

## 2.9 | Jabiru/Kakadu Government Investment & Legislation – Economic Policy and Programs

### Key Points

- The passage of the Aboriginal Land Rights (Northern Territory) Amendment (Jabiru) Bill 2020 on 3 September 2020 allows the Mirarr traditional owners to establish a **community entity** to hold the Jabiru township lease as an alternative to the Executive Director of Township Leasing holding the lease.
- On 23 November 2020 the Minister approved the **Gundjeihmi [Goun-jay-me] Aboriginal Corporation Jabiru Town (GACJT)**, which is an independent entity, to hold the Jabiru township lease (see [Attachment A](#)).
  - The Gundjeihmi Aboriginal Corporation, which represents the Mirarr traditional owners, will not hold the Jabiru lease.
  - The Minister approved \$1.98 million from the Aboriginals Benefit Account (ABA) to establish the GACJT, and for the costs of transferring interests to the new leasing arrangements.
  - The directors of the GACJT include three senior Mirarr traditional owners and two independent directors.
  - The new entity is eligible for funding from the ABA to cover its operations. The Agency has signed a MoU with the GACJT to establish a budget process with annual reporting to ensure the transparent use of funding.
- The **Agriculture, Water and the Environment portfolio** is primarily responsible for the 2019 election commitment to invest \$216 million over 10 years in Kakadu and the announcement on 12 July 2020 of an additional \$59.7 million to upgrade tourist facilities in Kakadu National Park (KNP).
  - Matters relating to the remediation of Jabiru should be directed to the Department of Agriculture, Water and the Environment (DAWE).

### Facts and figures

- The \$276 million investment includes \$51 million for upgrades to KNP.
  - This includes \$35 million over nine years from the IAS to Parks Australia to support tourism infrastructure upgrades in KNP.
- On 9 June 2020 the Agency entered a MoU with Parks Australia to administer this funding. \$3.5 million was released in 2019-20 and \$7 million is allocated for 2021-22 under the MoU.

## **Key Dates**

- The Ranger Uranium Mine ceased production on 8 January 2021 and the current Jabiru lease will end on 1 July 2021.
- On 14 August 2019 the 'Future of Jabiru MoU' was signed between the Australian Government (Minister for the Environment), NT Government, GAC and Energy Resources of Australia Ltd (Ranger Uranium Mine).

## **Narrative**

- Uranium mining was imposed on the traditional owners without consent in the 1970s. Traditional owners have consistently sought an end to mining on their country and the handover of Jabiru is a key step in addressing this legacy.
- The traditional owners have developed a masterplan for their vision for Jabiru to be a world-class tourist destination and regional services hub.
- The first goal of the Jabiru masterplan is for the town to become Aboriginal land with a township lease. Implementing the Mirarr's masterplan for Jabiru is an act of respect for culture, traditional ownership and custody of the land.

## **Background**

- The Minister meet with the Mirarr in Jabiru on 25 November 2020.
- The Agency is responsible for progressing the scheduling of Jabiru as Aboriginal land and providing for a township lease under the Land Rights Act.
  - The Northern Land Council must seek the approval of Minister Wyatt and Minister for the Environment for the Jabiru township lease.
- DAWE is lead Commonwealth agency for the Jabiru transition project.
  - Jabiru is part of KNP, on land leased from the Director of National Parks (DNP) to the Jabiru Town Development Authority in 1981.
  - On 26 August 2020 Dr James Findlay resigned as DNP due to management issues in KNP. Ms Jody Swirepik (DAWE) is acting DNP.
- The NT Aboriginal Areas Protection Authority (AAPA) is prosecuting the DNP over works allegedly done without proper authority at a sacred site at Gunlom Falls – this is a matter for the AAPA.
- The Gundjeihmi Aboriginal Corporation, which represents the Mirarr traditional owners, is under investigation by ORIC – this is a matter for the Registrar.

**Attachments:**

Attachment A	<u>Minister Wyatt media release – 25 November 2020</u>
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Group Manager	Division	Mobile Phone	Date Cleared
Ryan Bulman	Economic Policy and Programs	s22(1)	8 February 2021
Branch Manager	Branch	Mobile Phone	Date Cleared
Wayne Beswick	Land	s22(1)	
Drafted by	Position/Branch	Mobile Phone	Date Drafted
s22(1)	Land	s22(1)	
Consultation:	Central Group: ALGE. Parks Australia. ORIC		

## 4.8 | CATSI Act Amendments – Program Performance Delivery

### Key Points

- In December 2019 Minister Wyatt announced a review of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act), to be led by the National Indigenous Australians Agency (the Agency).
  - This review considered the findings of the 2017 Technical Review and feedback received on the previously proposed amendments.
  - It also considered the ongoing relevance of the CATSI Act as a special measure under the *Racial Discrimination Act 1975*.
- Phase one of consultation sought feedback in relation to those aspects of the CATSI Act that should be considered as part of the review.
- Phase two of consultation sought feedback in relation to a draft report published on the Agency's website.
- Feedback on the draft report informed the drafting of a final report. A final report was presented to Minister Wyatt in October 2020.
- The Report and written submissions to the second phase of the review were published on the NIAA website on 16 February 2021.
- The Government is considering possible amendments to the CATSI Act in response to the Report.

### Facts and figures

- The final report contains 72 recommendations.
- For phase one, the NIAA received 60 survey responses and eight separate written submissions.
- For phase two, the Agency:
  - held 41 virtual public consultation sessions (with 165 participants) and 15 individual consultation sessions;
  - received 141 chapter survey responses;
  - received 41 written submissions;
  - received three responses submitted through the web-based feedback form and eight email responses; and
  - conducted five Stakeholder Reference Group and Steering Committee meetings.
- Attachment B includes statistics for the Corporations (Aboriginal and Torres Strait Islander) Amendment (Strengthening Governance and Transparency) Bill 2018 (2018 Bill) consultations and CATSI corporations.

### **Key Dates**

- **16 February 2021** – final report and submissions published on NIAA's website.
- **30 October 2020** – final report provided to Minister Wyatt.
- **2 October 2020** – phase two of consultation closed.
- **31 July 2020** – draft report published and phase two of consultation commenced.
- **14 February 2020** – phase one consultation closed.
- **11 December 2019** - Minister Wyatt announced a review of the CATSI Act and CATSI Act Review website was released, including phase one survey.
- Attachment A includes additional key dates.

### **Narrative**

- The CATSI Act review assessed the ongoing effectiveness of the CATSI Act as a special measure for the benefit of Indigenous peoples and included widespread public consultation in two phases.
- The Review recommended the CATSI Act continue as a special measure and made a number of recommendations to streamline administrative requirements on corporations under the Act and improve the Registrar's capacity to support and enable Indigenous corporations.
- The Government is considering possible amendments to the CATSI Act in response to the Review and Report recommendations.

### **Background**

- Nil

### **Attachment**

Attachment A	Key Dates
Attachment B	Consultations and corporations
Attachment C	Nature of Recommendations

Group Manager	Group	Mobile Phone	Date Cleared
Ben Burdon Group Manager	Program Performance Delivery	s22(1)	10 Feb 2021

Branch Manager	Branch	Mobile Phone	Date Cleared
Andrew Huey, Branch Manager	Grant Design Branch	s22(1)	5/2/2021
Drafted by	Position/ Branch	Mobile Phone	Date Drafted
s22(1)	Senior Adviser, Grant Design Branch	s22(1)	5/1/2021
Consultation:	ORIC		

## **Key Dates**

- **16 February 2020** – final report and submissions published on the NIAA's website.
- **30 October 2020** – final report provided to Minister for Indigenous Australians.
- **2 October 2020** – phase two of consultation ends.
- **21 September 2020** – phase two of consultation scheduled to end.
- **31 July 2020** – draft report published and phase two of consultation commenced.
- **14 February 2020** – phase one consultation closed.
- **11 December 2019** – Minister Wyatt announced a review of the CATSI Act and CATSI Act Review website was released, including phase one survey.
- **8 August 2019** – Minister Wyatt agrees to comprehensive review of CATSI Act as a special measure.
- **1 July 2019** – Bill lapsed.
- **11 April 2019** – Parliament prorogued and general election called for 18 May 2019.
- **March 2019** – Targeted consultations undertaken with key stakeholders including: Australian Law Council, National Aboriginal Community Controlled Health Organisation (NACCHO), National Native Title Council (NNTC), Cape York Land Council and Aboriginal Peak Organisations Northern Territory (APONT).
- **13 March 2019** – Minister replies to the Scrutiny of Bills Committee.
- **15 February 2019** – The chair of the Senate Standing Committee for the Scrutiny of Bills wrote to the Minister in relation to the CATSI Amendment Bill 2018.
- **11 February 2019** – The Finance and Public Administration Legislation Committee released its report.
- **Late January 2019** – Technical Review report made available from ORIC's website.
- **18 January 2019** – ORIC and the Department provide a joint submission to the Committee.
- **5 December 2018** – The Corporations (Aboriginal and Torres Strait Islander) Amendment (Strengthening Governance and Transparency) Bill 2018 is introduced into the Senate and is referred to the Finance and Public Administration Legislation Committee.
- **June to September 2018** – ORIC undertakes consultations on the proposed amendments.

- **July to November 2017** – Technical Review of the CATSI Act undertaken by law firm DLA Piper.
- **5 July 2017** – KPMG Review released by the Minister at the celebration of the 10-year anniversary of the CATSI Act.
- **September 2016 to December 2016** – Review of ORIC by KPMG to identify opportunities to improve the effectiveness of ORIC and enhance the CATSI Act.

## **Consultations and corporations**

### **Consultations**

- During consultations on the Strengthening Governance and Transparency Bill in 2018, ORIC:
  - undertook 14 public consultations with approximately 222 participants;
  - held 34 individual consultation sessions, including nine with government stakeholders; and
  - received 32 written submissions from CATSI corporations.
- Seven submissions were made to the 2018 Inquiry into the Strengthening Governance and Transparency Bill.

### **Corporations snapshot**

- As at 28 February 2021:
  - CATSI Act has been in operation for 13 years;
  - 3,304 corporations are registered under the CATSI Act;
  - 225 of these are Native Title Corporations; and
  - 1,016 CATSI corporations are also registered with the Australian Charities and Not for Profits Commission (ACNC).
  - The 66 per cent of corporations that have submitted their 2019-20 annual returns have earned \$2.65 billion in 2019-20.<sup>1</sup>

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<sup>1</sup> The CATSI Act requires 100 per cent of corporations to lodge annual returns by 31 December. Some corporations that have not lodged their annual return may be exempt from lodging or have been granted an extension of time. ORIC acknowledges the low lodgment rate and is implementing strategies to improve future lodgment rates including through building staff capability and developing new processes to better support corporations with reporting obligations.

## **Nature of recommendations**

- The review recommendations centre around:
  - reducing the administrative burden on corporations by making it easier to meet reporting and meeting obligations;
  - providing greater flexibility for corporate structures to enable the realisation of economic and community development priorities;
  - increasing transparency of corporation operations through improved reporting for members, native title holders and other stakeholders;
  - enhancing the efficacy of operations by increasing corporations' access to modern technology, including for managing their membership bases; and
  - providing the Registrar with expanded powers to enable a graduated, proportionate response to non-compliance.

## 7.18 - Registrar of Indigenous Corporations – Overview

The Registrar of Indigenous Corporations attends Senate Estimates separately as a Statutory Office Holder. Questions of detail should be referred to the Registrar.

### Key Points

- The Registrar of Indigenous Corporations (the Registrar) is an independent statutory office holder appointed by the Minister to administer the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act). The Registrar has powers to intervene that are similar to those exercised by the Australian Securities and Investments Commission (ASIC).
- The Office of the Registrar of Indigenous Corporations (ORIC) supports and regulates corporations registered under the CATSI Act.
- The CATSI Act provides the Registrar with regulatory assistance to support corporations with serious governance or financial problems.
- As at 31 August 2020 3,385 corporations were registered under the CATSI Act; 220 CATSI corporations are registered native title bodies corporate; and 1,029 CATSI corporations are also registered with the Australian Charities and Not-for-Profits Commission.
- The Australian Government announced a comprehensive review of the CATSI Act in December 2019. A final report was presented to the Minister for Indigenous Australians in October 2020. The Government is not formally responding to the Review Report but is proposing to bring forward a Bill in the coming months.

### Facts and figures

- Mr Selwyn Button was appointed as the Registrar of Aboriginal and Torres Strait Islander Corporations on 10 December 2018 for a five year term – appointed by the former Minister for Indigenous Affairs, Senator the Hon Nigel Scullion
  - Remuneration for the Office (Holders of Full-time Public Office) is determined by the Remuneration Tribunal.
- As at 30 June 2020 the Registrar's functions were delivered by 39.6 full-time equivalent staff. Of these, 55% identified as Aboriginal or Torres Strait Islander.
- Total budget for ORIC for 2019-20: Departmental \$8,259,000 and Administered \$1,000,000.
- Total expenditure for ORIC for 2019-20: Departmental \$8,158,000 and Administered \$998,000.
- (Source: NIAA 2019-20 Annual Report).

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National Indigenous Australians Agency

## **Key Dates**

- Nil.

## **Narrative**

### **Issues which may be raised by the Committee**

#### **CAAMA**

- Five corporations are currently subject to Special Administration including The Central Australian Aboriginal Media Association (ABORIGINAL CORPORATION) (CAAMA).
- CAAMA is funded \$2.68 million (GST inclusive) for 2020-21 under the Indigenous Advancement Strategy, across three Indigenous broadcasting activities. It delivers Indigenous Radio Services in Alice Springs and Remote Indigenous Media Organisation (RIMO) support services to twelve remote communities in the Northern Territory.
- The Registrar placed CAAMA under special administration on 9 March 2020. The special administration was due to cease on Friday 12 June 2020 but has been extended until 28 May 2021.

#### **Jabiru/Kakadu National Park**

- Allegations of mismanagement in Kakadu National Park (the Park) were raised by ABC's Four Corners on 22 February 2021. The management of the Park is the responsibility of the Department of Agriculture, Water and Environment (DAWE). Questions about the management of the Park should be directed to DAWE.
- Media reports of NIAA providing Gundjeihmi Aboriginal Corporation (GAC) with about \$1 million after ORIC and the NT Police executed a warrant in Jabiru are incorrect.
  - GAC is currently under investigation by ORIC. Questions about this matter should be directed to the Registrar.
  - On 25 February 2021, the Australian incorrectly claimed that NIAA provided GAC with about \$1 million after ORIC and the NT Police 'raided' the organisation.
  - As at 27 February 2021, NIAA has only provided GAC with \$60,000 of the \$120,000 agreed to undertake scoping works for the upgrade of essential services at three homelands.
  - Contrary to the claims made by The Australian, NIAA did not fast track the GAC ABA proposal nor did it change tack in asking GAC to develop a scope of works.
  - At all times, NIAA has followed due process and the funding agreement with GAC includes multiple payment milestones to mitigate financial risk.

- GAC and GACJT have two senior traditional owner board members in common. GACJT has five board members, comprising three senior Traditional Owners and two independent directors. GACJT is an independent corporation and is not a related or subsidiary entity of GAC.
- On 22 March 2021, The Australian published an article title 'Money greed' imperils Kakadu millions. The article notes "A spokeswoman for Indigenous Australians Minister Ken Wyatt said it would be inappropriate to comment on Gundjeihmi while it remained under investigation and that Gagudju was regulated by the Northern Territory". Refer Attachment A.
- The Australian last month revealed that ORIC was investigating Gundjeihmi over claims senior figures conspired to award each other huge pay rises and abused entitlements.

### **Background**

- Significant appointments, such as the Registrar appointment, will require the agreement of the Minister; and the Prime Minister, who may refer the appointment to the Cabinet for approval in accordance with the Cabinet Handbook.
- As a statutory office holder the Registrar position also falls under the Australian Public Service Commission, *Merit and Transparency: Merit-based selection of APS agency heads and APS statutory office holders* (the Guidelines). Under the Guidelines the Minister may consider that special circumstances exist where a full selection process may not be appropriate.

General Manager Rachael Jackson	Division Corporate	Office Phone §22(1)	Mobile Phone §22(1)
Branch Manager Brendan Jacomb	Branch Legal Services Branch	Office Phone §22(1)	Mobile Phone §22(1)
Drafted by §22(1)	Branch Legal Services Branch	Office Phone §22(1)	Mobile Phone §22(1)
Consultation:			

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