

s22

s22

From: s22

Date: Thursday 13 June 2019 at 10:09:16 am

To: s22

Cc:
s22

Subject: FW: Yarrawarra AC ICN 620 deregistered .s22

Hi s22

s22

The letter attached is from a Greens MP asking for us to investigated the disappearance of an assets worth \$2,693,587 prior to the corporation deregistering.

s22

s22

But either way it seems ORIC is in no position to investigate at the moment as everything seems above board from our perspective unless I'm mistaken.

s22

Thanks

s22

Office of the Registrar of Indigenous Corporations (ORIC)

PO Box 29, Woden ACT 2606 || Toll free: 1800 622 431 || www.oric.gov.au || ABN: 18 108 001 191

s22



David Shoebridge MLC
Member of the NSW Legislative Council

www.davidshoebndge.org.au
Twitter: @ShoebndgeMLC
Facebook: David Shoebridge MLC

tel: (02) 9230 3030
fax: (02) 9230 2159
email: david.shoebndge@parliament.nsw.gov.au

Parliament House
Macquarie St
Sydney NSW 2000

Office of the Registrar of Indigenous Corporations
PO Box 29
WODEN ACT 2606

24 May 2019

RE: Yarrawarra Aboriginal Corporation ICN 620

Dear Registrar,

I write to you regarding the Yarrawarra Aboriginal Corporation (Yarrawarra), having received significant concerns being expressed to my office from the Gumbainggir and Corindi communities. This includes from former members of Yarrawarra such as Anthony Dootson.

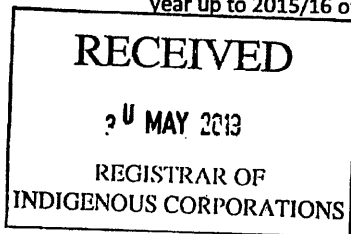
For context Yarrawarra was created in the late 1980's and its principle asset is the Yarrawarra Aboriginal Cultural Centre on the north side of the township of Corindi (being approximately 500 metres from the public school). This is an asset that is highly prized by the local Aboriginal and non-Aboriginal community.

The hall and accommodation at the site have made it a crucial cultural site and community facility for the Aboriginal and non-Aboriginal community. Income from the centre is an important financial resource for the Aboriginal community and its assets have been built up after decades of community contributions.

So it is with despair that locals have seen the assets of the corporation stripped and delivered to a for-profit corporation known as the Gurehlgam Corporation. This corporation is not an indigenous corporation.

A search of the ERICCA system shows that Yarrawarra was deregistered by your office on 10 January 2017. The community is unaware of any lawful meeting of the membership of Yarrawarra that would have endorsed this action. They are aware of an attempted meeting in 2016 that was not lawful and determined to not have legal standing in or about 2016 seeking to do the same.

The concerns of the community as to how and why Yarrawarra was deregistered are highlighted by the disclosed financial returns of Yarrawarra in the years leading up to its deregistration. Those records from 2007/08 to 2015/16 show consistent income streams between \$270,725 and \$675,649 per annum. They also show robust total assets for each year up to 2015/16 of between \$2,087,782 and \$2,936,098.



Mail ID No	137167
Scanned	30.5.19
ICN No	620
Job ID	1483665
Assigned to	S. BILTON

What occurs in 2015/16 however is quite extraordinary. Records lodged with your office show that assets were stripped from Yarrawarra in that year. At the end of 2014/15 Yarrawarra disclosed \$2,693,587 in net assets. However by the end of 2015/16 they had just \$989.00 in net assets. The 2015/16 financial records show an extraordinary \$2,996,244 in "total expenditure" and income of \$326,720.00. This is an organisation that in the previous year had "total expenditure" of just \$417,516 with income of \$429,388.

It is understood that the "total expenditure" referred to in the 2015/16 disclosure is primarily comprised of the wholesale transfer of Yarrawarra's assets (being the property of the corporation held for the benefit of the Aboriginal members of the corporation) to the Gurehlgam Corporation.

Given the above, I am asking that your office undertake an urgent investigation of the deregistration and the 2015/16 expenditure using your powers under any of Chapter 10 of the Act and or section 658-10 of the Corporations (Aboriginal and Torres Strait Islander) Act 2006.

I look forward to your prompt action and response to this urgent request,

Regards,

s47F

David Shoebridge//
Greens NSW MP
Spokesperson for Justice

s22

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From: s22
Sent: Thursday, 13 June 2019 3:23 PM
To: s22
Cc:
s22
Subject: RE: Yarrawarra AC ICN 620 deregistered s22

Hi s22

After speaking with Gerrit he has asked me to forward you a letter from a NSW Greens MP to assist in responding.

I have attached the letter and also provided some context of the situation below.

Regards

s22

Office of the Registrar of Indigenous Corporations (ORIC)

PO Box 29, Woden ACT 2606 || Toll free: 1800 622 431 || www.oric.gov.au || ABN: 18 108 001 191

UNOFFICIAL

s22
From:
Date: Thursday, 13 June 2019 at 10:09:16 am
To: s22
Cc:
s22
Subject: FW: Yarrawarra AC ICN 620 deregistered s22

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Office of the Registrar of Indigenous Corporations (ORIC)

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s22

s22

From: Gerrit Wanganeen
Sent: Wednesday, 3 July 2019 1:11 PM
To: s22
Cc: s22; Selwyn Button
Subject: FW: FOR ACTION - Senate Question on Notice for the Minister for Indigenous Australians [SEC=UNCLASSIFIED]
Attachments: QoN 7 Senator Mehreen Faruqi - Yarrowarra Aboriginal Corporation.pdf; QoN 7 - Yarrowarra Aboriginal Corporation.docx; ORIC response letter to David Shoebridge MLC (Yarrowarra Aboriginal Corporation IC620).pdf

UNCLASSIFIED

s22

Email as provided to s22 last night.

Gerrit

From: Gerrit Wanganeen
Sent: Tuesday, 2 July 2019 8:41 PM
To: Selwyn Button s22
 s22
 s22

Subject: FW: FOR ACTION - Senate Question on Notice for the Minister for Indigenous Australians [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi Selwyn,

Draft response to the QoN attached based on response previously provided to Mr Shoebridge MLC (NSW/Greens).

s22

I will need assistance with the formatting with the LiB template but draft bullet points would be:

- The Yarrowarra Aboriginal Cultural Centre (the cultural centre) was previously an asset of the Yarrowarra Aboriginal Corporation but was transferred to the Gurehlgam Corporation in 2015.
- The cultural centre includes conference and accommodation facilities, a café and gallery, with a range of cultural and other facilities on site.
- Gurehlgam has entered into a partnership with Serco Asia Pacific (in relation to the new Clarence Correctional Facility, Grafton) to use the cultural centre for a diversion program aimed at preventing reoffending in young Aboriginal men. The use of the cultural centre for this program is not supported by the entire community.
- The Yarrowarra Aboriginal Corporation (the corporation) was registered in December 1987 under the Aboriginal Councils and Associations Act 1976 (ACA Act).
- The Corporation was transferred to the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act) upon commencement of that Act.
- The Corporation held significant property assets, however directors and members became concerned for the liquidity of the corporation. The corporation posted losses of \$63,189 in 2013–14, \$172,981 (2011–12), \$409,276 (2010–11), \$357,810 (2009–10) and \$43,669 (2008–09). The corporation posted a small surplus in 2014–15 (\$11,872) and a surplus of \$118,893 in 2012–13.
- ORIC understands the corporation took the decision to voluntarily wind up prior to potentially becoming insolvent so that the corporation's assets could be distributed to other like minded organisations rather than being potentially sold off by a liquidator.

- According to ORIC's records, the corporation held a meeting on 22 February 2015 where members approved the transfer of the corporation's assets to Gurehlgam and Jagun aged care.
- At the time of the transfers the corporations rule book provided guidance on the distribution of property including:
 - ...property or monies shall be transferred or paid to another corporation, company, authority or institution, which has similar objects to the corporation, which is not carried on for the profit or gain of individual members.*
- Gurehlgam has similar objects to the corporation (as outlined in the rule book at the time of winding up).
- Deeds of title have been for all of the former corporation's properties transferred legally by the NSW lands office.
- The corporation held a meeting on 13 December 2015 to voluntarily wind up the corporation.

s22

Gerrit

s22

From: s22

Sent: Tuesday, 2 July 2019 4:39 PM

To: s22

s22

Cc: s22

DEPARTMENT OF THE PRIME MINISTER AND CABINET

Minister representing the Minister for Indigenous Australians

SENATE QUESTION

Yarrowarra Aboriginal Corporation

Question No. 7

Senator Mehreen Faruqi asked the Minister for Indigenous Australians on 2 July 2019:

With reference to the Yarrowarra Aboriginal Corporation:

1. Why was the Yarrowarra Aboriginal Corporation deregistered given its last accounts showed operating expenses in 2014/15 of \$417,516 with income of \$429,388.
2. On what basis were the assets of Yarrowarra Aboriginal Corporation removed from an organisation with over 150 local members to and transferred Gurelhgam Corporation, which has a limit of 11 members.
3. Will the Minister direct the Office of the Registrar of Indigenous Corporations to undertake an urgent investigation into the circumstances of the transfer of assets from Yarrowarra Aboriginal Corporation to Gurelhgam Corporation.

Senator Mehreen Faruqi - The Minister for Indigenous Australians has provided the following answer to the Honourable Senator's question:

[Answer]

1. The Corporation was deregistered at the request of members. I note that the Office of the Registrar of Indigenous Corporations' (ORIC) records show that the corporation held a meeting on 13 December 2015 to voluntarily wind up the corporation. Further records show the corporation reported losses of \$63,189 in 2013–14, \$172,981 (2011–12), \$409,276 (2010–11), \$357,810 (2009–10) and \$43,669 (2008–09). The corporation posted a small surplus in 2014–15 (\$11,872) and a surplus of \$118,893 in 2012–13.
2. According to ORIC's records, the corporation held a meeting on 22 February 2015 where members approved the transfer of the corporation's assets to Gurelhgam and Jagun aged care.

DEPARTMENT OF THE PRIME MINISTER AND CABINET

Rule 10 of the corporation's rule book, at the time of the winding up, was in the following terms:

The winding up of the corporation shall be in accordance with the Act.

If upon the winding up of the corporation there remains, after satisfaction of all debts and liabilities, any property or monies:

- that property or monies shall not be paid to or distributed amongst members of the corporation;
- any moneys received by the corporation from the Commonwealth that have not been applied or that have been improperly applied shall, on the request by the Commonwealth Minister responsible for Indigenous Affairs, be repaid by the corporation to the Commonwealth;

any remaining property or monies shall be transferred or paid to another corporation, company, authority or institution, which has similar objects to the corporation, which is not carried on for the profit or gain of individual members.

Under rule 2-d, the objectives of the corporation were as follows:

- To have the business functions of the organisation to be financially independent and self sustaining
- To be the leading Aboriginal Cultural tourism destination in New South Wales
- To be recognised as a leading provider on the North Coast of NSW of employment opportunities for Aboriginal and non-Aboriginal people
- To maintain and grow the assets of the organisation for the on-going benefit of our members

According to Gurehlgam Corporation's website, gurehlgam.com.au:

...we are an Aboriginal owned and run NFP that aims to improve the life of Aboriginal people and families in Northern New South Wales. We do this by professionally managing community service programs and supporting our people in whatever way we can.

Further, the website states that the "objects of the company, as stated in the constitution are":

1. To promote and encourage Aboriginal community development.
2. To create a trust fund,.....and to give to the trust, monies earned by the company to enable trustees ... to provide donations... for the benefit of Aboriginal corporations, institutions, societies, committees, schools and any other Aboriginal recipients which the trustees... think worthy ... for exclusively Aboriginal education, benevolent, community, historical, economic, sporting and spiritual objects.
3. To give private enterprise a better understanding of Aboriginal culture.
4. To provide vocational training to Aboriginal community organisations and individuals.
5. To provide consultancy services in the area of Indigenous community development.
6. To assist Aboriginal families to empowerment by overcoming factors that have caused families to experience hardship and general lower socio-economic conditions.

For the purpose of rule 10 of the corporation's rule book, quoted above, ORIC is satisfied that objects of Gurehlgam Corporation are similar to the corporation's objects.

At this stage I am not seeking the Registrar to take any further action in relation to this matter.



Australian Government
Office of the Registrar of Indigenous Corporations

oric.gov.au

Email: info@oric.gov.au

Freecall: 1800 622 431

Fax: (02) 6133 8080

Level 1, Centraplaza

16 Bowes Place

Woden ACT 2606

PO Box 29

Woden ACT 2606

ABN 18 108 001 191

ORIC ref: ICN/620
Contact officer: S22
Contact phone: 1800 622 431

21 June 2019

Mr David Shoebridge MLC
Member of the NSW Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

By Email: david.shoebridge@parliament.nsw.gov.au

Dear Mr Shoebridge

Yarrowarra Aboriginal Corporation (ICN: 620) – deregistered

Thank you for your letter to the Registrar dated 24 May 2019 regarding Yarrowarra Aboriginal Corporation (the corporation).

Meetings

According to ORIC's records, the corporation held a meeting on 22 February 2015 where members approved the transfer of the corporation's assets to Gurehlgam and Jagun aged care. Further, the corporation held a meeting on 13 December 2015 to voluntarily wind up the corporation.

Finances and assets

I note your reference to the income and assets of the corporation. In particular, I note your reference to the Yarrowarra Aboriginal Cultural Centre, and assets that were transferred to Gurehlgam Corporation.

Regarding finances, ORIC's records show that the corporation reported losses of \$63,189 in 2013–14, \$172,981 (2011–12), \$409,276 (2010–11), \$357,810 (2009–10) and \$43,669 (2008–09). The corporation posted a small surplus in 2014–15 (\$11,872) and a surplus of \$118,893 in 2012–13.

Transfer of properties

Rule 10 of the corporation's rule book, at the time of the winding up, was in the following terms:

The winding up of the corporation shall be in accordance with the Act.

If upon the winding up of the corporation there remains, after satisfaction of all debts and liabilities, any property or monies:

- that property or monies shall not be paid to or distributed amongst members of the corporation;
- any moneys received by the corporation from the Commonwealth that have not been applied or that have been improperly applied shall, on the request by the Commonwealth Minister responsible for Indigenous Affairs, be repaid by the corporation to the Commonwealth;

any remaining property or monies shall be transferred or paid to another corporation, company, authority or institution, which has similar objects to the corporation, which is not carried on for the profit or gain of individual members.

Under rule 2-d, the objectives of the corporation were as follows:

- To have the business functions of the organisation to be financially independent and self sustaining
- To be the leading Aboriginal Cultural tourism destination in New South Wales
- To be recognised as a leading provider on the North Coast of NSW of employment opportunities for Aboriginal and non-Aboriginal people
- To maintain and grow the assets of the organisation for the on-going benefit of our members

According to Gurehlgam Corporation's website, gurehlgam.com.au:

...we are an Aboriginal owned and run NFP that aims to improve the life of Aboriginal people and families in Northern New South Wales. We do this by professionally managing community service programs and supporting our people in whatever way we can.

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3. To give private enterprise a better understanding of Aboriginal culture.
4. To provide vocational training to Aboriginal community organisations and individuals.
5. To provide consultancy services in the area of Indigenous community development.
6. To assist Aboriginal families to empowerment by overcoming factors that have caused families to experience hardship and general lower socio-economic conditions.

For the purpose of rule 10 of the corporation's rule book, quoted above, ORIC is satisfied that objects of Gurehlgam Corporation are similar to the corporation's objects.

I also note Gurehlgam Corporation's website, on its home page, provides a history of the Yarrowarra Aboriginal Cultural Centre, including the respective involvement of the corporation and Gurehlgam Corporation.

Conclusion

ORIC is satisfied that the corporation was deregistered in accordance with the requirements of its rule book and the Corporations (Aboriginal and Torres Strait Islander) Act 2006. Accordingly, at this stage, ORIC will not be taking any further action in relation to this matter.

If you have any questions or would like to discuss this matter further, I may be contacted on s47F or by email s47F

Yours sincerely
s47F

Gerrit Wanganeen
Deputy Registrar

s22

From: s22
Sent: 1 Thursday, 11 July 2019 2:44 PM
To: Selwyn Button; Gerrit Wanganeen
Subject: Senate Question on Notice 7 - Yarrawarra Aboriginal Corporation - draft answer.
[SEC=UNCLASSIFIED]
Attachments: QoN 7 - Yarrawarra Aboriginal Corporation.docx

UNCLASSIFIED

Selwyn, Gerrit,

FYI – attached is the draft response to the questions on notice asked by Senator Mehreen Faruqi of Minister Wyatt last week in relation to Yarrawarra Aboriginal Corporation.

The Office had actually put these answers into the live issues brief based on advice we had provided. I have added one sentence to the answer to question 3 to state that the Registrar is satisfied that everything was done lawfully and above board. I took this from the letter to MLA Shoebridge.

It has now gone to ^{s22} for approval.

Cheers,

s22

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DEPARTMENT OF THE PRIME MINISTER AND CABINET

Minister representing the Minister for Indigenous Australians

SENATE QUESTION

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3. Will the Minister direct the Office of the Registrar of Indigenous Corporations to undertake an urgent investigation into the circumstances of the transfer of assets from Yarrowarra Aboriginal Corporation to Gurelhgam Corporation.

Senator Mehreen Faruqi - The Minister for Indigenous Australians has provided the following answer to the Honourable Senator's question:

1. Yarrowarra Aboriginal Corporation held a meeting on 13 December 2015 and agreed to voluntarily wind up the corporation. The corporation was not ceased by ORIC.
2. In accordance with the corporation's rules, on 22 February 2015, members agreed to distribute assets to Gurelhgam Corporation and Jagun Aged Care.
3. Deeds of title were transferred legally by the then NSW Land and Property Information Service (now the NSW Land Registry Service). The Office of the Registrar of Indigenous Corporations is satisfied that the corporation was deregistered in accordance with the requirements of its rule book and the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.