



## Year in review

Welcome to the Office of the Registrar of Aboriginal Corporations' yearbook for 2004–05. Publishing a yearbook gives ORAC an opportunity to showcase our work and that of our client corporations, highlighting the particular achievements and challenges encountered during the year.

The Registrar of Aboriginal Corporations is a statutory appointed officer with 40 departmental staff at 30 June 2005. The office delivers incorporation, regulation and related services to Indigenous people in accordance with the *Aboriginal Councils and Associations Act 1976* (ACA Act). ORAC performs its work in a way that takes account of the special needs, requirements and risks of Indigenous corporations, consistent with the races power of the Australian Constitution and the *Racial Discrimination Act 1975*. Also it performs its functions within the context of Australian and international best practice on sound corporate governance.

From the outset I want to praise the contribution that Indigenous corporations make to achieving outcomes in Indigenous affairs and corporation affairs, sometimes lost in the bad news. I refer you to two case studies of successful corporations we have assisted—Bawinanga Aboriginal Corporation, one of the largest employers in the Northern Territory and one of ORAC's biggest corporations (see p. 38) and Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council which is a resource support and advocacy organisation for its 3500 members in Aboriginal communities in the cross border region of Western Australia, South Australia and the Northern Territory (see p. 43).

This yearbook complements ORAC's contribution to our annual report (contained in the DIMIA Annual Report 2004–05<sup>1</sup>) by providing more comprehensive analysis of key information and issues and more explanation of the thinking behind our work. As in the annual report, we explain our relationships with key agencies, and outline our performance: in incorporation support, regulation, training and legislative reform.

ORAC has published a new service charter and a new corporate plan (2005–07) which set out the principles that guide its work, and what it hopes to achieve over the two years (see p. 13). Our new vision is: Aboriginal and Torres Strait Islander peoples securing strong and viable futures through good governance of their corporations.

In 2004–05 ORAC consolidated its unique role as a very active regulator. ORAC is the third arm in the Commonwealth's regulation of corporations, the other two being the Australian Securities and Investments Commission (ASIC) under the *Corporations Act 2001*, and the Australian Competition and Consumer Commission (ACCC) under the *Trade Practices Act 1974*. ORAC operates in a complex policy and compliance environment driven by developments in both corporations affairs (Treasury) and Indigenous affairs (DIMIA, and from 4 May 2006 FaCSIA).

Unlike many government programs in Indigenous affairs which employ executive powers of government, as a regulator ORAC has legislative powers which are broader in scope and can be coercive. ORAC's regulation work is coupled with delivering a suite of responses to support improved corporate performance especially in remote areas. ORAC uses these powers carefully, especially given the disadvantage experienced by many Indigenous people. ORAC is guided by the law on prevention of racial discrimination in its work. The law provides for different and valid treatment of Indigenous peoples in certain circumstances. Indeed the law accepts that different treatment may be required to achieve equality. Sometimes 'special measures' are needed to rectify disadvantage. Valid special measures need to be for the sole purpose of securing the advancement of Indigenous peoples.

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1 From 4 May 2006 the reporting arrangements for the Registrar of Aboriginal Corporations changed from the then Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) to the Department of Families, Community Services and Indigenous Affairs (FaCSIA).

During 2004–05 we also prepared for commencement of the new legislative package (the Corporations (Aboriginal and Torres Strait Islander) Bill 2005 and related legislation, see p. 45 and Attachment 13), expected to commence on 1 July 2007. We have also been carefully managing the steady expansion of our work without compromising the quality of our services—the next phase of this expansion will be significant with the budget measure for 2006–07 to 2010–11 (Strengthening Indigenous Communities—reforming the delivery capacity of Indigenous Corporations, see p. 78).

ORAC continued to meet or exceed its targets set out in the Portfolio Budget Statements, including the number of non-accredited and accredited training days undertaken with Board members and staff of corporations (see p. 42); and the number of good governance audits (or examinations) of corporations completed (see p. 38). Compliance with reporting by Indigenous corporations was 40 per cent, an improvement over the year of 7 per cent. This improvement is a result of ORAC analysing non-compliance and implementing a plan for appropriate follow up. The new Bill when enacted will further help reduce non-compliance by streaming corporations into reporting regimes appropriate for small, medium and large sizes.

There are no quick fixes in Indigenous affairs. Our work, usually done in close cooperation with many others, shows improvements at a grass roots level through improved community stability upon appointment of administrators (see p. 38) and assistance with resolving disputes (see p. 34), better reporting and general compliance by our corporations (see p. 35) and increased governance skills for training graduates (see p. 43). Key systemic issues often delay further improvements. Such issues range from Australia-wide structural issues connected to the delivery of municipal services to the need for effective capacity building of corporations which are located in the most remote parts of Australia where members and Board members may speak English as a second, third and even sixth language. ORAC increasingly works with others on key systemic issues—many key issues are summarised in our report from our *Forum on risk issues for programs funding Indigenous corporations* (see p. 47) and in our *Report from Corporate Governance [Training] Forum* (see [http://www.orac.gov.au/about\\_orac/publications.aspx](http://www.orac.gov.au/about_orac/publications.aspx)).

As I said in the 2003–04 year book, to move beyond the ‘surface of coordination’ we now focus on sharing knowledge and information and also ensuring that ORAC’s suite of services are delivered in a coordinated and highly targeted manner. ORAC’s unique information about Indigenous corporations is now largely available through an online Public Register at [http://www.orac.gov.au/searches/register\\_corporations.aspx](http://www.orac.gov.au/searches/register_corporations.aspx). This and other information now available online has contributed to a 106 per cent growth in ORAC website visits, and allowed ORAC’s staff to focus on providing more complex services such as operating an expanding complaints service about corporations, assisting more effectively with resolving disputes (see p. 34), training in corporate governance and doing more good governance audits or examinations (see p. 38). In regard to its coordinated service delivery, ORAC developed a coordinated plan for the Kimberley where there is a high concentration of Indigenous corporations. We began implementing it in cooperation with client corporations and key stakeholders including the lead agency under the COAG trial site arrangement, the Department of Transport and Regional Services.

In this yearbook, we continue the practice of analysing our corporate clients, identifying their size, location and source of funding. Summarising the trends, during the year the total number of corporations dropped by 128 (almost 5 per cent) to 2585, with new incorporations falling by about 10 per cent, in line with ORAC’s and other’s emphasis on promoting responsible and necessary incorporation. During the year ORAC worked with groups thinking of incorporating to check that they need to and are ready to incorporate, and also deregistered corporations that are no longer functioning and no longer needed. Corporations incorporated under the ACA Act are an extremely diverse bunch—diverse by location, size, function and structure. Most depend on government funding—local, state and federal—but increasingly we are incorporating groups with private sources of funds such as mining payments or income from art works (see p. 27 for profile of assets and income of Indigenous corporations). ORAC estimates that the 40 per cent of corporations which are compliant with reporting receive in total around \$1741 million of income from various government and private sources. The assets of these corporations are also very significant, probably representing the majority of assets in many remote and regional localities including power plants and other essential infrastructure.

Additional to the information in the annual report, in this yearbook we provide a new map showing the location of corporations by ICC, and another showing non-compliant corporations sorted by ICC region.

The additional information presented in this yearbook mentioned above confirms that there is a significant number of large Indigenous corporations, displacing a common stereotyping of Indigenous corporations as small and voluntary. ORAC is using this information to fine tune its risk analysis and will target larger corporations and those that have a history of non-compliance and/or interventions for its regulatory work and capacity building.

Like last year, I commend ORAC staff for their dedication and professionalism. They always strive to provide the best possible service to our corporations and are committed to personal and excellent cross-cultural work across Australia. That such a small team can achieve so much is remarkable.

I do hope you enjoy browsing through this yearbook.

*L. Beavis-H*

