

REGULATION & REGISTRATION



CORPORATION REPORTING COMPLIANCE

Reporting compliance by corporations reached 95.7 per cent in 2013–14 with 52 per cent of all annual returns lodged electronically.

Corporations registered under the CATSI Act must submit their annual returns (reports) to ORIC at the end of each year. Reporting requirements vary according to registered size—large, medium or small—and income.

Size and income of corporation	Report required
Small corporations with a consolidated gross operating income of less than \$100,000.	1. General report only
Small corporations with a consolidated gross operating income of \$100,000 or more and less than \$5 million.	1. General report
Medium corporations with a consolidated gross operating income of less than \$5 million.	2. Financial report and audit report or financial report based on reports to government funders
Large corporations or any corporation with a consolidated gross operating income of \$5 million or more.	1. General report 2. Financial report 3. Audit report 4. Directors' report

Reports for the 2012–13 financial year had to be lodged by most corporations by 31 December 2013.

This year (which in reporting terms means the 2012–13 financial year) the highest number of corporations in ORIC's history lodged their reports. From a total of 2,326 corporations required to submit reports, 2,227 complied with their obligations under the CATSI Act. In percentage terms, reporting compliance rose from 95.5 per cent last year to 95.7 per cent this year.

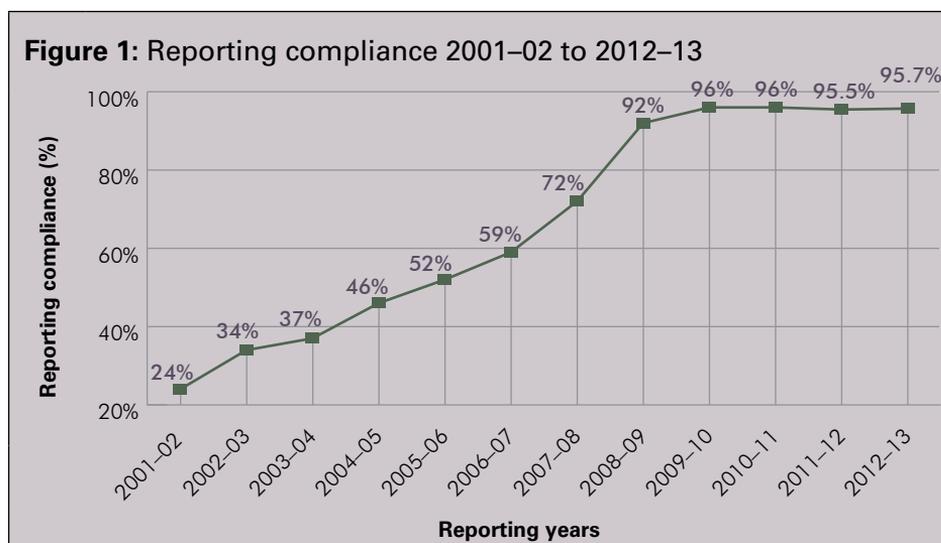
ORIC pursues high compliance rates so that members, communities, creditors and government agencies can have confidence in the public information maintained by the Registrar on the public Register of Aboriginal and Torres Strait Islander Corporations.

Reporting compliance remained a primary focus during the year.

In 2013–14 ORIC conducted a number of activities designed to maintain high reporting compliance rates:

- A communication strategy to remind corporations of their reporting obligations and to offer guidance included:
 - several advertisements in the *National Indigenous Times* and the *Koori Mail* newspapers
 - notices and messages placed on the ORIC website
 - reminders in ORIC publications (such as the *ORIC Oracle* newsletter)
 - direct communication by email, letter and telephone.
- Follow-up of key groups and specific sectors, such as registered native title bodies corporate (RNTBCs) and corporations helped by large corporations operating in remote regions.
- Face-to-face visits by ORIC officers, particularly to corporations in remote locations and outside metropolitan areas. They offered personal assistance in completing reports as well as helped to develop capacity for the future. These visits were generally undertaken by ORIC’s regional officers.
- Telephone ‘follow-ups’ to corporations in breach—ORIC staff made calls to corporations that failed to submit their annual reports by the due date and, where appropriate, offered assistance in completing them.
- Telephone reminders to newly registered corporations. Where corporations were required to report for the first time ORIC staff called to remind them of their reporting obligations. They also made ‘reminder’ calls to corporations that were late to lodge in the previous year.
- Formal warning notices were sent to corporations which failed to respond to reminders and which were in breach.

Figure 1: Reporting compliance 2001–02 to 2012–13



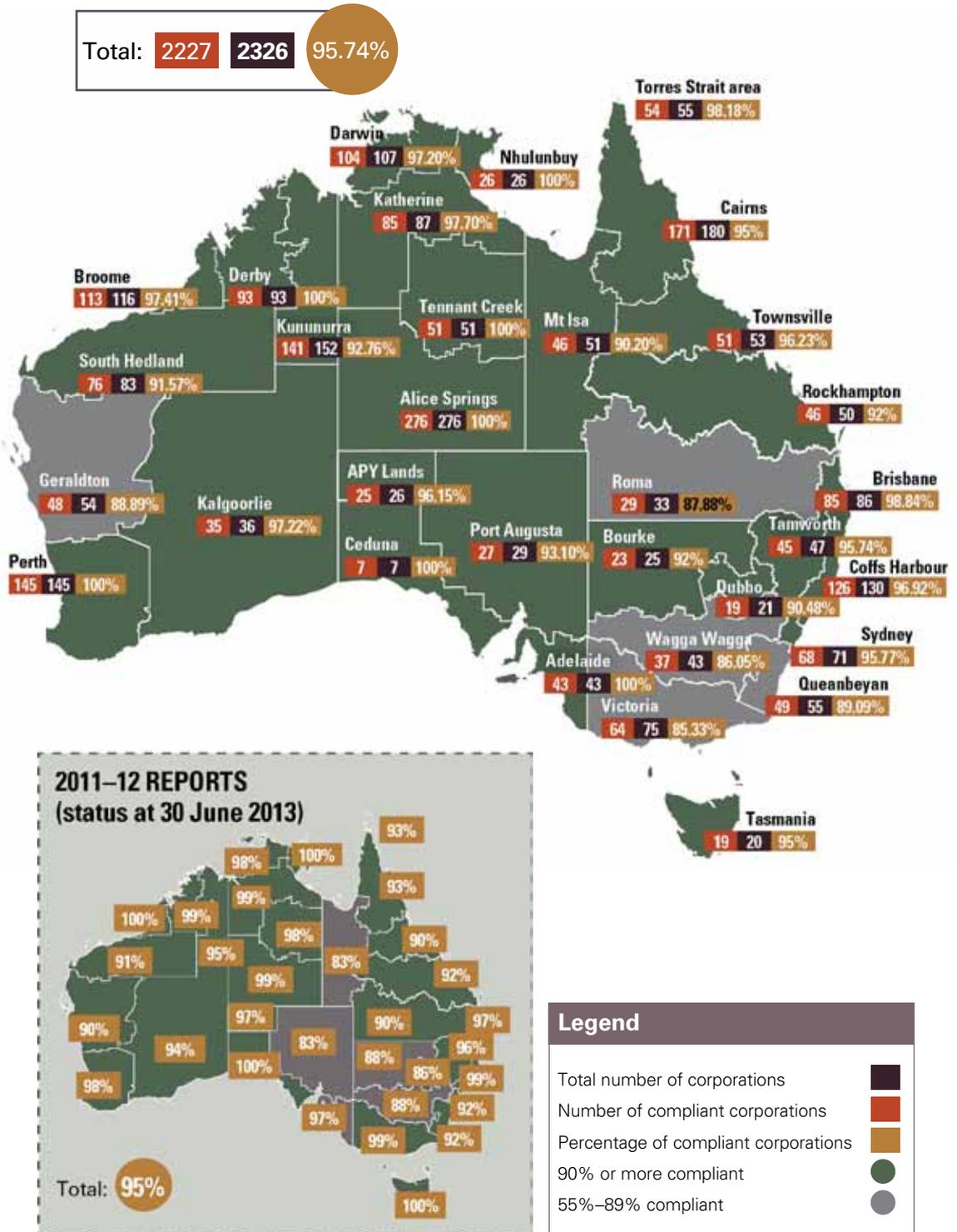
Consequences of not reporting

Corporations that did not lodge reports by 31 December 2013 were targeted for prosecution. During 2013–14, a total of 32 corporations were prosecuted for failing to lodge their reports. The prosecutions program focused on corporations in New South Wales and Victoria that ignored their reporting obligations and did not lodge their reports.

Table 1: Reporting compliance status by region as at 30 June 2014

Region	Number compliant	Number required to report	% compliant
Adelaide	43	43	100.00%
Alice Springs	276	276	100.00%
Bourke	23	25	92.00%
Brisbane	85	86	98.84%
Broome	113	116	97.41%
Cairns	171	180	95.00%
Ceduna	7	7	100.00%
Coffs Harbour	126	130	96.92%
Darwin	104	107	97.20%
Derby	93	93	100.00%
Dubbo	19	21	90.48%
Geraldton	48	54	88.89%
Kalgoorlie	35	36	97.22%
Katherine	85	87	97.70%
Kununurra	141	152	92.76%
Mount Isa	46	51	90.20%
Nhulunbuy	26	26	100.00%
Perth	145	145	100.00%
Port Augusta	27	29	93.10%
Queanbeyan	49	55	89.09%
Rockhampton	46	50	92.00%
Roma	29	33	87.88%
South Hedland	76	83	91.57%
Sydney	68	71	95.77%
Tamworth	45	47	95.74%
Tasmania	19	20	95.00%
Tennant Creek	51	51	100.00%
Townsville	51	53	96.23%
Torres Strait Islands	54	55	98.18%
APY Lands	25	26	96.15%
Victoria	64	75	85.33%
Wagga Wagga	37	43	86.05%
Total	2227	2326	95.74%

Figure 2: 2012–13 reporting compliance status by region as at 30 June 2014

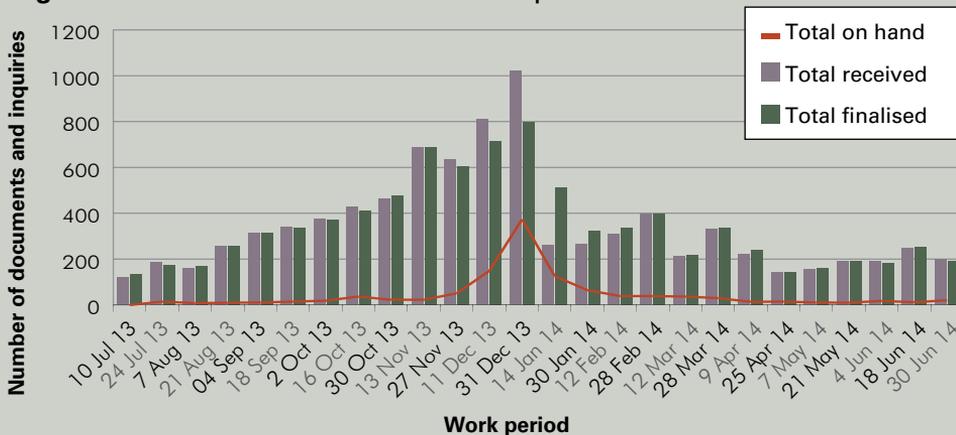


REGISTRATION AND SUPPORT SERVICES

ORIC provides a range of registration services to Aboriginal and Torres Strait Islander groups and corporations.

In 2013–14 ORIC received 8,947 documents (including written inquiries) from corporations and the public—up from 8,306 documents in the previous year, which represents a 7.72 per cent increase. During 2013–14 the processing of documents or responses to inquiries were completed in an average time of 2.61 business days.

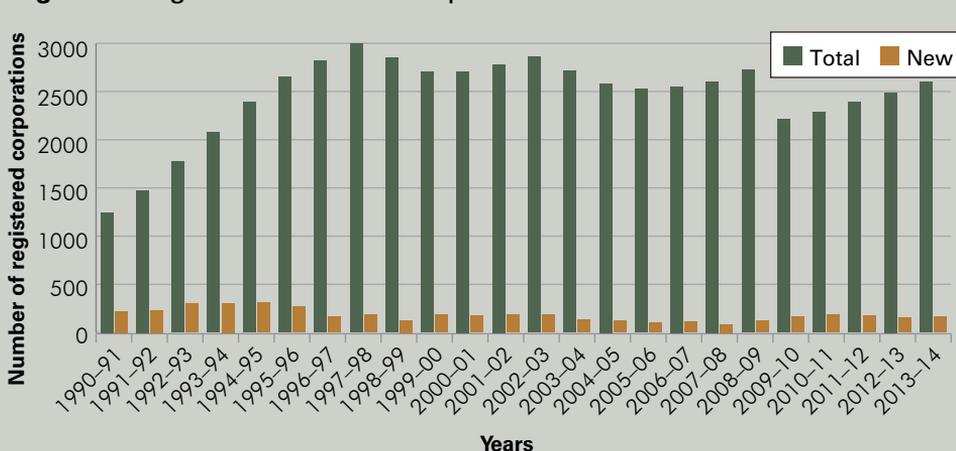
Figure 3: Number of documents and inquiries 2013–14



Profile of corporations registered with ORIC

As at 30 June 2014, there were 2,596 corporations registered under the CATSI Act.

Figure 4: Registered and new corporations from 1990–91 to 2013–14



NOTE: The number of registered corporations is the total number of corporations registered less the total number deregistered.

Table 2: Registered and new corporations from 1990–91 to 2013–14

Year	Number of total registered corporations	Number of new registrations
1990–91	1244	220
1991–92	1474	230
1992–93	1772	298
1993–94	2076	304
1994–95	2389	313
1995–96	2654	265
1996–97	2816	162
1997–98	2999	183
1998–99	2853	128
1999–00	2703	183
2000–01	2709	171
2001–02	2783	187
2002–03	2861	183
2003–04	2713	134
2004–05	2585	120
2005–06	2529	102
2006–07	2552	111
2007–08	2605	84
2008–09	2723	125
2009–10	2210	163
2010–11	2286	187
2011–12	2391	173
2012–13	2488	155
2013–14	2596	163

Table 3: Location of registered corporations by region as at 30 June 2014

Region	Number of corporations
Adelaide	48
Alice Springs	296
Bourke	27
Brisbane	101
Broome	120
Cairns	210
Ceduna	8
Coffs Harbour	148
Darwin	123
Derby	95
Dubbo	25
Geraldton	55
Kalgoorlie	40
Katherine	87
Kununurra	162
Mount Isa	61
Nhulunbuy	33
Perth	166
Port Augusta (includes APY Lands)	58
Queanbeyan (includes ACT)	59
Rockhampton	60
Roma	38
South Hedland	92
Sydney	86
Tamworth	54
Tasmania	22
Tennant Creek	60
Townsville	63
Torres Strait Islands	61
Victoria	87
Wagga Wagga	51
Total	2596

The following table outlines ORIC’s registration and support services from 2002–03 to 2013–14.

Table 4: Registration and support services 2002–03 to 2013–14

	02–03	03–04	04–05	05–06	06–07	07–08
REGISTRATION AND SUPPORT SERVICES						
Incorporations						
Applications received	211	160	120	110	107	116
Applications actioned**	205	143	134	123	143	108
approved	183	134	120	102	111	84
refused	—	—	—	1	2	5
lapsed/withdrawn	22	9	14	17	30	19
Rule book change requests						
Requests received	138	122	116	92	126	97
Requests actioned**	127	114	131	127	160	85
approved	94	106	112	92	124	55
refused	22	4	4	9	5	30
lapsed/withdrawn	11	4	15	20	31	—
Corporation name change requests						
Requests received	20	26	27	11	5	12
Requests actioned**	16	18	25	15	27	9
approved	8	14	18	9	16	6
refused	2	—	2	0	1	3
lapsed/withdrawn	6	4	5	6	10	—
Change of corporation contact and officer details						
Change requests received	n/a	n/a	n/a	n/a	n/a	345
Change requests applied to the public register**	n/a	n/a	n/a	n/a	n/a	284
Annual general meeting extensions and other exemptions						
Matters finalised**	—	104	137	197	162	97
Written inquiries received						
Inquiries finalised**	622	634	682	882	897	919

	08–09	09–10	10–11	11–12	12–13	13–14
REGISTRATION AND SUPPORT SERVICES						
Incorporations						
Applications received	148	172	176	164	162	166*
Applications actioned**	133	188	197	183	163	175
approved	125	163	187	173	155	163
refused	0	6	7	7	5	10
lapsed/withdrawn	8	17	3	3	3	2
Rule book change requests						
Requests received	411	187	166	159	163	213
Requests actioned**	400	220	174	163	163	226
approved	376	204	164	158	153	216
refused	24	14	10	5	10	10
lapsed/withdrawn	0	0	0	0	0	0
Name change requests						
Requests received	48	24	29	17	17	22
Requests actioned**	45	25	30	18	19	23
approved	38	23	28	18	17	23
refused	7	2	2	0	2	0
lapsed/withdrawn	0	0	0	0	0	0
Change of corporation contact and officer details						
Change requests received	853	640	738	811	821	852
Change requests applied to the public register**	803	636	721	797	812	852
Annual general meeting extensions and other exemptions						
Matters finalised**	236	312	348	448	431	379
Written inquiries received						
Inquiries finalised**	1080	3427	2919	3014	2337	2319

NOTES: *Of these 166 applications eight were for organisations transferring their registration from other jurisdictions.

**Some services finalised during the financial year were initiated in the previous year.

Quick summing up

In 2013–14:

163 new corporations registered under the CATSI Act, representing a slight increase from the 155 corporations that registered last year. This included eight transfers of incorporation to the CATSI Act from other incorporation legislation.

216 requests for rule book changes were approved, representing a 41 per cent increase from the number of rule book changes approved last year.

852 forms of 'notification of a change to corporation officers' details' and 'notification of a change to corporation address and/or contact details' were entered on the public Register of Aboriginal and Torres Strait Islander Corporations, compared to 812 last year.

379 annual general meeting (AGM) extensions and exemptions were granted by the Registrar. Under the CATSI Act the Registrar can take into account the special circumstances and needs of Aboriginal and Torres Strait Islander corporations.

2,319 written inquiries from corporations were finalised. These included inquiries about registration assistance, requests for information, support and referrals.

DISPUTE MANAGEMENT

During 2013–14 ORIC helped to resolve 38 disputes.

One of the Registrar’s statutory functions is to assist with disputes involving Aboriginal and Torres Strait Islander corporations and to help them find a resolution.

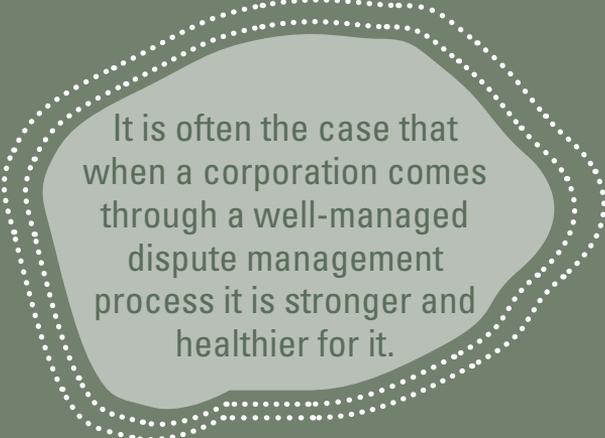
ORIC’s dispute management service can support corporations by providing:

- an advisory opinion—this is a formal letter from the Registrar giving an opinion about how the CATSI Act and the corporation’s rule book applies to a matter or set of circumstances
- dispute management workshops
- advice—by telephone, face-to-face or email
- conferencing and small group problem-solving facilitation
- representatives to call, attend and chair general meetings
- recommendations for rule book amendments to ensure that a good dispute resolution process is in place.

If a dispute within a corporation is managed with care and in the right way it can serve as a mechanism against corporate governance failure. ORIC works with all parties involved and tailors its responses to suit a corporation’s individual needs. ORIC also helps to build capacity within corporations so that they are better able to manage disputes in the future, should they occur.

The Registrar treats all disputes with sensitivity and takes into consideration the culture and traditions of Aboriginal and Torres Strait Islander people.

ORIC has a fact sheet, *Dispute resolution*, and a policy statement, *PS-22: Disputes involving corporations*, available on its website.



It is often the case that when a corporation comes through a well-managed dispute management process it is stronger and healthier for it.



CASE STUDY: Joining of ORIC services (special administration and dispute management)—Muluridji Tribal Aboriginal Corporation RNTBC (ICN 7580)

The Muluridji Tribal Aboriginal Corporation RNTBC, based in Far North Queensland, was incorporated on 5 July 2011. The corporation holds native title on behalf of the Muluridji people.

The Federal Court made two consent determinations recognising the Muluridji people's native title rights and interests to 12,030 hectares of land and waters in and around Mareeba and to its north-west. The area includes the Hann Tableland National Park, Mareeba Tropical Savannah, Wetland Reserve and unallocated state land, pastoral leases and other reserve lands.

Between April 2012 and June 2013 the corporation faced serious governance issues and, with ongoing conflicts between family groups, was in a state of disarray.

In August 2013 the Registrar ordered an examination of the corporation's books and records (under section 453-1 of the CATSI Act) which subsequently identified a number of serious deficiencies in corporate governance and financial management.

On 26 September 2013 a 'show cause notice' was issued to the corporation and on 9 December 2013 (under section 490-1 of the CATSI Act), the Registrar appointed a special administrator.

Over the ensuing months, with the assistance of the special administrator, ORIC held family group dispute resolution workshops designed to help the two clashing groups within the corporation to negotiate a workable agreement.

During the workshops, the traditional owners unpicked the issues that were interfering with the proper governance of the corporation, including:

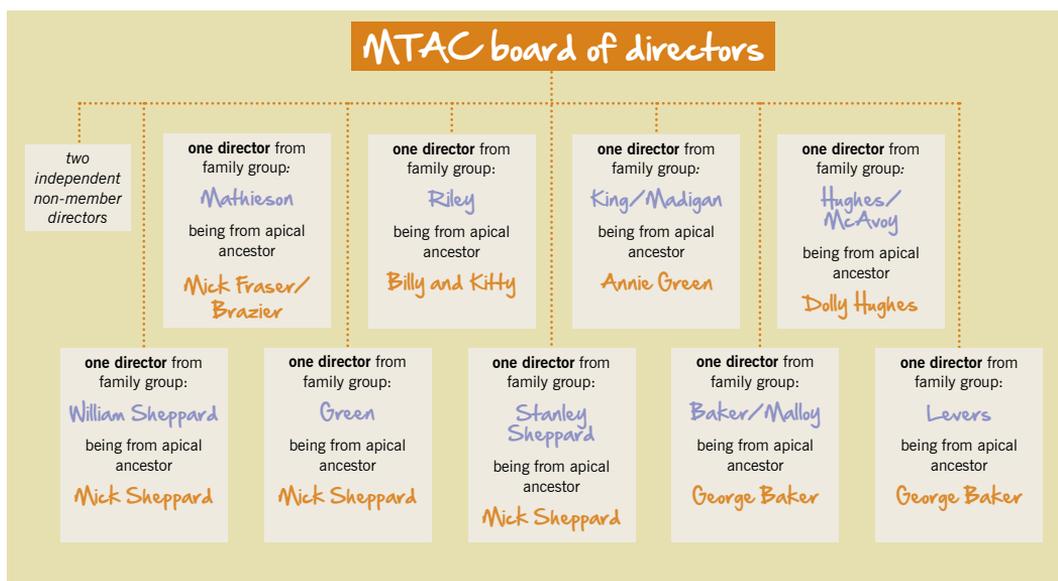
- membership
- ongoing conflict between family groups
- governance
- the rule book. Many members thought that the rule book should be much clearer about membership eligibility, the role of the directors and how they were appointed. Equally, everyone wanted to make sure that the traditional owners' native title rights and interests were properly protected.



By the end of the sessions the family groups agreed that:

- the seven apical ancestors identified in the consent determination were to remain as the cornerstone for determining the eligibility of new members
- a committee of elders was to be established to be part of consultations and to be supported by the directors
- there were nine family groups
- representatives from the family groups would be the member directors of the corporation
- the directors were to consult with their family group members
- two independent non-member directors were to be appointed
- good governance practices must be built into the rule book.

On 16 May 2014 the special administration ended and the corporation was set to move forward as the native title representative body for the Muluridji people.





CASE STUDY: Successful dispute management process—Koongie Elvira Aboriginal Corporation (ICN 72)

Koongie Elvira Aboriginal Corporation in Halls Creek, Western Australia, was registered on 2 June 1980. Until 2015 it holds two pastoral leases for the Koongie Park Station and Elvira Station and a 99-year freehold land lease for the community land.

The Koongie Elvira Aboriginal Corporation provides a strong economic base for the Halls Creek community.

On 23 October 2013 the directors of the corporation wrote to the Registrar requesting the appointment of a special administrator because of ‘significant financial and governance difficulties’. However, rather than placing the corporation under special administration the Registrar was of the view that the corporation would be better served by going through a dispute management process.

First ORIC identified three key issues affecting the corporation’s governance:

- risks associated with the corporation losing its two pastoral leases and future financial viability
- two previous members engaging legal representation and issuing the corporation with a letter of demand in relation to changes to the corporation’s membership base
- rule book amendments in June 2009 which disadvantaged a number of the eligible family groups.

Second ORIC invited the corporation’s directors and the two ex-member disputants to participate in a two-day dispute resolution workshop at Halls Creek in April 2014.

The workshop was a facilitated process designed to:

- identify and define the disputes
- understand the disputes
- analyse the causes and consequences of the disputes
- negotiate solutions and options so the corporation could move forward in a positive direction
- promote communication between directors and members
- provide information and guidance on the corporate governance matters affected by the disputes.



The key outcomes verbalised and agreed to by the directors and disputants included:

- development of an action plan to address key financial, operational and governance issues
- more effective communication between family groups and a commitment to work amicably towards achieving positive results
- implementation of rule book amendments to resolve critical issues, such as those disadvantaging certain family groups.

ORIC assisted by:

- finalising the action plan in conjunction with the parties participating in the workshop
- preparing a draft of a letter sent to the legal firm engaged by the former members outlining the outcomes of the workshop
- preparing a draft rule book with amendments for further consideration by the directors and members.

As a final step ORIC set up a monitoring process to make sure that the agreed outcomes (as set out in the action plan) were implemented to secure for the corporation a sustainable future.



COMPLAINTS ASSISTANCE

One of the functions of the Registrar under the CATSI Act is to assist with complaints involving Aboriginal and Torres Strait Islander corporations.

ORIC finalised 750 complaints during 2013–14, which represents a 13 per cent increase from the previous year.

On average, ‘straightforward complaints’ were answered within two working days, ‘detailed complaints’ were finalised in an average of 10 days, while the most ‘complex complaints’, which often required considerable background research and follow up with third parties, were resolved in an average of 48 days.

Possible reasons for the slight increase in the number of complaints include:

- increased awareness within communities and corporations that ORIC offers a complaints service
- increased exposure in the general media about the Registrar’s activities, particularly the reporting of successful prosecutions
- improved understanding of corporate governance among corporation members, directors and staff (due to ORIC’s training programs in corporate governance).

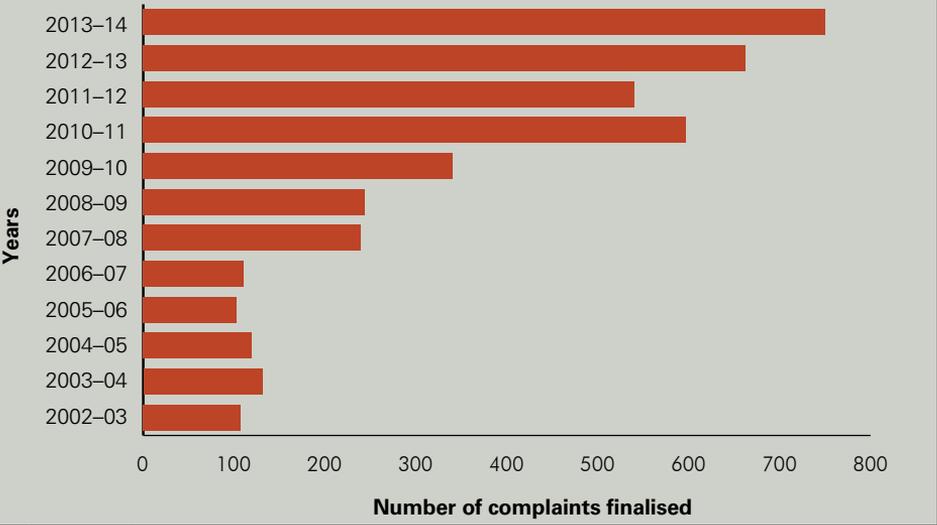
As part of its complaints handling process, ORIC also assists those who are complained about (that is, the subjects of complaints) by providing:

- governance information and advice
- information on what constitutes a breach of the CATSI Act or a corporation’s rule book, and how to rectify the breach
- options that may help to resolve the concerns raised in a complaint
- information to members on rights and responsibilities under a corporation’s rule book.

Over 2013–14, ORIC received most complaints about ‘the actions taken by directors and other officers (including senior staff)’. The second most common area of complaint in 2013–14 was a ‘failure of directors to call general meetings’ and the third was ‘lack of financial information available to members’.

ORIC has produced a fact sheet, *Complaints involving corporations*, and a policy statement, *PS-02: Complaints involving corporations*, which are available on its website.

Figure 5: Number of complaints finalised by the Registrar 2002–03 to 2013–14



When complainants allege fraud or misappropriation of funds at a corporation ORIC first of all asks for evidence to support the allegations. ORIC can only take action if there is sufficient evidence.

Cases are reported on the ORIC website where the Registrar has secured a successful outcome of a prosecution for fraud or 'misuse of position'.

Complaints can serve a useful purpose. They can be a barometer for the issues affecting corporations.

NOTE: An overview of complaints involving corporations submitted to the Registrar is published every six months and is available on the ORIC website under 'News and reports/statistics'.

Sometimes ORIC can't assist

One of ORIC's most important roles is assisting members and other stakeholders to understand the requirements of the CATSI Act and what's in a corporation's rule book.

An area however that can sometimes prove difficult is when people question the actions of directors and other officers of a corporation.

Membership applications. ORIC often receives complaints about the CATSI Act requirement that the directors of the corporation decide upon applications for membership (Division 144). Applicants who have been denied membership by the directors sometimes believe ORIC can, and should, instruct a corporation's directors to make them a member. This is not the case. ORIC can neither prescribe who are members nor assist individuals who have been denied membership, except in limited circumstances.

Where membership applications are not processed within a reasonable period ORIC may write to the directors to urge their completion. Yet it should be noted that where eligibility needs to be verified the process can sometimes take considerable time.

In other cases where directors fail to respond to applicants or the applications have stalled, ORIC will consider if the directors are in breach of their directors' duties.

Giving direction to corporation staff. Although ORIC is often asked by corporation members and directors to give direction to corporation senior staff, it cannot do this.

Under the CATSI Act, the directors are appointed by the members to manage a corporation's business (section 274-1). They, in turn, appoint the CEO or manager who is responsible for the corporation's day-to-day operations, including meeting legislative requirements, complying with funding agreements, and managing junior staff.

If there is an issue with the CEO/manager it is the responsibility of the directors to deal with it. Members who have concerns about the CEO/manager should raise their concerns with the directors.

Clients who have concerns or complaints about the corporation's services should use the corporation's client feedback mechanisms (which are often governed by funding agreements).

Members concerned about the directors' method or style in managing senior staff can consider removing the directors and replacing them with others whose approach may be more in keeping with their own. A general meeting needs to be specially called for the purpose.

ORIC's fact sheets *Members' rights* and *What's in the corporation's rule book* deal with members' requests for meetings and the removal of directors. Both are available at www.oric.gov.au/resources.

NOTE: Corporation directors should not take action against any employee without first obtaining advice from their legal advisers or, at the very least, from the Fair Work Commission. If directors don't comply with the terms in employment contracts or with industrial relations laws they could risk exposing the corporation to legal action.

CASE STUDY: Directors take on a tough job

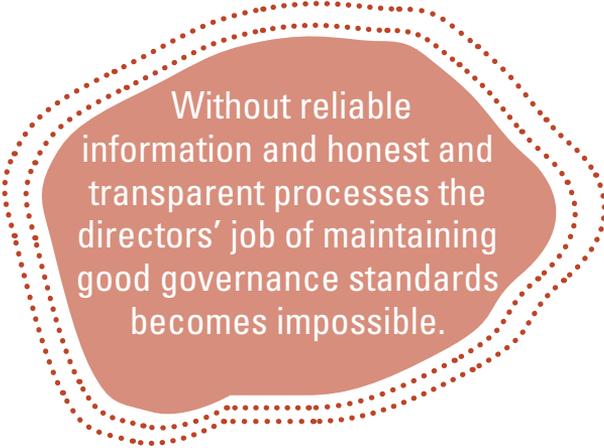
In October 2012, the chairperson of a corporation based in North Queensland informed ORIC that its CEO was taking corporation money for personal use. The directors discovered the fraud when the CEO failed to provide them with accurate financial reports. When confronted the CEO stood down but the directors viewed the matter too serious to be left there and reported it to the police.

In September 2013, the CEO received a three-year sentence for stealing a total of \$63,953 from the corporation over a three-year period.

The Registrar commends the action of this corporation which is a shining example of directors knowing their roles and responsibilities and taking them very seriously. As soon as they were aware that their CEO was giving them misleading financial information they took the hard decision of reporting the matter to the police.

The case clearly exemplifies corporation directors carrying out their duties conscientiously and, by taking action, ensuring that their corporation was not exposed to further risk.

ORIC's complaints team helped the corporation by providing information on how to manage governance issues—for example, managing conflicts of interest, how to change the corporation's rule book and how delegations work.



Without reliable information and honest and transparent processes the directors' job of maintaining good governance standards becomes impossible.

REGIONAL OPERATIONS

During 2013–14 ORIC expanded its regional operations by opening three new offices—one in Broome, Western Australia, one in Darwin, Northern Territory, and a third in Adelaide, South Australia.

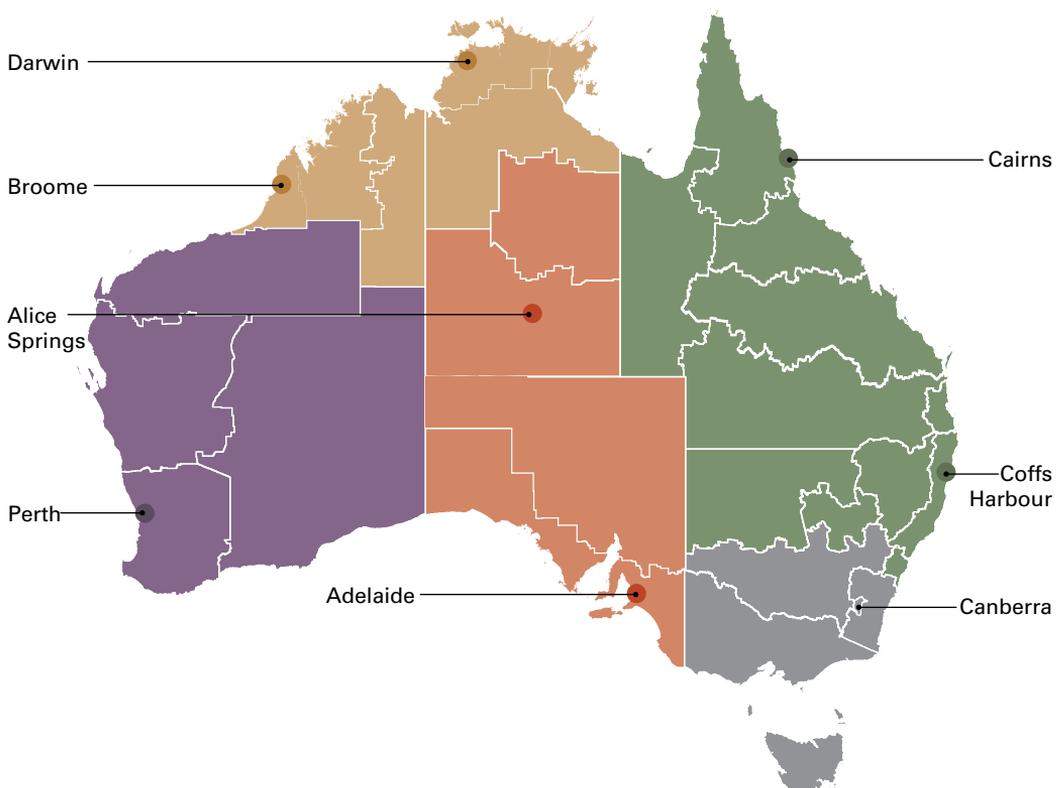
ORIC now has offices in Coffs Harbour, New South Wales; Cairns, Queensland; Alice Springs and Darwin in the Northern Territory; Perth and Broome in Western Australia, and, on a short-term basis, Adelaide in South Australia.

These offices support the following regional network:

ORIC offices	Regions supported
Coffs Harbour and Cairns offices	Coffs Harbour, Dubbo, Bourke, Sydney, Tamworth, Brisbane, Rockhampton, Roma, Cairns, Townsville, Mount Isa, and Torres Strait
Alice Springs and Adelaide offices	Alice Springs, Tennant Creek, Adelaide, Ceduna, Port Augusta (including APY Lands)
Darwin and Broome offices	Darwin, Katherine, Nhulunbuy, Broome, Derby, Kununurra
Perth	Perth, Geraldton, Kalgoorlie, South Hedland

The national office supports the entire regional network as well as covers:

Canberra (national office)	Queanbeyan, Wagga Wagga, Victoria and Tasmania
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COFFS HARBOUR regional office, New South Wales

After five years, the office in Coffs Harbour is ORIC's longest running regional office and is a well-established presence in the local area. Over the past year the regional manager has interacted with a large number of corporations across New South Wales and as far north as Rockhampton, Queensland. Some typical activities include providing reporting assistance, training, and guiding the registration of new groups under the CATSI Act.

There is no doubt that face-to-face contact makes a difference. Directors and members of corporations in New South Wales appreciate the fact that they can gain easy access to ORIC's support services and are encouraged to ask questions and seek governance advice.



Christian Lugnan,
regional manager,
Coffs Harbour

CASE STUDY: Corporation specific training (CST)— Ngurrala Aboriginal Corporation (ICN 2365)

Every couple of years Ngurrala Aboriginal Corporation, which is nestled in the green hills near Bowraville, New South Wales, requests governance training from ORIC. The corporation recognises the benefit of refreshing its corporate governance knowledge and sharing a training opportunity with its newer directors.

In March 2014 the Coffs Harbour regional manager went to Bowraville to present some 'corporation specific training'—often referred to as a 'CST'. On this occasion the training's focus was on 'roles and responsibilities of directors' and the 'separation of roles' between the board of directors and the operational arm of the corporation.

'I found that the directors had an excellent, respectful working relationship with the CEO,' said Christian Lugnan, ORIC's Coffs Harbour regional manager. 'It had developed through maintaining strong communication lines and an independence from each other's roles. I was able to emphasise the importance of keeping to these clear boundaries.'



Directors of Ngurrala Aboriginal Corporation with Christian Lugnan

As the workshop went on, it emerged that the two arms of the corporation thought that they needed to engage more with their younger members. They discussed establishing a youth sub-committee and also considered offering the younger members experience in governance meetings. As a result, ORIC's regional manager explained the steps to allow for a youth sub-committee in the corporation's rule book.

CAIRNS regional office, Queensland

The Cairns regional office has been operating since 2012 and covers a diverse area extending as far north as the Torres Strait and as far south as Sarina. Over 2013–14, there has been a noticeable increase in the demand for ORIC's support services among local corporations.

Easy and direct access to ORIC staff has allowed locally-based corporations to obtain quick responses to their queries. More corporations have gained a wider understanding of corporate governance, the importance of their rule books and how to make rule book changes.



Jennifer Reuben and Mavis Napatali
regional officers, Cairns

CASE STUDY: Training workshop with the Batavia Traditional Owners Aboriginal Corporation (ICN 7538)

In November 2013, at the invitation of the Queensland Government, Cairns regional officers Jennifer Reuben and Mavis Napatali travelled to Bamaga, a small town about 40 kilometres from the northern tip of Cape York. They were there to give a presentation at a two-day governance training workshop.

Eight directors from the Batavia Traditional Owners Aboriginal Corporation attended the workshop as well as three staff members from the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs, and one from the Department of National Parks, Recreation, Sport and Racing. The corporation has three clan groups: Kaanju, Yinwum and Atambaya and nine directors—three from each of the clan groups—and covers an area that includes Injinoo, Bamaga, Lockhart, Coen and Mapoon.

The regional officers went through the roles and responsibilities of directors and answered questions. 'I think the directors got a lot out of it and we received some very positive feedback,' said regional officer Jennifer Reuben. 'It was a worthwhile experience.'



The workshop was hosted by the Queensland Government's Department of Aboriginal and Torres Strait Islander and Multicultural Affairs

ALICE SPRINGS regional office, Northern Territory ADELAIDE regional office, South Australia

The Alice Springs regional office was established in 2011 and now is an integral part of ORIC's growing regional network. It serves the lower area of the Northern Territory and, in conjunction with ORIC's Adelaide office, the whole of South Australia.

The offices in Alice Springs and Adelaide deliver a wide range of services, including training to individual corporations, assistance with rule book changes, complaints handling, transfers of registration to the CATSI Act and the registering of new corporations.



Bob Turner, regional manager,
Alice Springs and Adelaide.



George Donaldson, regional officer,
Alice Springs

CASE STUDY: Getting started—Far West Coast Aboriginal Corporation RNTBC (ICN 7985)

The Far West Coast Traditional Lands Association Incorporated transferred its registration from South Australia's *Associations Incorporation Act 1985* to the CATSI Act in December 2013 under the name of Far West Coast Aboriginal Corporation. The Alice Springs regional officers met with the corporation in January 2014, which was about the time that the CEO and chairperson were preparing for the corporation's first general meeting.

The regional officers held discussions with the corporation on a variety of matters, including correct meeting procedures—for example, drafting a 'meeting notice', chairing the meeting, and deciding on appropriate travelling expenses for the members.

In February 2014 the corporation applied to ORIC to add RNTBC to its name after the Federal Court made a native title determination in December 2013 in favour of the Kokatha, Mirning and Wirangu people in South Australia. The initials stand for registered native title body corporate.

In providing assistance, the regional officers stressed the importance of referring to the corporation's rule book and becoming familiar with its contents—and they have since followed up by providing advice and information on corporate governance requirements.

'Getting this corporation started under the CATSI Act was very rewarding,' said Bob Turner, ORIC's Alice Springs regional manager. 'This was new legislation for the members. We were pleased we could help the corporation transition smoothly and become familiar with its new reporting obligations. We also emphasised the importance of knowing the corporation's rule book.'



Hannah Roe, regional manager, Darwin

DARWIN regional office, Northern Territory

The opening of ORIC’s Darwin regional office in October 2013 was highly anticipated and it has quickly established a firm presence in the Top End. The demand for ORIC locally-based services in the region has been strong for some time.

From the outset the regional office has concentrated on providing hands-on support to local corporations, ranging from helping with governance difficulties to assisting with reporting obligations. A particular focus has been working with the ORIC recruitment assistance (ORA) service to help recruit skilled senior managers and independent directors to corporations.

Improvisation is the name of the game. Using a car bonnet as a makeshift whiteboard in a training session at Nganambala community (Emu Point) for the Mulyung Aboriginal Corporation, May 2014



CASE STUDY: Recruiting independent directors—Miwatj Health Aboriginal Corporation (ICN 1409)

Miwatj Health Aboriginal Corporation is a large corporation based in Nhulunbuy in the Northern Territory. It provides primary health services to Aboriginal people living in communities throughout East Arnhem Land. In January 2014 Miwatj Health Aboriginal Corporation sought assistance through ORIC’s recruitment assistance (ORA) service to recruit two independent directors to its board.

Once the corporation specified the specialist skills it was seeking, ORIC stepped in to help with the recruitment process. Expressions of interest for the two independent directors’ positions were advertised in local newspapers, on ORIC’s website under ‘corporation jobs’, on the Australian Institute of Company Directors (AICD) website, and in FIDIO (Forum for Independent Directors and Officers of Indigenous Organisations). In May 2014 Darwin’s regional manager travelled to Nhulunbuy to support the members of the selection panel as they conducted interviews.

‘I spent a most interesting two days with the corporation’s directors and selection panellists making sure we were following the recruitment process properly and were getting the most out of it,’ said ORIC’s Darwin regional manager, Hannah Roe. ‘A great deal hung on making sure we got it right.’

Two applicants were successfully appointed to the independent director positions for a two-year period.



Sid Michels,
regional officer, Broome

BROOME regional office, Western Australia

The Broome regional office, which also opened its doors for the first time in October 2013, provides services to the Kimberley (including around Broome, Derby, and Kununurra). As more people have become aware of ORIC's presence in northern Western Australia demand for ORIC's services has steadily grown.

The Broome regional officer has delivered training to a number of corporations and has assisted many more with their reporting obligations.



Regional officers have to be ready for anything, including breakdowns on the Cape Leveque Road, Kimberley, February 2014

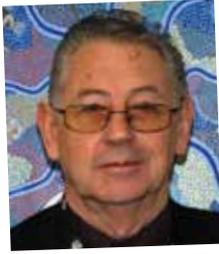
CASE STUDY: New registration—Beagle Bay Futures Indigenous Corporation (ICN 8048)

Beagle Bay Futures Indigenous Corporation is a newly registered corporation based in Beagle Bay on the Dampier Peninsula, Western Australia. The corporation was established to offer a central point of contact for the delivery of services to the community. The need was identified by the local area coordinator (from the Remote Service Delivery Local Operations Centre) while conducting governance activities.

ORIC's Broome regional officer provided information and support about registering the new corporation under the CATSI Act and developing its rule book. He also attended several meetings in both Broome and Beagle Bay, and made himself available to the local area coordinator as the registration drew close.

'As well as helping to draft the rule book I proposed a possible structure for the corporation's board of directors that could be put to the members,' said ORIC's Broome regional officer, Sid Michels. 'It was important to make sure that the structure was a fair representation of the community.'

ORIC's Broome regional officer will continue to support the corporation with CST training and on-the-ground governance support.



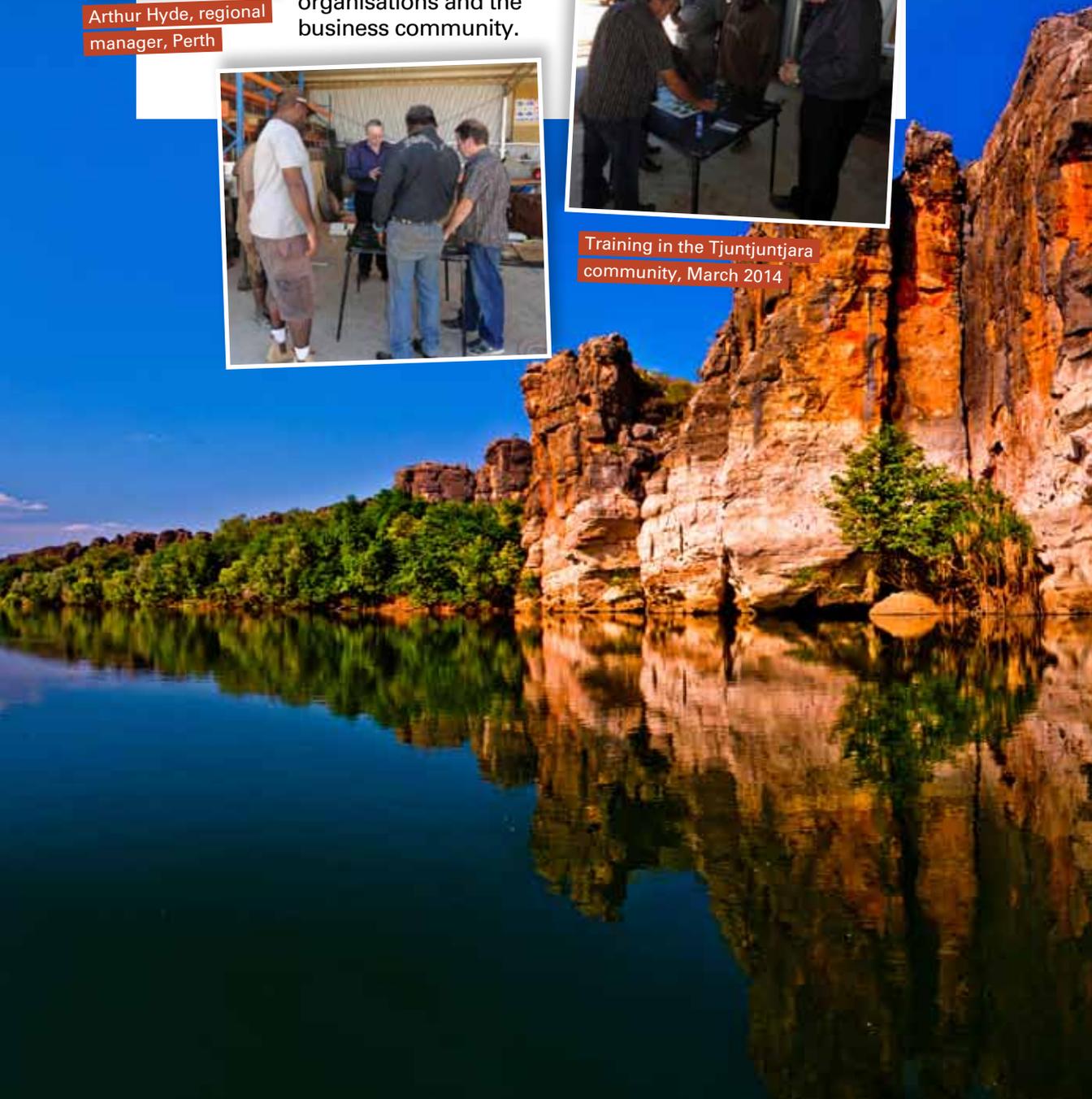
Arthur Hyde, regional manager, Perth

PERTH regional office, Western Australia

The Perth regional office has been in operation for over two years and is now a well-known and welcome presence in the region. It is used not only by local corporations but also by stakeholders, such as government agencies, non-government organisations and the business community.



Training in the Tjuntjuntjara community, March 2014



CASE STUDY: Revitalisation project—Katanning Aboriginal Corporation (ICN 805)

The Katanning Aboriginal Corporation located in the Great Southern region of Western Australia was set up some 25 years ago to improve the general welfare and standard of living of the local community. For some years however it had been inactive.

In September 2013 the Katanning Governance and Leadership Project was established to support the Katanning Aboriginal community.

Revitalising the local corporation was essential to the success of the project, which was jointly supported by the Perth Indigenous Coordination Centre (ICC) and the Shire of Katanning. ORIC was asked to provide governance support as part of the project's commitment to capacity building.

ORIC's Perth regional office helped Katanning Aboriginal Corporation by:

- attending the corporation's AGM and other meetings with the directors and the project's consultant
- assisting the new directors to understand their duties, roles and responsibilities
- conducting regular discussions with the Perth ICC to monitor progress and identify areas of 'cooperative engagement'.

At the AGM new directors were elected who wanted to move the corporation forward and who were also interested in using ORIC's support services. Further, the corporation's directors saw the value in participating in the Katanning Governance and Leadership Project.

'The improvements at the corporation are tangible,' said ORIC's Perth regional manager, Arthur Hyde. 'And it's heartening to see it is now focused on taking a leading role in the community.'

ORIC will continue to offer the corporation assistance from its Perth regional office. It will help make the corporation a role-model of strong governance and leadership within the Aboriginal community of Katanning and across the Great Southern region.

REGULATION

Examinations

An examination is a review of a corporation's standard of corporate governance and financial management. It checks that a corporation is being governed in accordance with the CATSI Act (including its regulations and applied *Corporations Act 2001* provisions) and its rule book (constitution), and that the directors are fulfilling their obligations.

An examination also checks that a corporation is properly managing its financial affairs. It looks for:

- financial records that correctly record and explain its transactions, financial position and performance, and that enable true and fair financial reports to be prepared and audited
- robust financial management policies and procedures

and it determines the financial position and financial performance of the corporation at the time of the examination.

Examining a corporation's books contributes to the intent of the CATSI Act as a special measure to advance and protect the interests of Aboriginal and Torres Strait Islander people and their respective cultures. As a mechanism, examinations are particularly useful where a corporation is publicly funded, provides essential services, community infrastructure or holds interests in native title.

It's worth noting that examinations are equally effective at revealing corporations that are running well as those that are experiencing financial or governance difficulties. Many corporations welcome the examination process because it confirms that their practices and procedures are up to standard.

For more information see ORIC's policy statement *PS-25: Examinations* available on the ORIC website.

Over 2013–14 ORIC completed 46 examinations as set out in the following table. The number was down from the previous year due to shifting budgetary priorities.

Table 5: Examinations by state/territory 2013–14

Location by state/territory	Number of corporations
Australian Capital Territory	0
New South Wales	5
Northern Territory	8
Queensland	14
South Australia	6
Tasmania	1
Victoria	4
Western Australia	8
Total	46

The 2013–14 examination program focused on the following activity areas:

Table 6: Examinations by activities 2013–14

Activities	Number of examinations
Health services	9
Registered native title bodies corporate (RNTBCs)	8
Other native title	6
Community stores	3
Community services	3
Art centres	3
Health and aged care services	2
Housing	2
Legal services—community or family violence	2
Remote Jobs and Communities Program (RJCP)	2
Business	2
Community councils	1
Employment and training	1
Land management	1
Education/schools	1
Total	46

Outcomes of examinations

The outcomes of the 46 examinations conducted over 2013–14 were as follows:

- 12 corporations (26 per cent) were found to be operating well and required no further action. They were each sent a management letter.
- 26 corporations (57 per cent) were required to rectify less serious matters which were settled through the issue of a compliance notice under section 439-20 of the CATSI Act.
- seven corporations (15 per cent) had serious findings and were issued with 'show cause notices' under section 487-10 of the CATSI Act. These corporations were required to explain (in other words, to show cause) why they should not be placed under special administration.
- one corporation was asked to seek advice about a possible insolvent position.

Table 7: Outcomes of examinations 2010–11 to 2013–14

Examination outcome	2010–11	2011–12	2012–13	2013–14
Management letters	29	19	22	12
Compliance notices	34	31	26	26
Show cause notices	7	9	1	7
Other	2	2	2	1
Total	72	61	51	46



CASE STUDY: Examination of Barengi Gadjin Land Council Aboriginal Corporation RNTBC (ICN 4395)

The Barengi Gadjin Land Council Aboriginal Corporation RNTBC is based in Horsham, Victoria, and represents traditional owners from several clans in the Wimmera, western Victoria. The Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk family groups were recognised in the Native Title Consent Determination of March 2005, the first in south-eastern Australia.

On 17 June 2013 the corporation's CEO, on behalf of the directors, asked the Registrar to conduct an examination of the operational and financial management of the corporation, and its governance standards.

The corporation was in a period of transition due to changes to its board of directors and senior staff. Consequently there was a view that an independent examination or 'review' of the governance and finances of the corporation was timely. In addition, an examination would help inform the corporation's business planning, particularly as it also had a number of subsidiary companies and trusts to consider.

On 19 July 2013, the Registrar told the corporation that an examination of its books and records would take place in September 2013.

In October 2013 when the examiners submitted their report to the Registrar it listed a number of instances where the corporation had not complied with the CATSI Act or its rule book.

The examination also revealed that the corporation's former CEO had pursued several unsuccessful business ventures through one or more of the corporation's four subsidiaries and trusts. Further, they may have been set up without the authority of the directors, and by using funding (\$794,000 plus GST) provided for another purpose.

On 14 November 2013 the Registrar notified the corporation of his intention to issue a compliance notice under section 439-20 of the CATSI Act. At the same time the Registrar provided the corporation with a draft of the compliance notice together with an invitation to respond to its content.

On 29 November 2013 the corporation replied to the draft compliance notice and a final compliance notice was issued to the corporation on 2 December 2013.

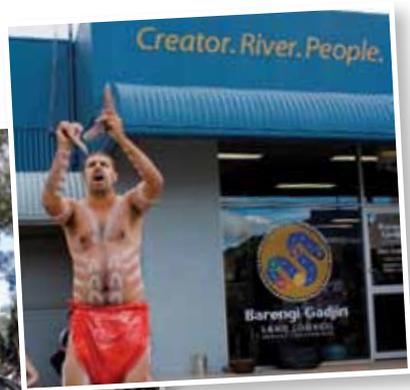


The compliance notice set out each instance of non-compliance with the CATSI Act and the corporation’s rule book, and detailed the actions that the Registrar expected to occur before the corporation could be deemed compliant.

Over the next seven months ORIC monitored the corporation closely to make sure it provided documentary evidence that each of the actions set out in the compliance notice was carried out.

On 11 July 2014 the Registrar wrote to the corporation to advise that it had met all the requirements of the compliance notice and, as such, the monitoring period was officially over.

The Registrar noted that the directors of the corporation had attended to the matters in the compliance notice in a diligent and cooperative way.



Launch of the corporation’s new office, Horsham, Victoria



Special administrations

Special administration is unique to the CATSI Act. It is a special measure that acknowledges the role and circumstances of Aboriginal and Torres Strait Islander corporations.

Special administration is a means by which the Registrar can provide a corporation with regulatory assistance before it is too late. It allows the Registrar to appoint an independent, suitably qualified person (the special administrator) to work with a corporation to fix its internal problems and restore it to good health. Once this is achieved, the special administrator returns control of the corporation to its members.



The Registrar addressing the AGM at Bawinanga Aboriginal Corporation while it was under special administration, October 2013

In all cases the special administrator works in the best interests of the corporation and its members. The aim is to help rectify such problems as short-term financial troubles, poor governance practices or fundamental weaknesses in the corporation's structure.

Special administrations are quite different to receiverships, liquidations or voluntary administrations as defined under the *Corporations Act 2001*, which are usually driven by the interests of creditors. The main aim of a special administration is to return a stronger, healthier corporation to members' control as soon as possible.

Before it is placed under special administration, a corporation is accorded a period of natural justice. Through a 'show cause' procedure it's asked why it should not be put into special administration. The time the corporation takes to respond depends on its particular circumstances but the Registrar usually allows at least 14 days.

The aim of every special administration is to achieve one or both of the following:

- **restore good operational order to the corporation**—usually after a corporation has not complied with a provision of the CATSI Act or its rule book, has experienced financial difficulties or there has been a dispute
- **restructure the corporation**—usually after the directors or members have asked the Registrar to intervene to review governance or organisational structures.

NOTE: The grounds for special administrations are broad. They are not restricted to insolvency or the inability to pay a debt. Section 487-5(1) of the CATSI Act outlines the grounds on which the Registrar can determine to place a corporation under special administration.

Number of corporations placed under special administration

During the 2013–14 year, 11 new special administrations were started and 10 were finished, only one special administration was continued from the previous year, and only two special administrations started in 2013–14 were still in progress as at 30 June 2014.

Seven of the new special administrations (or 63 per cent) in 2013–14 were started after the directors asked the Registrar for assistance.

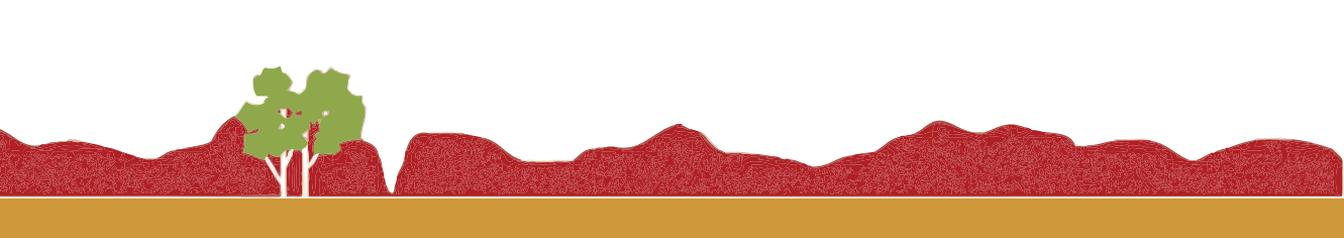
All of the special administrations (100 per cent) that ended during 2013–14 resulted in the corporation being handed back to its members.

Table 8: Corporations placed under special administration 2013–14

Date appointed	ICN	Corporation Special administrator(s)	Date ended or due date Outcome
16 Sep 2013	16	Mitakoodi Aboriginal Corporation	25 Jun 2014
		Glen Walker	Handed back to members' control
18 Nov 2013	7530	Ngarlan Store Indigenous Corporation	30 Mar 2014
		Austin Taylor and Stuart Reid	Handed back to members' control
9 Dec 2013	7580	Muluridji Tribal Aboriginal Corporation RNTBC	16 May 2014
		Brian Woods	Handed back to members' control
9 Dec 2013	3991	Lhere Artepe Aboriginal Corporation RNTBC	30 Jun 2014
		Gerry Mier and Tony Jonsson	Handed back to members' control
9 Dec 2013	4573	Irlpme Aboriginal Corporation	30 Jun 2014
		Gerry Mier and Tony Jonsson	Handed back to members' control
9 Dec 2013	4575	Antulye Aboriginal Corporation	30 Jun 2014
		Gerry Mier and Tony Jonsson	Handed back to members' control
9 Dec 2013	4576	Mparntwe Aboriginal Corporation	30 Jun 2014
		Gerry Mier and Tony Jonsson	Handed back to members' control
16 Dec 2013	7476	Lagulalya Aboriginal Corporation	31 May 2014
		Austin Taylor and Stuart Reid	Handed back to members' control
17 Dec 2013	1956	Puntukurnu Aboriginal Medical Service Aboriginal Corporation	31 May 2014
		Jack James and Paula Cowan	Handed back to members' control
18 Dec 2013	2379	Southside Housing Aboriginal Corporation	30 Sep 2014
		Frank Lo Pilato and Tony Grieves	Assets to be transferred and corporation deregistered
28 Jan 2014	3630	Bunurong Land Council (Aboriginal Corporation)	18 Jul 2014
		Alan Eldridge	Handed back to members' control

Table 9: Corporation with a special administration continuing from 2012–13

Date appointed	ICN	Corporation Special administrator(s)	Date ended Outcome
31 Oct 2012	29	Bawinanga Aboriginal Corporation	30 Jun 2014
		Gerry Mier and Tony Jonsson	Handed back to members' control



CASE STUDY: Special administration of four traditional owner corporations (ICNs 3991, 4575, 4576, 4573)

Here Artepe Aboriginal Corporation RNTBC (LAAC) holds the native title rights of the Central Arrernte people over Alice Springs. Antulye Aboriginal Corporation, Mparntwe Aboriginal Corporation and Irlpme Aboriginal Corporation represent the three separate clans (estate groups) of the Central Arrernte people. All four corporations are based in Alice Springs.

On 21 November 2013 the Registrar received a letter signed by the directors of all four corporations requesting the Registrar to appoint a special administrator. The directors recognised that they needed external assistance to help them improve standards of corporate governance. The traditional owners were also frustrated about the complexity of the corporations' structures and the lack of transparency in how some of the businesses were being managed in their name.

On 9 December 2013 the Registrar placed the four corporations under special administration and appointed Mr Gerry Mier and Mr Tony Jonsson from the Cairns-based firm of Grant Thornton as the joint and several special administrators.

Their task was to:

- rebuild LAAC's core operations and capacity
- develop and introduce a new group corporate structure which returned ownership and control of the businesses to the traditional owners
- prepare, after full and proper consultations with the traditional owners, new internal governance rules for each of the four corporations
- review and report on the operations and financial position of each of the businesses that had been conducted in the traditional owners' names.

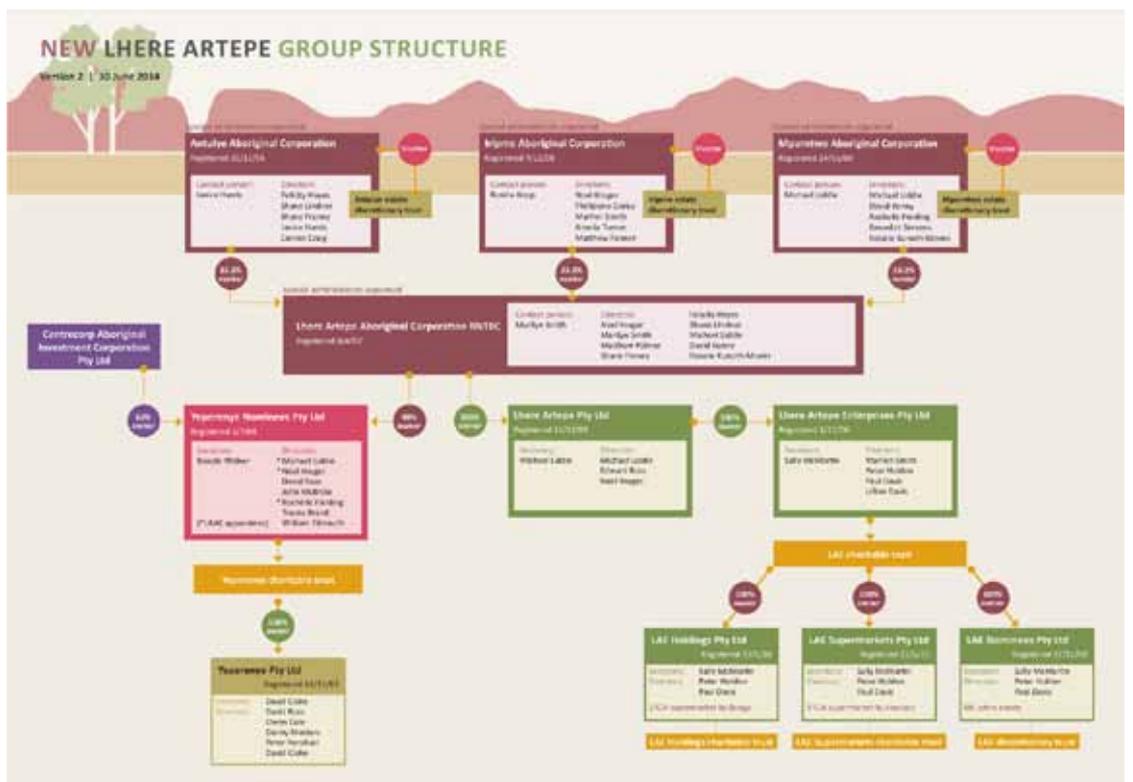
One of the special administrators' first tasks was establishing an advisory group made up of representatives from each of the clan groups. They also established a 'native title working group' to provide cultural authority in dealing with native title matters.

Throughout the special administration, Mr Mier and Mr Jonsson consulted closely with the traditional owners. They also held a number of information meetings to discuss the new group structure. On 28 June 2014, LAAC held its first AGM since 2011 and for the first time in many years the traditional owners were informed about the businesses they owned.

On 30 June 2014 the special administration of all four corporations ended and control was handed back to members, having achieved a number of important outcomes, including:

- payment of outstanding creditors
- revised rule books for LAAC, Antulye Aboriginal Corporation, Mparntwe Aboriginal Corporation, and Irlpme Aboriginal Corporation
- new boards of directors for all four corporations
- proper systems and procedures which allow LAAC to fulfil its native title duties and responsibilities, as required by the CATSI Act, its rules and the *Native Title Act 1993*.

Although not without its challenges, the special administration of LAAC and the three estate group corporations is a clear example of how corporations can benefit from external professional assistance. ORIC will continue to work with the four corporations as they settle into their respective roles in the new group structure.



INVESTIGATIONS AND PROSECUTIONS

Over 2013–14 the Registrar proceeded with a range of criminal and civil litigation to address serious cases of poor governance and breaches of duty under the CATSI Act. A summary of penalties imposed by the courts is maintained on the ORIC website.

Criminal matters

Matters in progress

Veronica Cubillo—*former CEO of North Australian Aboriginal Family Violence Legal Service Aboriginal Corporation*

On 24 October 2013, in the Darwin Court of Summary Jurisdiction, Ms Veronica Cubillo, the former CEO of the North Australian Aboriginal Family Violence Legal Service Aboriginal Corporation was charged with four offences under the CATSI Act. These included not acting in good faith in the best interests of the corporation and misusing her position. Ms Cubillo was also charged with a further eight offences under the Criminal Code of the Northern Territory of forging and uttering documents to obtain a benefit for herself.

Ms Cubillo has been committed to stand trial on 13 April 2015 in the Northern Territory Supreme Court.

Finalised

Sandra Newman—*Orana Aboriginal Corporation*

On 8 November 2013, at Dubbo Local Court in New South Wales, Ms Sandra Gail Newman, the former manager of Orana Aboriginal Corporation, was convicted of a number of offences against the CATSI Act of acting dishonestly. These related to 80 unauthorised payments (totalling \$67,776.85) made to herself from the corporation's funds, and for not acting in good faith in the best interests of the corporation or for a proper purpose. Ms Newman was sentenced to 15 months imprisonment, to be released on a two-year good behaviour bond after serving five months in jail.

Tony Gray—*Durri Aboriginal Corporation Medical Service*

On 9 December 2013, at Port Macquarie Local Court in New South Wales, Mr Tony Gray, the former chairperson of Durri Aboriginal Corporation Medical Service, was convicted of one offence of dishonestly obtaining a financial advantage. Mr Gray was sentenced to 12 months imprisonment, wholly suspended upon his entering a good behaviour bond for 12 months. Mr Gray was also ordered to pay \$4,406.55 in compensation to Durri Aboriginal Corporation Medical Service.

Annual reporting prosecutions—various

During 2013–14 a total of 32 corporations were prosecuted for failing to lodge their annual reports with the Registrar.

Corporations that ignore their regulatory obligations and do not lodge their reports by 31 December risk prosecution, along with secretaries of large corporations. The maximum penalty for each report not lodged is \$21,250 for corporations and \$850 for secretaries.

The Registrar's prosecution program over 2013–14 focused on all corporations, regardless of size, in New South Wales and Victoria that failed to lodge their reports. Fines imposed over 2013–14 amounted to \$75,450.

Civil matters

Commenced/ongoing

Registrar v Paul Pini and Katrina Lucas—QUD 204/14

On 16 May 2014 the Registrar commenced proceedings in the Federal Court, Brisbane, against Mr Paul Pini and Ms Katrina Lucas, former officers of Lagulalya Aboriginal Corporation in the Northern Territory. The Registrar is seeking disqualification orders against Mr Pini and Ms Lucas from managing corporations registered under the CATSI Act. The Registrar alleges that Mr Pini and Ms Lucas mismanaged the corporation's finances that resulted in a trading loss of \$146,560 for 2012–13 and insufficient funds for it to pay its current liabilities.



Investigations take ORIC staff far and wide. John Lukan, an elder in Nama community, about 40 kilometres from Wadeye, with ORIC's Duncan Wallace

Finalised

Registrar v Damien Matcham—*NSD 908 of 2012*

On 5 February 2014, in the Federal Court, Sydney, Mr Damien Matcham, the former CEO of Katungul Aboriginal Corporation Community and Medical Services, was disqualified from managing Aboriginal and Torres Strait Islander corporations and companies registered with the Australian Securities & Investments Commission (ASIC) for 15 years. Mr Matcham was also ordered to pay compensation of \$705,905.07 to the corporation, a pecuniary penalty of \$500,000 to the Commonwealth, and the Registrar's costs. On 25 February 2014 Mr Matcham appealed the decision but withdrew the appeal on 5 August 2014.

Registrar v Leigh Kerkhoffs—*QUD 367 of 2013*

On 18 November 2013, in the Federal Court, Brisbane, Ms Leigh Kerkhoffs, the former chairperson of the Aboriginal and Torres Strait Islander Corporation for Welfare Services (known as ATSIC Welfare Services) was found to have failed to act with due care and diligence and improperly used her position to gain a personal advantage. Ms Kerkhoffs was banned for five years from managing Aboriginal and Torres Strait Islander corporations and companies registered with the Australian Securities & Investments Commission (ASIC), ordered to pay compensation of \$31,414.17 to ATSIC Welfare Services and fined \$50,000. On 12 February 2014, Ms Kerkhoffs appealed the Federal Court's decision. On 23 May 2014 Ms Kerkhoffs's appeal was dismissed and she was ordered to pay the Registrar's costs.

Registrar v John Berto—*NTD 29/2013*

On 19 February 2014, in the Federal Court, Darwin, Mr John Berto, the former CEO of Thamarrurr Regional Authority Aboriginal Corporation, was found to have used his position to make seven unauthorised transfers of funds to another entity. Mr Berto was disqualified from managing companies or Aboriginal and Torres Strait Islander corporations for two years.



Outcomes of prosecutions initiated by
the Registrar are on the ORIC website
www.oric.gov.au/prosecutions-outcomes

NOTE: To see a list of officers disqualified by the court from managing Aboriginal and Torres Strait Islander corporations go to the Register of Disqualified Officers maintained by the Registrar and available at www.oric.gov.au.

Former indigenous medical services boss ordered to pay \$1.2m

RICK MORTON

Indigenous health CEO funded himself

SUSANNAH MORAN

THE chief executive of an indigenous health organisation judged himself to have stolen \$200,000 of the body's funds, the Federal Court found yesterday.

Damien Matcham paid himself unauthorised bonuses, topped up his super and used money for indigenous health services to pay life insurance instalments.

He even secured a bank overdraft of \$200,000 against the assets of his employer, the Katungul Aboriginal Corporation Community and Medical Services.

Matcham began working at the site for profit Katungul — based in

Manusima, southern NSW — in late

2007, and had a salary of \$184,200.

The organisation runs medical

centres for indigenous people.

Matcham was sacked in February

"improperly used his position as the CEO of Katungul to gain an advantage for himself and cause detriment to Katungul".

Orders of the court served by post listed losses of about \$265,000 between October 2007 and July 2011.

They led to the organisation incurring liabilities to the tax office.

Staff and directors at Katungul helped former Matcham's transactions, which included excess superannuation contributions and using a company credit card to pay for his life insurance.

He had also secured a mortgage with the Commonwealth Bank, which the court found was unauthorised.

"When [staff] became aware that money that was to be used to improve the health of their community was being diverted

in, he said. In talking about a registry here which was set up to bridge the biggest gap (Aboriginal and non-Aboriginal people, using public 20 cents of every dollar) into it went to see what The Australian news, Matcham said \$200,000 in the next few years and he was going to appeal.

Matcham had been dramatically scaled back and Matcham had been firing people in order to maintain his job. Matcham had been firing people in order to maintain his job. Matcham had been firing people in order to maintain his job.

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In an historic, ground-breaking decision the Federal Court ordered Mr Damien Matcham to pay over \$1.2 million in fines and compensation.

CASE STUDY: ORIC catches big fish—former CEO of health service caught embezzling

Over 2013–14, the proceedings in the Federal Court in Sydney brought by the Registrar against Mr Damien Matcham, the former CEO of the Katungul Aboriginal Corporation Community and Medical Services (Katungul) were successfully concluded. The Registrar began the proceedings in June 2012.

In an historic, ground-breaking decision on 5 February 2014, the Federal Court ordered Mr Damien Matcham to pay over \$1.2 million in fines and compensation.

Mr Matcham was also banned from managing Aboriginal and Torres Strait Islander corporations registered under the CATSI Act or companies registered with the Australian Securities & Investments Commission for 15 years.

In an earlier judgment on 11 September 2013, Justice Jacobson found that Mr Matcham had not exercised due care and diligence, had not acted in good faith in the best interests of Katungul, and had improperly used his position while he was the CEO of Katungul.

In handing down his decision Justice Jacobson said, 'The seriousness of Mr Matcham's behaviour, the abuse of trust which it involved and the absence of any real contrition or appreciation of his wrongdoing, all point toward a lengthy period of disqualification.' Justice Jacobson went on to say, 'Katungul's funds were deliberately misused by Mr Matcham to confer benefits on himself to the detriment of Katungul's charitable objectives.'

Mr Matcham was found to have paid himself unauthorised bonuses and time in lieu payments of more than \$515,000 from 2008 to 2011. He also received unauthorised payments for excess superannuation, recreation leave and other non-salary payments. Further, he incurred personal expenses on Katungul's credit card and signed a mortgage over a Katungul property to secure a \$200,000 bank overdraft for the corporation.

Katungul is a not-for-profit corporation that provides essential primary and secondary health services to Aboriginal people in the far south coast region of New South Wales.

The Federal Court's significant decision coupled with the unprecedented scale of the orders in the Aboriginal and Torres Strait Islander corporate sector has sent out a very clear message. 'Serious consequences must be expected for corporation officers who fail to meet the standards required of them,' said the Registrar.

On 25 February 2014 Mr Matcham filed an appeal against the orders made by Justice Jacobson but later withdrew it.

