



Business plan 2014-15



The Registrar identified seven priorities in the *ORIC business plan 2014-15* to align with the *ORIC strategic plan 2014-17*. These priorities acknowledge that Aboriginal and Torres Strait Islander corporations play an important role in communities and Australian society.

In line with the business plan and the Registrar's core functions, ORIC will continue to increase public confidence in the standards of corporate governance and viability of Aboriginal and Torres Strait Islander corporations.

1. Reducing red tape

The Registrar developed guides to assist state/territory registered organisations to transfer their incorporation to the CATSI Act.

The Australian Government amended CATSI Regulations to widen the pool of eligible qualified accountants that can audit financial reports of certain small and medium-size corporations. Providing these corporations with a greater choice for auditing services.

2. Stronger organisational governance for corporations

The Registrar developed an online service, *Independentdirectory*, to match suitable candidates to Aboriginal and Torres Strait Islander corporations looking for an independent director.

The Registrar also worked with PM&C to strengthen the governance of Aboriginal and Torres Strait Islander organisations. The Indigenous Advancement Strategy introduced a requirement for Aboriginal and Torres Strait Islander organisations receiving significant Commonwealth funding to transfer their registration to the CATSI Act. The Registrar has provided a range of information, resources and direct assistance to organisations looking to transfer their registration. This included expanding the scope of the pro bono legal assistance scheme, LawHelp, to include help for organisations needing legal assistance to transfer.

The Registrar issued guidance on the preferred accounting treatment for unexpended grants in financial statements prompted by concerns that some accounting treatments of unexpended government grants had in recent years resulted in a mis-statement of a corporation's true financial position.



3. Strengthen our working relationships with Aboriginal and Torres Strait Islander communities

The Registrar continued his priority to provide more resources in regional locations. New regional officer positions were allocated to assist corporations during the year—in Darwin, Coffs Harbour and Perth.

4. Enforce the law

The Registrar concluded 16 minor regulatory prosecutions against corporations that failed to meet their reporting obligations; the Registrar also concluded two major civil actions, one minor civil action and one major criminal prosecution.

5. Regulation and compliance

For the sixth consecutive year the Registrar has exceeded the target of 90 per cent of corporations compliant with their reporting obligations, with 97.3 per cent of corporations meeting this requirement during the year.

The Registrar carried out examinations of 59 corporations, exceeding the initial plan to carry out 45 examinations during the year.

Seven special administrations ended during 2014–15. Three were completed within six months. A successful business turnaround was achieved in five corporations.

The Registrar assisted the liquidators of Ngoonjuwah Council Aboriginal Corporation (ICN 631) (under liquidation) to locate owners of unpaid wages from the corporation (see p. 57).

6. Capacity development

The Registrar provided corporate governance training to 886 people from 169 corporations, exceeding the target of 750 people. Ninety per cent of participants reported a significant increase in governance knowledge and skills—in line with the performance indicator.

A new corporate governance training program for native title corporations was developed and trialled.

7. Publications and analysis

The Registrar continued to contribute to sector knowledge by providing regular statistical reports.



Reporting and registration

Corporation reporting compliance

Corporations registered under the CATSI Act must submit their annual reports to ORIC within six months after their financial year ends. Reports for the 2013–14 financial year had to be lodged by most corporations by 31 December 2014.

Reporting requirements vary according to registered size—large, medium or small—and income.

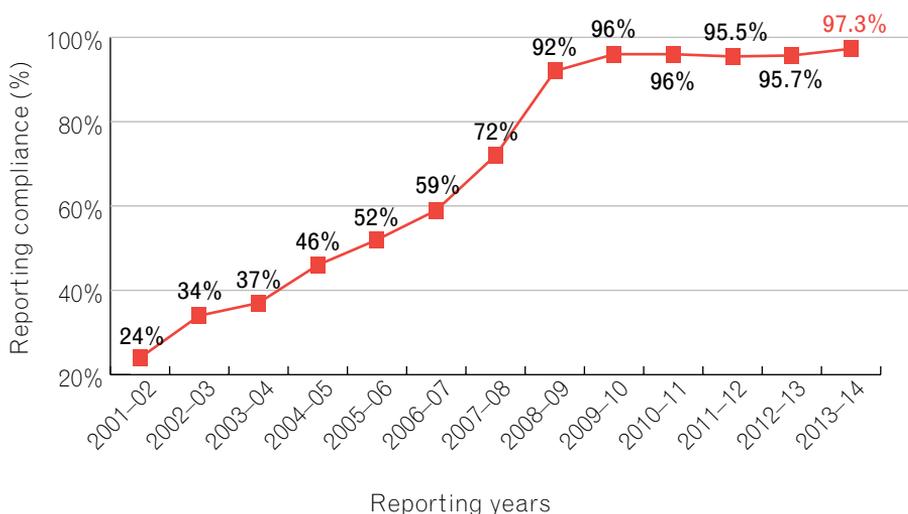
In 2014–15 the highest number of corporations in ORIC's history lodged their reports. From a total of 2400¹ corporations required to submit reports, 2335 complied with their obligations under the CATSI Act.

In percentage terms, reporting compliance rose from 95.7 per cent last year to 97.3 per cent this year.

This is the sixth consecutive year that the Registrar's target of 90 per cent reporting compliance has been exceeded.

Of the reports lodged, 59.3 per cent were submitted through the Registrar's online lodgment system.

Figure 2: Reporting compliance from 2001–02 to 2013–14



¹ The number of corporations required to provide 2013–14 reports was 2400. This number is different to the total number of registered corporations (2688 at 30 June 2015) as it is based on corporations registered at 31 December 2013 and excludes corporations under liquidation or being deregistered.

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

As at 30 June 2015 there were 141 registered native title bodies corporate (RNTBCs) registered under the CATSI Act.² Of these 131 were required to report for the 2013–14 financial year and all were compliant.

Table 2: Reporting compliance for RNTBCs from 2012–13 to 2013–14

Reporting period	Total number registered	Number required to report	Number compliant	Percentage compliant
2013–14	141	131	131	100.0%
2012–13	132	108	106	98.1%

In what's become an annual cycle of communication and support to maintain high reporting compliance rates, ORIC carried out the following activities:

- ⇒ A communication strategy to remind corporations of their reporting obligations and to offer guidance including:
 - advertisements in national Aboriginal and Torres Strait Islander newspapers
 - notices and messages on the ORIC website
 - reminders in ORIC publications
 - direct communication by email, letter and telephone.
- ⇒ Follow-up of key groups and specific sectors, such as RNTBCs and corporations helped by large corporations operating in remote regions.
- ⇒ Face-to-face visits by ORIC regional 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.
- ⇒ Telephone reminders to newly registered corporations reporting for the first time and to corporations that were late to lodge in the previous year.
- ⇒ Telephone outreach to corporations in breach—ORIC staff identified corporations that failed to submit their annual reports by the due date and, where appropriate, offered help to complete them.
- ⇒ Formal warning notices were sent to corporations that were in breach and failed to respond to reminders.

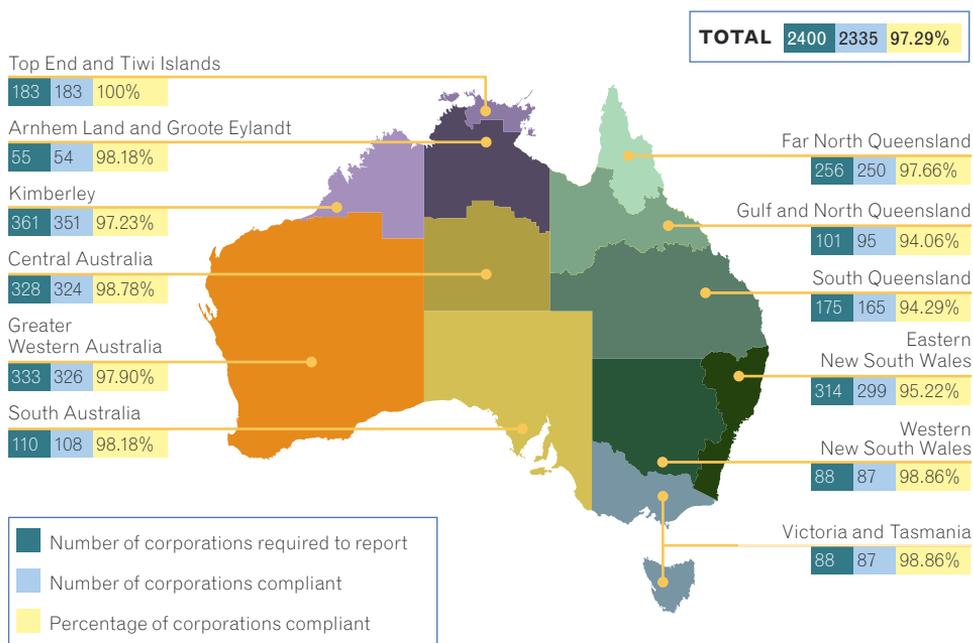
² RNTBCs are the corporations recognised by the Federal Court under the *Native Title Act 1993* to hold and represent the native title interests of a particular group of people. They must be registered under the CATSI Act.

Table 3: Reporting compliance by region as at 30 June 2015

PM&C regional network	ORIC offices	Number of corporations required to report	Number of corporations compliant	Percentage of corporations compliant
Central Australia	Alice Springs	328	324	98.78%
South Australia	Alice Springs	110	108	98.18%
Eastern New South Wales	Coffs Harbour and Cairns	314	299	95.22%
Far North Queensland	Coffs Harbour and Cairns	256	250	97.66%
Gulf and North Queensland	Coffs Harbour and Cairns	101	95	94.06%
South Queensland	Coffs Harbour and Cairns	175	165	94.29%
Western New South Wales	Coffs Harbour and Cairns	88	87	98.86%
Arnhem Land and Groote Eylandt	Darwin and Broome	55	54	98.18%
Kimberley	Darwin and Broome	361	351	97.23%
Top End and Tiwi Islands	Darwin and Broome	183	183	100.00%
Victoria and Tasmania	National office	96	93	96.91%
Greater Western Australia	Perth	333	326	97.90%
Total		2400	2335	97.29%

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Note: On 2 March 2015 ORIC adopted a new model of 12 regions across Australia.

Figure 3: Reporting compliance by region as at 30 June 2015



Consequences of not reporting

Corporations that don't lodge reports by the reporting deadline may face prosecution. For most corporations this deadline is 31 December. During 2014–15, a total of 16 corporations were prosecuted for failing to lodge their 2013–14 reports (see the section on investigations and prosecutions on p. 41).

The maximum penalty for each 2013–14 report not lodged was \$21,250 for corporations.

The Registrar may deregister corporations that remain in longstanding breach.

Guidance about unexpended grants reporting

In August 2014 the Registrar issued guidance to auditors and corporations regarding the accounting treatment of unexpended grants. In recent years the Registrar has been concerned that some accounting treatments of unexpended government grants had resulted in mis-statements of the true financial positions of some corporations.

The accounting standards allow for auditors to apply a range of methods to present unexpended grants in a corporation's financial statement. The Registrar's guidance steers auditors to a preferred method to reduce the risk of future mis-statements for Aboriginal and Torres Strait Islander corporations funded by government.

The Registrar's preferred method under AASB 1004 is that any unspent component of a grant or funding should be recognised as a deferred income component (i.e. a liability) in the corporation's balance sheet.

More information on the Registrar's preferred accounting treatment of government grants or funding may be found in the *Corporation reporting guide* at www.oric.gov.au

Increasing the pool of eligible accountants

On 3 November 2014 the Australian Government amended the CATSI Regulations to make it possible for members and fellows of the Institute of Public Accountants (IPA) to audit the financial reports of certain small and medium-size corporations.

The amendment brought the CATSI Regulations in line with other Commonwealth legislation which already recognise the IPA. It has also increased the pool of accountants who are eligible to audit financial reports for the majority of Aboriginal and Torres Strait Islander corporations.

A new paragraph has been inserted at subregulation 333-16.02(3) to give effect to the changes.

The Registrar initiated the amendment in order to give corporations greater choice for auditing services, particularly in remote and regional areas. The change, which was welcomed by the CEO of the IPA, Andrew Conway, should also lead to reduced auditing costs.



Minister for Indigenous Affairs, Senator the Hon. Nigel Scullion, signing the amendment to the CATSI Regulations in the Registrar's office (22 Oct 2015).

Registration services

In 2014–15:

170 new corporations registered under the CATSI Act, representing a slight increase from the 163 corporations that registered last year. This included 11 transfers of incorporation to the CATSI Act from other incorporation legislation.

78 corporations were deregistered.

182 requests for rule book changes were approved, representing a 15.7 per cent decrease from the 216 rule book changes approved last year.

852 'notification of a change to corporation officers' details' and 'notification of a change to corporation address and/or contact details' forms were processed and changes made to the public Register of Aboriginal and Torres Strait Islander Corporations.

471 annual general meeting (AGM) extensions and exemptions were granted by the Registrar (an increase from 379 granted last year).

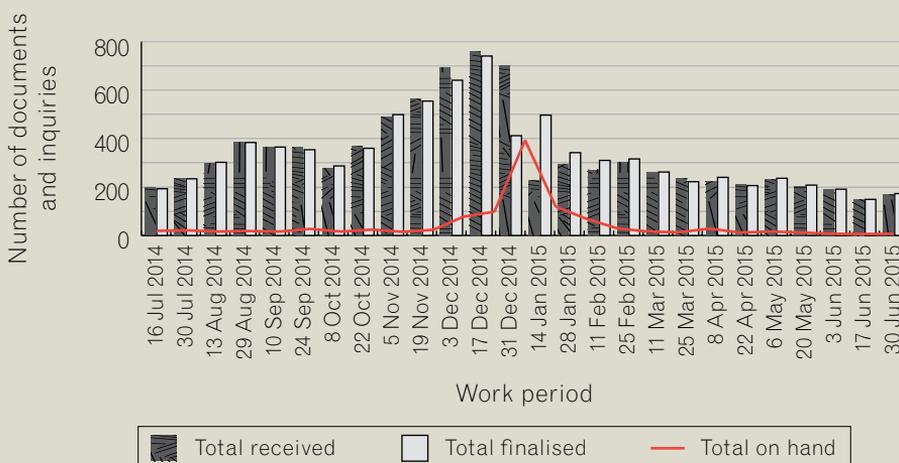
1950 written inquiries from corporations were finalised. These included inquiries about registration assistance, requests for information and support, and referrals.

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

In 2014–15 ORIC received 8669 documents (including written inquiries) from corporations and the public—down from 8947 documents in the previous year.

The processing of documents or responses to inquiries was completed in an average time of 2.57 business days, which represents a slight improvement from last year (2.61 days).

Figure 4: Number of documents and inquiries 2014–15



The following table outlines ORIC's registration and support services from 2011–12 to 2014–15.

Table 4: Registration services from 2011–12 to 2014–15

	2011–12	2012–13	2013–14	2014–15
Incorporations (new registrations)				
Applications received	164	162	166	187
Applications actioned**	183	163	175	181
• approved	173	155	163	170*
• refused	7	5	10	9
• lapsed/withdrawn	3	3	2	3
Rule book change requests				
Requests received	159	163	213	200
Requests actioned**	163	163	226	198
• approved	158	153	216	182
• refused	5	10	10	16
• lapsed/withdrawn	0	0	0	0
Name change requests				
Requests received	17	17	22	10
Requests actioned**	18	19	23	12
• approved	18	17	23	12
• refused	0	2	0	0
• lapsed/withdrawn	0	0	0	0
Change of corporation contact and officer details				
Change requests received	811	821	852	860
Change requests applied to the public register**	797	812	852	852
Annual general meeting extensions and other exemptions				
Matters finalised**	448	431	379	471
Written inquiries received				
Inquiries finalised**	3014	2337	2319	1950

Notes: *Of the 170 applications approved 11 were organisations transferring their registration from other incorporation legislation.

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

Lodgment of forms and reports

In 2014–15:

- ⇒ 42 per cent of all forms were lodged with ORIC electronically. This represents a 5 per cent increase from the previous year.
- ⇒ 59.3 per cent of all reports were lodged electronically, an increase of 7.3 per cent from last year.

ERICCA

The Electronic Register of Indigenous Corporations under the CATSI Act (ERICCA) is a database managed, maintained and updated by ORIC to help the Registrar administer the CATSI Act.

ERICCA includes two public registers which are accessible from the ORIC website—the Register of Aboriginal and Torres Strait Islander Corporations and the Register of Disqualified Officers. ERICCA also allows corporations to lodge forms online via the ORIC website.

Lodging online

Corporations more than ever before are choosing to lodge their forms and reports online (rather than by hard copy through the post or by fax).

Using the ORIC online lodgment system at <https://online.oric.gov.au> makes updating corporation information and lodging forms easier because the system pre-populates forms using the latest information in the register. Corporations can simply update, add to or delete the information.

Figure 5: Forms lodged online compared to hard copy from 2009–10 to 2014–15

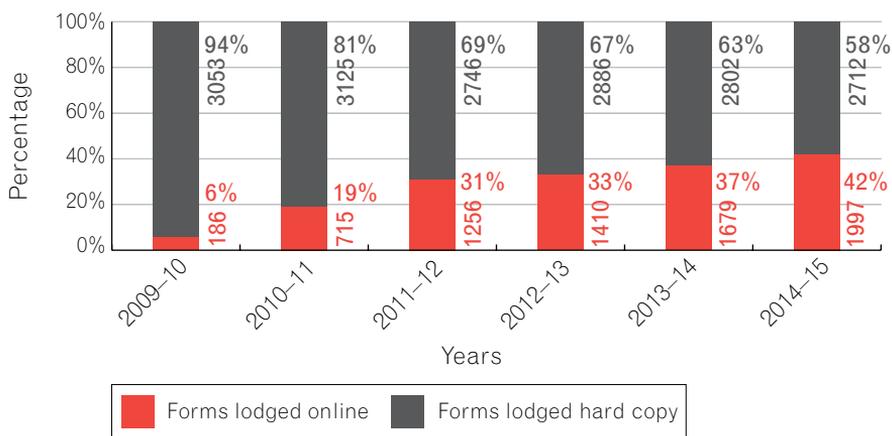
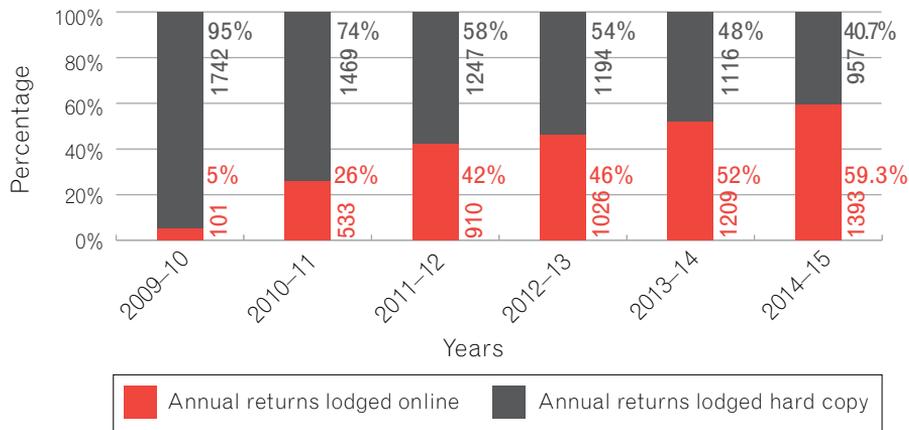


Figure 6: Annual reports lodged online compared to hard copy from 2009–10 to 2014–15



Registered corporations

As at 30 June 2015 there were 2688 corporations registered under the CATSI Act.

Figure 7: Registered and new corporations from 1990–91 to 2014–15



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

Table 5: Registered and new corporations from 1990–91 to 2014–15

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
2014–15	2688	170

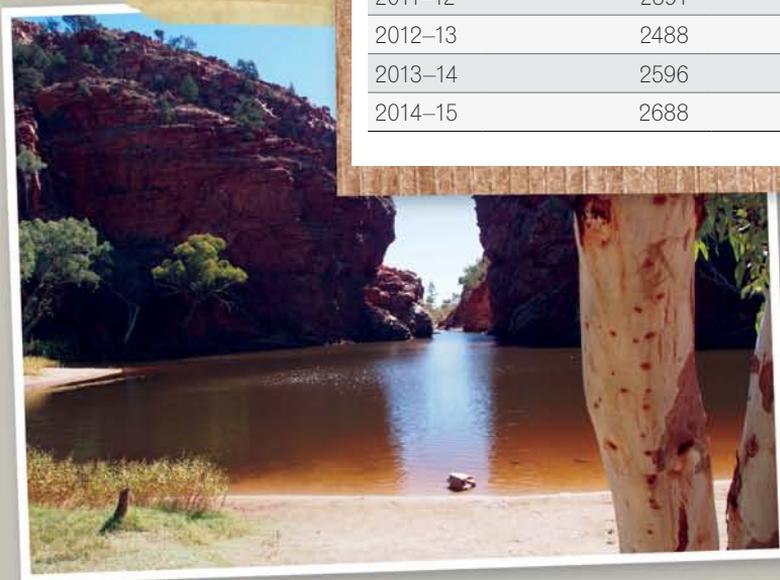
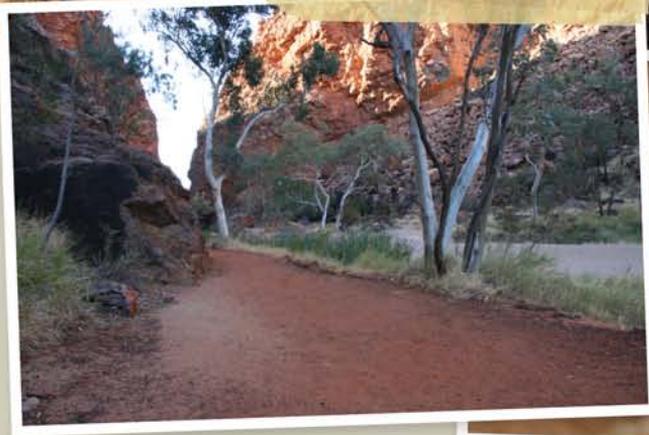
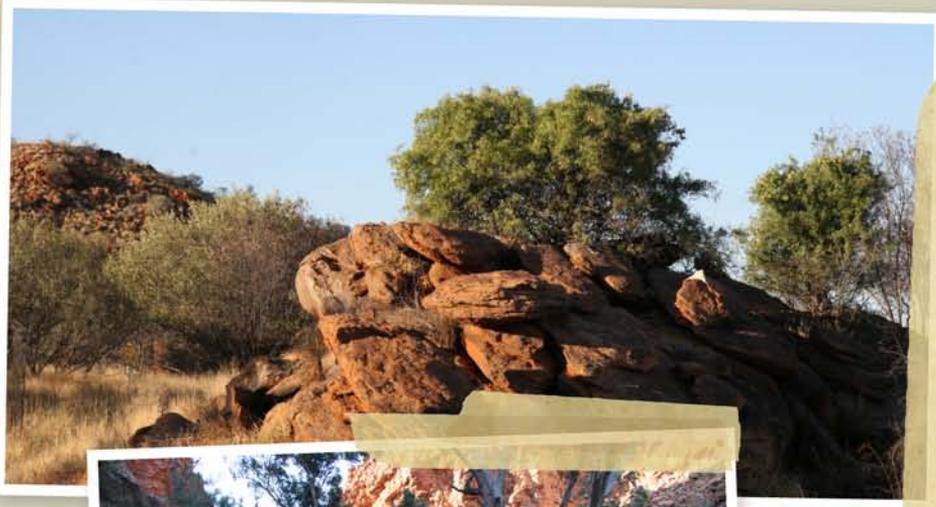


Table 6: Location of registered corporations by region as at 30 June 2015

PM&C regional network	ORIC regional office	Total
Central Australia	Alice Springs	348
South Australia	Alice Springs	117
Eastern New South Wales	Coffs Harbour and Cairns	362
Far North Queensland	Coffs Harbour and Cairns	291
Gulf and North Queensland	Coffs Harbour and Cairns	120
South Queensland	Coffs Harbour and Cairns	212
Western New South Wales	Coffs Harbour and Cairns	109
Arnhem Land and Groote Eylandt	Darwin and Broome	68
Kimberley	Darwin and Broome	380
Top End and Tiwi Islands	Darwin and Broome	210
Victoria and Tasmania	National office	106
Greater Western Australia	Perth	365
Total		2688



Case study: Supporting a group to register

The Halls Creek Stolen Generations Group is made up of people and their descendants who were forcibly removed from their families under the *Aborigines Act 1905* (Western Australia) and relocated to the Moola Boola settlement.

In March 2015 representatives from the group wanted to learn about forming a corporation as a way to assist their people (and their families).

ORIC's regional officer in Broome, Sid Michels, went to visit the group and held a 'doorway workshop'.

'I enjoy doorway workshops—they're very useful,' said Sid Michels. 'For one thing they're informal—there's no burden of expectation on the participants. I can explain the various benefits of registering under the CATSI Act in a way, and at a pace, that suits the group.'

A doorway workshop allows for discussion and for the group to ask as many questions as they like. The Halls Creek Stolen Generation Group was no exception.

'It's great when the group is so engaged and wants to know everything,' said Sid. 'I went through the steps involved in the registration process and the various support services ORIC offers. I also covered reporting requirements and showed the group how they might start drafting a corporation rule book.'

Before any group takes the plunge it's important that they understand what incorporation under the CATSI Act really means. To help with this, the Registrar's office offers a range of pre-incorporation services (see the ORIC website).

'The Halls Creek Stolen Generation group hasn't registered yet,' said Sid, 'but it's not unusual that it takes a bit of time—there's a lot to think about.'

Strengthening organisational governance

From 1 July 2014 the Australian Government set a requirement that organisations receiving grants of \$500,000 or more in a single financial year for funding administered by the Indigenous Affairs Group within PM&C must incorporate under Commonwealth legislation.

The reason for doing this is to improve public confidence in the security and delivery of programs those organisations are funded to deliver. Incorporation under Commonwealth legislation rather than state or territory legislation provides a more robust regulatory framework and access to specialist assistance to address governance issues.

During 2014–15, 11 organisations transferred their incorporation from other legislation to the CATSI Act.

Case study: Transferring from state to Commonwealth



The Noongar Institute of Western Australia Aboriginal Corporation was registered under the CATSI Act on the 7 May 2015 after transferring from the *Associations Incorporation Act 1987* (Western Australia).

The board of directors contacted ORIC's Perth regional office because they were interested in the wider exposure and better support the CATSI Act could offer them. Perth regional manager, Arthur Hyde, began working with the association in April 2014.

'We worked with the directors to give them an overview of the transfer process. We then helped them draft a CATSI Act rule book that captured the objectives and essential governance requirements of the new corporation,' said ORIC's Perth regional manager, Arthur Hyde.

'It was important to capture the cultural and spiritual values; and other aspirational goals for the new corporation. This step required the 'tick of approval' from the association's elders.'

The law firm Allens Linklaters also assisted in the process, particularly with the requirements of the WA Department of Commerce that administers the *Associations Incorporation Act 1987*.

The corporation is now making plans to take Arthur up on his offer for corporate governance training sometime next year. ORIC's support doesn't stop at registration.

Examinations

In 2014–15 ORIC completed 59 examinations.

An examination reviews a corporation's books and records and makes an assessment of the corporation's governance standards. It includes checks that:

- ⇒ the corporation is being run properly according to its rule book and the CATSI Act
- ⇒ the corporation is managing its finances properly with proper records, procedures and policies
- ⇒ the directors, officers and employees are performing their duties appropriately
- ⇒ any material personal interests and benefits to related parties are being managed appropriately.

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. Examinations are useful for early detection of issues in a corporation. They are also equally effective at revealing corporations that are running well as those that are experiencing financial or governance difficulties.

The Registrar conducts a rolling program of examinations to assess the corporate governance and financial health of a corporation. Some examinations undertaken by the Registrar are in response to potential governance issues raised about a corporation.

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

This financial year the Registrar completed 59 examinations as set out in table 7.

Table 7: Examinations by state/territory 2014–15

Location by state/territory	Number of corporations
Australian Capital Territory	0
New South Wales	6
Northern Territory	15
Queensland	13
South Australia	7
Tasmania	0
Victoria	2
Western Australia	16
Total	59

The examination program for this financial year covered corporations with the following activities:

Table 8: Examinations by activities 2014–15

Main activities of corporations	Number of examinations
Health and aged care services	15
Community services	11
Land management	7
Registered native title bodies corporate (RNTBCs)	5
Other native title	4
Art and cultural centres	3
Housing	3
Employment and training	3
Native title representative bodies	2
Heritage, culture and language	2
Community stores	1
Communications	1
Education and schools	1
Women's advocacy	1
Legal services—community or family violence	0
Total	59

Outcomes of examinations

The outcomes of the 59 examinations conducted over 2014–15:

- ⇒ 16 corporations (27 per cent) were found to be operating well and required no further action. They were each sent a management letter.
- ⇒ 33 corporations (56 per cent) were required to rectify less serious matters which were settled through the issue of a compliance notice² under section 439-20 of the CATSI Act.
- ⇒ 10 corporations (17 per cent) had serious findings and were issued with a 'show cause notice' under section 487-10 of the CATSI Act. These corporations were required to explain why they should not be placed under special administration.

Table 9: Outcomes of examinations from 2010–11 to 2014–15

Examination outcome	2010–11	2011–12	2012–13	2013–14	2014–15
Management letters	29	19	22	12	16
Compliance notices	34	31	26	26	33
Show cause notices	7	9	1	7	10
Other	2	2	2	1	0
Total	72	61	51	46	59

² Compliance notices provide direction for corporations on how to improve their standards of corporate governance and financial management after an examination is done.

Compliance notices are made available in the public Register of Aboriginal and Torres Strait Islander Corporations. They provide valuable information to a corporation's members and other stakeholders (such as funding agencies and creditors) about the standards of corporate governance and financial management in a corporation at a given point in time.

Special administrations

In 2014–15:

- ⇒ 2 special administrations continued from the previous year.
- ⇒ 10 special administrations were started.
- ⇒ 7 special administrations were completed.
- ⇒ 5 special administrations were still in progress as at 30 June 2015.

Special administrations enable the Registrar to provide early and proactive assistance to corporations when they experience financial or governance difficulties. They allow 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.

In all cases the special administrator works in the best interests of the corporation and its members. 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 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.

Five of the 10 new special administrations (or 50 per cent) in 2014–15 were started after the directors wrote to the Registrar asking for assistance.

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.

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.

Seven special administrations ended during 2014–15. Three were completed within six months in line with ORIC's key performance indicator. Successful business turnaround was achieved in five corporations (71.4 per cent) and they were handed back to members' control.

Table 10: Corporations placed under special administration 2014–15

Date appointed	ICN	Corporation Special administrator(s)	Date ended or due date Outcome
17 Jul 2014	4709	Githabul Nation Aboriginal Corporation RNTBC Peter McQuoid	27 Feb 2015 Handed back to members' control
4 Aug 2014	624	Dubbo Koorie Housing Aboriginal Corporation Peter Saunders	30 Jan 2015 Handed back to members' control
15 Sept 2014	7877	Naiyu Nambiyu Aboriginal Corporation Austin Taylor and Stuart Reid	1 May 2015 Handed back to members' control
24 Nov 2014	532	Minimbah Pre-school, Primary School Aboriginal Corporation Brian Woods	27 May 2015 Handed back to members' control
23 Dec 2014	248	Aboriginal Corporation for Sporting and Recreational Activities Frank Lo Pilato and Tony Grieves	23 Jun 2015 Liquidator appointed
16 Feb 2015	7355	Pika Wiya Health Service Aboriginal Corporation Jack James and Paula Cowan	19 Aug 2015 In progress
3 Mar 2015	3789	Mamu Aboriginal Corporation RNTBC Gerry Mier and Tony Jonsson	30 Sept 2015 In progress
6 Mar 2015	500	Murchison Region Aboriginal Corporation Andrew West and Kehsai Tesfa	3 Sept 2015 In progress
9 Mar 2015	1061	Mungoorbada Aboriginal Corporation Austin Taylor and Stuart Reid	10 Sept 2015 In progress
8 Apr 2015	7573	Thamarrurr Regional Authority Aboriginal Corporation Austin Taylor and Stuart Reid	7 Oct 2015 In progress

Table 11: Corporations with a special administration continuing 2014–15

Date appointed	ICN	Corporation Special administrator(s)	Date ended or due date Outcome
18 Dec 2013	2379	Southside Housing Aboriginal Corporation	23 Jan 2015
		Frank Lo Pilato and Tony Grieves	Assets transferred to another body and corporation deregistered
28 Jan 2014	3630	Bunurong Land Council (Aboriginal Corporation)	18 Jul 2014
		Alan Eldridge	Handed back to members' control

Case study: Restructure helps shore up corporation in the Daly River

On 8 May 2013 Nauiyu Nambiyu Inc., now Nauiyu Nambiyu Aboriginal Corporation (NNAC), transferred its registration from the Northern Territory's *Associations Act* to the CATSI Act. This turned out to be a very good move for the corporation located at Nauiyu, also known as Daly River, in the Northern Territory.

Just over a year later, NNAC's directors acknowledged a range of operational and financial problems and placed a call for help to the Registrar. On 15 September 2014 NNAC was placed under special administration.

As special administration is only available under the CATSI Act, this iconic corporation may have seen a very different outcome without access to this regulatory assistance.

The special administrators worked with the corporation's members through a complex process to turn the corporation around.

The special administrators also needed to address misinformation and misunderstanding about the corporation within the community and with the corporation's stakeholders. NNAC's story is an example of how damaging a lack of transparency can be to a corporation's reputation.

NNAC was handed back to its members at the beginning of May 2015.

Investigations and prosecutions

In 2014–15 the Registrar concluded 16 minor regulatory prosecutions against corporations that failed to meet their reporting obligations; the Registrar also concluded two major civil actions, one minor civil action and one major criminal prosecution.

The Registrar undertakes 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 outcomes including penalties imposed by the courts is maintained on the ORIC website.

Criminal matters

Matters in progress

As at 30 June 2015 there were no criminal matters in progress.

Finalised

Veronica Cubillo—former CEO of North Australian Aboriginal Family Violence Legal Service Aboriginal Corporation (NAAFVLS)

On 23 April 2015 Ms Veronica Cubillo was found guilty in the Northern Territory Supreme Court in Darwin of 11 offences under the CATSI Act and the Criminal Code (NT). Ms Cubillo was the former CEO of NAAFVLS. Ten of the charges brought against Ms Cubillo related to her misusing her position and forging documents to obtain a personal financial benefit. The eleventh charge related to Ms Cubillo intentionally and dishonestly failing to properly exercise her duties as the CEO.

On 12 May 2015 Ms Cubillo was sentenced to three months' imprisonment, backdated to 30 April 2015 when Ms Cubillo was first remanded in custody, and a further five months in home detention. Ms Cubillo was also ordered to repay \$7624.50 to NAAFVLS via the Registrar.

Annual reporting prosecutions—various corporations

During 2014–15 prosecution action was finalised against 16 corporations for failing to lodge their 2012–13 annual reports with the Registrar.

Corporations that ignore their regulatory obligations and do not lodge their reports by 31 December risk prosecution. The maximum penalty for each report not lodged is \$21,250 for corporations. On 31 July 2015 the penalty unit value increased to \$180. The new maximum penalty of \$22,500 for corporations will apply to offences committed on or after 31 July 2015.

Fines imposed for failure to lodge 2012–13 reports amounted to \$26,600.

Civil matters

Matters in progress

Registrar v Fred Monaghan & Others—ACD22/2015

On 30 March 2015 civil penalty proceedings were commenced in the Federal Court in Canberra against three former directors of the Southside Housing Aboriginal Corporation

The Canberra-based not-for-profit corporation was established to provide affordable housing for Aboriginal and Torres Strait Islander people in the ACT.

It is alleged that the three former directors, Mr Fred Monaghan, Ms Teresa Monaghan and Ms Kim Peters controlled the corporation and ran it for their own benefit. The directors lived in properties owned by the corporation, did not pay all of their rent and had the corporation pay part of their excess water charges.

Registrar v Ashley James Taylor & Anor—WAD315/2015

On 25 June 2015 the Registrar applied for freezing orders in the Federal Court in Perth against two former senior officers of the Murchison Region Aboriginal Corporation, Mr Ashley Taylor and Mr Abul Shahid.

It is alleged the former executive officer and finance officer made unapproved loans to themselves, with a combined value of almost \$1.7 million.

On 3 July 2015 the Federal Court made interim orders to freeze the assets and restrict overseas travel for the two former officers.

The proceedings will return to the Federal Court in October 2015.

Finalised

Registrar v Paul Edward Pini & Anor—QUD204/2014

On 17 December 2014 the Federal Court in Brisbane made orders disqualifying Mr Paul Pini and Ms Katrina Lucas from managing Aboriginal and Torres Strait Islander corporations.

The Federal Court found that Mr Pini and Ms Lucas had contravened the CATSI Act while they were employed as officers at Lagulalya Aboriginal Corporation. Mr Pini was disqualified from managing corporations for three years and Ms Lucas for two years.

Registrar v Sonia Marie Murray & Ors—VID563/2014

On 16 April 2015 banning orders were made in the Federal Court in Melbourne against four former directors of the Bunurong Land Council (Aboriginal Corporation).

The court found that the four former directors, Ms Sonia Murray, Mr Mervyn Brown, Ms Leonie Dickson and Ms Verna Nichols had breached their duties as directors under the CATSI Act. They were also found to have failed to meet their obligation to ensure the corporation kept proper books and records.

Ms Murray was disqualified from managing Aboriginal or Torres Strait Islander corporations for seven years, fined \$25,000 and ordered to pay compensation of \$7717.98 to the Bunurong Land Council (Aboriginal Corporation). Mr Brown and Ms Nichols were both disqualified for three years and ordered to pay a fine of \$10,000. Ms Dickson was disqualified for three years and ordered to pay a fine of \$5000.

Registrar v Matcham—SYG1989/2014

On 5 February 2014 the Federal Court in Sydney made orders disqualifying Mr Damien Matcham for 15 years and ordering him to pay fines and compensation of over \$1.2 million. Mr Matcham failed to pay the fine and the Registrar commenced bankruptcy proceedings against him. Mr Matcham filed a debtor's petition and was bankrupted in July 2014, ending the proceedings commenced by the Registrar.

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

The Registrar maintains a publicly available register of people disqualified under the CATSI Act from managing Aboriginal and Torres Strait Islander corporations. See the Register of Disqualified Officers at www.oric.gov.au/catsi-act/disqualified-persons-and-officers.



Case study: Banning orders for four former directors of a Victorian corporation

The Registrar, for the first time took action against an entire former board of a corporation for breaching its duties under the CATSI Act and failing to exercise proper control over the corporation's affairs.

On 26 September 2014, the Registrar brought proceedings against Ms Sonia Murray and three other former directors of the Bunurong Land Council (Aboriginal Corporation).

The court found Ms Sonia Murray, a former officer and director of Bunurong, had conducted the business of the corporation for her own interest and failed to keep proper records to explain transactions and the flow of money into and out of the corporation. The three other former directors failed to take any interest in the management of the corporation and allowed Ms Murray to run the corporation for her own personal use and benefit.

Ms Murray admitted that between September 2008 and January 2014 she deposited \$924,000 into the corporation's bank account and withdrew more than \$929,000 but did not keep a record of who provided the money or to whom it was paid. During this time Ms Murray in her role as CEO was responsible for contracting individuals and firms for cultural heritage work on Bunurong country (which lies along the eastern side of Port Phillip Bay in Victoria down to the Mornington Peninsula).

Ms Murray treated the corporation as her own personal business while the other directors failed to take even basic steps either to monitor what Ms Murray was doing or to ensure that the corporation met its record keeping, meeting and taxation obligations.

On 16 April 2015 Justice Gordon in the Federal Court in Melbourne issued banning orders against the four former directors. Ms Murray was disqualified from managing an Aboriginal and Torres Strait Islander corporation for seven years, fined \$25,000 and ordered to pay compensation of \$7717.98 to the Bunurong Land Council (Aboriginal Corporation). The three other former directors were disqualified for three years each and also ordered to pay a fine.

The Registrar said, 'These former directors failed the Bunurong people and demonstrated that they did not act to the standard expected from a board of an Aboriginal and Torres Strait Islander corporation.'

Former manager in land scandal

EXCLUSIVE
Nick McKenzie
Richard Baker

Most Victorians know nothing about the ancient secrets lying in the muddy paddocks and scrubland earmarked for development in Melbourne's outer suburbs.

On some of this land, just below the dirt, you can find tools or hunting implements once used by the Bunurong people, an Indigenous tribe that was dispossessed progressively in Victoria from the early 1800s.

But this land has also been the scene of one of the worst cases of financial mismanagement and nepotism yet seen in Victorian Indigenous affairs. Much of the trouble-exposed last week in a Federal Court of Australia judgment - implicates part-time telephone psychic Sonia Murray, the former manager of the Bunurong Land Council.

The tale gives a rare insight into the way some figures abuse the vital role of Indigenous land councils and use politics and accusations of racism to cloud or justify their own misconduct.

Federal Court Justice Michelle Gordon, who was last week promoted to the High Court, made a series of damning findings about the role of four former directors of the Bunurong Land Council, banning them from running an Indigenous corporation in Australia for between three and seven years.

But Fairfax Media revealed last year the Victorian government has registered a new Indigenous organisation associated with some of the four banned figures. The newly formed Bunurong Land and Sea Association has launched a major native title claim to a vast tract of

Continued Page 4

In a first for the Registrar the Federal Court banned the entire former board of an Aboriginal and Torres Strait Islander corporation for failing in its duties under the CATSI Act.

Case study:
Trial by jury returns guilty verdict

Senior staff in corporations who occupy positions of trust must act responsibly in exercising their duties. These were the findings in the case of Ms Veronica Cubillo, a former CEO of the North Australian Aboriginal Family Violence Legal Service Aboriginal Corporation (NAAFVLS).

The Registrar brought 11 charges against Ms Cubillo which mainly related to the misuse of her position. Ms Cubillo was found guilty by a jury of peers on 23 April 2015.

In handing down the sentence, Justice Blokland in the Supreme Court in Darwin said that Ms Cubillo had breached her position of trust as the CEO of an Aboriginal corporation and had not accepted responsibility for her actions.

This was the first matter brought by the Registrar to proceed by way of a fully defended jury trial.

The Registrar can only build a strong case against directors and other corporation officers if people who have information and documented proof are prepared to stand up for their corporation and support the legal process in court.



Jail, home detention for ex-CEO

SHAE McDONALD

FRIDAY APRIL 24 2015

Dodgy claims didn't add up

NEWS 11



THE FRAUD WAS NOT COMPLEX... IT WAS A RELATIVELY SMALL AMOUNT OF MONEY

Veronica Cubillo, former CEO of the North Australian Aboriginal Family Violence Legal Service Aboriginal Corporation (NAAFVLS), was found guilty of 11 charges of fraud and mismanagement of funds by a jury of peers on 23 April 2015.

Justice Blokland in the Darwin Supreme Court said that Ms Cubillo had breached her position of trust as the CEO of an Aboriginal corporation and had not accepted responsibility for her actions.

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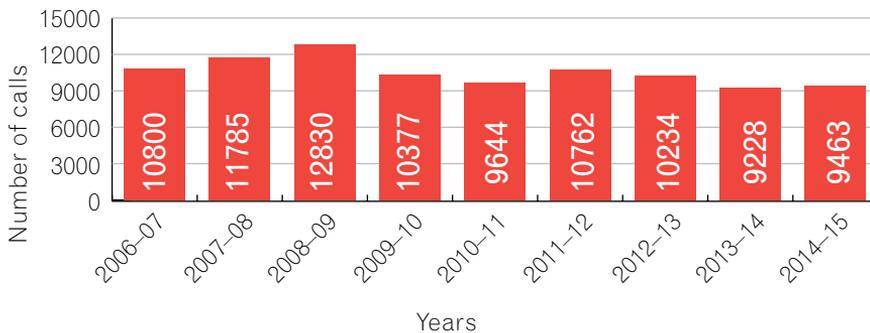
Support services

Call centre

In 2014–15 ORIC received 9463 telephone calls seeking information and advice.

Many corporations use ORIC's freecall telephone service when making initial contact with the Registrar's office.

Figure 8: Number of calls to ORIC's freecall number from 2006–07 to 2014–15



Dispute management

In 2014–15 ORIC helped to resolve 28 disputes compared to 38 in the previous year, which represents a decrease of 26.3 per cent.

If a dispute is managed in the right way it can prevent corporate governance failure. ORIC works with all parties involved and tailors its responses to suit a corporation's needs as well as builds its capacity to manage future disputes. Well-managed disputes can improve a corporation's resilience.

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

The Registrar can support corporations by providing:

- ⇒ an advisory opinion—a formal letter from the Registrar giving an opinion about how the CATSI Act and the corporation's rule book applies to a situation in dispute
- ⇒ 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.

Complaints assistance

In 2014–15 ORIC finalised 834 complaints compared to 750 last year, which represents a 11 per cent increase.

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

On average, 'straightforward complaints' were answered within three 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 53 days.

Table 12: Complaints involving corporations from 2011–12 to 2014–15

Year	Number of complaints received	Percentage increase/decrease in complaints received over previous year	Number of complaints finalised*
2014–15	833	12%	834
2013–14	741	13%	750
2012–13	657	21%	652
2011–12	541	-13%	544

*Note: Includes complaints received and carried over from the previous year.

For complaints received during 2014–15, the top categories were:

- ⇒ complaints about the conduct of directors or breaches of directors, officers or employees' duties
- ⇒ complaints covering multiple complaint categories that don't readily fall into a single category.

Reasons identified by the Registrar to explain the increases in complaints are:

- ⇒ an increase in the number of corporations, particularly prescribed bodies corporate (PBCs), where members have high expectations of their corporations
- ⇒ an increased awareness:
 - of the Registrar's role, regulatory services and the complaints assistance
 - of the Registrar's activities, particularly prosecution action against wrongdoers
 - by members of their rights
- ⇒ an increased understanding of how corporate governance should operate.

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

- ⇒ information about good corporate governance
- ⇒ 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 concerns raised in a complaint
- ⇒ information to corporation members and directors on rights and responsibilities under a corporation's rule book.

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

Some complainants allege fraud or misappropriation of funds at a corporation. In these situations, ORIC asks for evidence to support the allegations. ORIC can only take action if there is sufficient evidence.

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

The Registrar publishes a statistical overview of complaints involving corporations every six months. The reports are available on the ORIC website.

Common complaints in 2014–15

The most common complaints the Registrar received over the year were about corporation directors and officers failing to call meetings, not providing sufficient information to members, or conducting activities against members' wishes.

When members make a complaint they often expect the Registrar to intervene to correct what they believe is the wrongdoing. In the first instance, the Registrar's office will assist by advising members of their rights under their corporation's rule book.

It must be understood that the corporation's rule book is a form of contract between the members (as set out in section 60 of the CATSI Act). The Registrar is not a party to that contract. The Registrar can only intervene if there is evidence of a serious failure of governance. In most cases the Registrar's role is limited to providing information and advice.

Part of ORIC's advice to complainants is to encourage them to use the corporation's dispute resolution rule. All corporations are required to have a dispute resolution process included in their rules—CATSI Act section 66-1(3A)—so that problems can be resolved before they become too big.

ORIC also informs complainants about their right to ask the directors to call a meeting to pass a resolution addressing their concerns. Although complainants often see removing the current directors as the best way to resolve their issues, the directors can only be removed by the members at a general meeting.

Section 201-5 of the CATSI Act sets out the requirements for a valid meeting request. Templates for making these requests are available on ORIC's website.

At a meeting called under this rule, members are able to hear the complainants' concerns and the directors' explanations. They vote on the issues and decide whether they agree with the complaints. The Registrar sees this as the most important principle of a corporation: the members own the corporation and should be the ones entitled to judge the performance of its directors.

Case study: **Successful dispute management process**

Gunangarah Aboriginal Corporation for Housing provides secure and affordable accommodation for Aboriginal and Torres Strait Islander people in southern New South Wales.

In June 2014 the directors approached the Registrar for help because they had concerns that internal governance issues were putting at risk the delivery of the corporation's services. External parties important to the corporation's success were beginning to disengage.

In July 2014 the Registrar agreed to convene a two-day dispute management workshop in Queanbeyan to address several problem areas, including the management of the properties, conflicts of interest, governance, confidentiality, and the rule book.

The results of the workshop were overwhelmingly positive. Policies and procedures were developed to address governance issues, a code of conduct was established, and key dates for meetings (including the AGM) were set.

Locally based support

Coffs Harbour regional office, New South Wales

Over the past year the office has interacted with a large number of corporations across New South Wales and as far north as Gin Gin, Queensland. Some typical activities include providing governance training, helping with meeting attendance, reporting obligations and assisting organisations wanting to transfer to the CATSI Act.

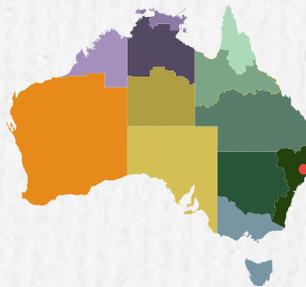
In February 2015, Blanche Saunders (a Kamilaroi woman) joined ORIC's Coffs Harbour office. Blanche has provided a much needed extra pair of hands which corporations in the regions have appreciated.



Christian Lugnan
Regional manager,
Coffs Harbour



Blanche Saunders,
Regional officer,
Coffs Harbour



“

Blanche and I were able to break down some of the special administrator's messages to the members and the advisory committee which made the process so much easier. We could build a very quick rapport because of our experience with working with Aboriginal and Torres Strait Islander corporations and because we are Aboriginal.

”

Christian Lugnan on providing special administration support to Minimbah Pre-school, Primary School Aboriginal Corporation