative changes.

Relationship with the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA)

The role of FaHCSIA is to support and advise me and other relevant ministers by being the principal source of advice on a wide range of Indigenous issues including social inclusion, increasing Indigenous economic participation and initiatives under the Government's 'closing the gap' agenda. It is important that you support this role by providing the Secretary to FaHCSIA with timely briefings on the operation of the CATSI Act and how this can contribute to the Government's broader objectives in Indigenous policy.

To fulfil their respective roles, the Registrar and FaHCSIA need to maintain a close working relationship. As the Registrar, you should continue to participate in FaHCSIA's corporate leadership group and consult with them on the development of substantive operational policies.

The Government accepted the Uhrig report recommendation that portfolio bodies and statutory office holders should provide information to portfolio secretaries in parallel to that information being provided to ministers. All information, briefings, press releases and correspondence provided to ministers by ORIC should be copied to the Secretary of FaHCSIA.

Regulatory cooperation

Given the growing interdependence of government services, both state and Commonwealth, ORIC should not operate in isolation. It is important that it maintains robust, effective and collaborative working partnerships with other Commonwealth and state agencies, particularly in the fields of Indigenous affairs and corporate governance and regulation. This will help promote systemic integrity and cohesion between the different areas of corporate regulation.

The structure of Australia's regulatory framework depends on close cooperation and liaison between regulators to manage areas where their responsibilities meet. As the Registrar, you should continue to work with other regulatory agencies to assist with whole-of-government initiatives that improve administrative systems. Where possible, initiatives should ease the burden on Indigenous corporations caused by excessive red tape, while still maintaining policies and procedures that encourage sound corporate governance. Liaison with other agencies and authorities will ensure the work of ORIC complements, rather than duplicates, their work.

Transparency and accountability

Although established as an independent statutory office holder, the Registrar remains accountable to the Parliament and ultimately to the public through myself, the parliamentary committee process and contribution to FaHCSIA's annual report. The Registrar's activities are subject to review by the Commonwealth Ombudsman, the Australian National Audit Office and the Privacy Commission, to the extent of their legislative authority. This scrutiny is in addition to review of the Registrar's decisions by Australian courts and the Administrative Appeals Tribunal.

It is important that you and your office continue to consult with stakeholders to ascertain the effect of the introduction of the CATSI Act and develop clear publicly available guidelines and policies regarding the implementation and application of the Act.

I support the actions of ORIC in establishing standards for interaction with the public as set out in your service charter and other publicly available documents. I note that with the introduction of the CATSI Act, ORIC has published a number of policy statements on its public website to ensure consistency in the operations of the office and transparent decision making under the CATSI Act. I recommend that these practices continue as appropriate.

Operational issues

ORIC's staff are employed by FaHCSIA under the *Public Service Act 1999* and made available to assist the Registrar under section 673-1 of the CATSI Act. Under the *Public Service Act 1999* agencies are required to uphold and promote the APS values. All APS

employees are required to adhere to the APS Code of Conduct. In your role you should ensure that ORIC and the staff of ORIC meet the requirements of the APS values and Code of Conduct.

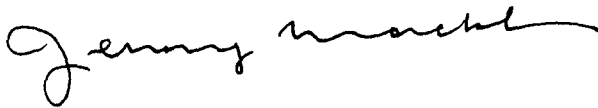
The requirements for the Registrar's financial management are set out in the relevant legislation. ORIC is bound by the *Financial Management and Accountability Act 1997* through its administrative arrangements with FaHCSIA.

It is government policy that all departments and portfolio bodies should continue efforts to secure improved efficiency in their operations and demonstrate value for money for the services that they deliver. I appreciate that ORIC continues to seek opportunities to achieve outcomes in a more cost-effective manner.

Conclusion

In conclusion, the Government's vision is that the Registrar and ORIC continue to uphold the regulatory framework for Indigenous corporations as outlined in the CATSI Act, while being responsive to the needs and expectations of Indigenous corporations and those people that interact with them. It is also important for the Registrar and ORIC to play an active role in the Government's 'closing the gap' agenda

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jenny Macklin', with a long, sweeping horizontal stroke at the end.

JENNY MACKLIN MP