

## Our performance

ORAC was the mechanism through which the then Department of Immigration and Multicultural and Indigenous Affairs delivered its Output 5.5.4: Incorporation, regulation and building capacity of Indigenous corporations.

Table 6: Performance information—ORAC

MEASURES	RESULTS
<b>Quantity:</b>	
Accessible incorporation for Indigenous groups: <ul style="list-style-type: none"> <li>• 2650 corporations incorporated under the <i>Aboriginal Councils and Associations Act 1976</i>.</li> </ul>	Number of registered corporations dropped by 128 (almost 5 per cent) to 2585, in line with Office of the Registrar of Aboriginal Corporations (ORAC) and others' emphasis on promoting responsible and necessary incorporation (see page 34).
Enhanced training in corporate governance: <ul style="list-style-type: none"> <li>• 70 days of non-accredited training</li> <li>• 150 days of accredited training including Certificate IV in Business (Governance) and Diplomas.</li> </ul>	46.5 one-day and half-day information sessions plus eight three-day introductory workshops, making a total of 70.5 days. Sessions were attended by more than 600 people in total.  Eight accredited courses delivered in four five-day blocks (160 days). 57 graduates received their Certificate IV in Business (Governance) in the year to 30 June 2004.  This training is a rolling program (see page 41).
Increased early diagnosis of corporation problems: <ul style="list-style-type: none"> <li>• 50 examinations or similar reviews.</li> </ul>	61 examinations were conducted, an increase of 13 per cent on 2003–04. Corporations for examination were selected in response to evidenced problems or as part of a program of rolling examinations responding to risk analysis involving criteria such as size, purpose, time since last examination, compliance status and history of member or other complaints (see page 35 and Attachment 4).

MEASURES	RESULTS
<b>Quality:</b>	
Corporations are compliant with reporting requirements under the <i>Aboriginal Councils and Associations Act 1976</i> .	Compliance against the three key reports at the end of the period 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 (see page 37). The Corporations (Aboriginal and Torres Strait Islander) Bill 2005 when enacted will further help reduce non-compliance.
Quality support to the minister including timeliness for responses to ministerial correspondence.	Key support provided for the development of the Corporations (Aboriginal and Torres Strait Islander) Bill 2005, and the Bill was successfully introduced in June 2005.



*Balgo in the Kimberley, WA, from the air, where ORAC is delivering a range of services supported by coordinated planning*



## Accountability

### *External scrutiny*

Five requests were made under the *Freedom of Information Act 1982* in 2004–05, four of which have been resolved and one is still pending.

There was one internal application for review and one application for review to the Administrative Appeals Tribunal, both of which had been resolved by August 2005.

FOI applications and applications for review of decisions are growing in number and complexity each year.

### *Corporate publications*

Although the Act does not require it, ORAC publishes a yearbook, in addition to contributing to the Department's annual report. These publications are available at [www.orac.gov.au](http://www.orac.gov.au).

As previously mentioned, ORAC revised its corporate plan and service charter (see page 13). They are in place until the end of 2007. The service charter explains the services ORAC provides and the corporate plan sets out ORAC's vision, purpose, roles and priorities for the coming two years.

## Accessibility and responsiveness

### *Hotline*

ORAC provides a personal service to clients. Much initial communication with ORAC is through the toll-free telephone service. In 2004–05 ORAC received 12 693 calls on its toll-free line, finalising 682 inquiries about corporate governance (nearly 8 per cent more than last year) and 119 complaints and dispute alerts (9 per cent fewer than received on the hotline last year). Complaints and disputes are becoming more complex as Indigenous corporations are becoming more complex in their affairs. Many of these require sustained assistance over a long period of time (see Attachment 2).

### *Website*

ORAC encourages access to its website. There was a 106 per cent increase in the number of visits to the ORAC website ([www.orac.gov.au](http://www.orac.gov.au)) in 2004–05. Visitor sessions per month grew from 6268 in July 2004 to 12 895 in July 2005. Electronic communication is increasing as the number of corporations with email and Internet access continues to grow. The Public Register of Indigenous Corporations maintained by ORAC is now partly accessible on the website, with document images becoming available in stages during 2005–06. This is encouraging higher usage of the site.

### *Case coordination*

Where necessary, ORAC will work on site with clients. During 2004–05 ORAC built on its communication with remote communities through language initiatives, the use of case management where appropriate, new communication methods such as talking paper, and expanded field work. ORAC has embarked on an ambitious regional exercise in the Kimberley to coordinate all ORAC services and initiatives provided to corporations in that area and to work closely with their stakeholders. The East Kimberley plan involves ORAC contributing more to solving some difficult systemic issues, for example, inadequate infrastructure in communities.

### *Complaints about ORAC staff and contractors*

A complaints system ensures that ORAC responds to issues raised about its staff and consultants. During the year ORAC received three complaints and dealt with them as follows:

- One matter was outside the jurisdiction of ORAC. The complainant was advised of this and referred elsewhere.
- ORAC responded to one matter where the complainant raised further issues after receiving an initial response. ORAC responded to these additional issues and the complainant took no further action.
- One matter was referred to the Investigations and Compliance unit within OIPC for resolution. The complainant took no further action.

## CASE STUDY

## Redesigning the rules

In early June 2005 an ORAC team travelled to Hermannsburg in the Northern Territory to help a long-standing Aboriginal corporation review and redesign its constitution.

The way was prepared by the Central Australian Aboriginal Congress whose knowledge of community and preparatory work was vital to the success of the process.

The Western Aranda Health Aboriginal Corporation (WAHAC) was incorporated in September 1993, and currently operates health services for the Hermannsburg in the Northern Territory community and surrounding areas, additional to those operated by the NT Department of Health and Community Services.

It is 130 kilometres west of Alice Springs and provides crucial services to the region, employing a doctor, public health nurse and casual drivers. Last year it devised a 10-year health plan with the end goal being a health service controlled by the Aboriginal community.

This workshop—the first that ORAC had conducted with this corporation—was attended by nine corporation representatives, including the governing committee and interested members.

The purpose of the workshop was to help the group revise WAHAC's constitution so that it was up-to-date, easy to understand, reflected the corporation's and the community's specific needs, and supported good governance practices.

At the beginning of the workshop, most participants had not seen the constitution before. By the end, they had a comprehensive understanding of the roles and responsibilities of everyone involved in running the corporation.

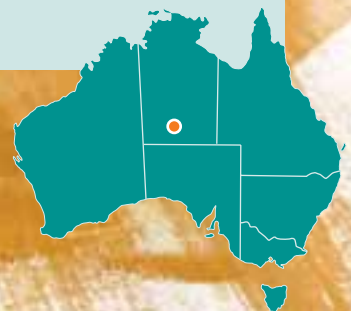
To give corporations ownership and control of the rules that they operate by, it is crucial that members themselves develop the ideas and solutions in redesigning their constitutions—which is precisely what happened during the one-day workshop.

At the start of the workshop, participants gave a snapshot of the nature of the communities that the corporation served, the health problems they experienced and identified how WAHAC could address those problems.

Having established the context, it was then down to the hard work of reviewing all the elements of the constitution—for example, deciding issues such as membership qualifications, the size and structure of the governing committee, the types of meetings and how they should be held.

The ORAC team facilitated all the sessions using various learning tools such as 'talking paper' (a new participative training tool used widely by ORAC), group work, discussions and the use of pictures to encourage extensive participation.

Feedback was overwhelmingly positive. ORAC looks forward to working further with the group to promote good corporate governance practices within the corporation.



## Incorporation support

An essential part of ORAC's incorporation work is providing information and assistance to groups before and after they incorporate. ORAC also helps corporations to manage disputes although it does not act as a mediator.

### *Incorporation facts and stats*

- New incorporations again fell for the second year in a row—by over 10 per cent from 134 in 2003–04 to 120 in 2004–05. This reflects ORAC's and others' determination to encourage responsible and successful incorporation (see Attachment 2). This involves deregistering corporations not needed any more and making sure new corporations are necessary.
- Applications to incorporate also fell for the second year in a row by 25 per cent—from 160 in 2003–04 to 120 in 2004–05—partly a result of encouraging only necessary incorporation. Incorporating is not always the best or most appropriate solution for groups wanting to deliver services or hold assets in Indigenous communities. ORAC may encourage an established and successful corporation to auspice a group.
- Inquiries involving requests for information, support and referrals that were resolved during the year grew by 8 per cent (682 in 2004–05 from 634 in 2003–04) continuing the trend of recent years. For complex inquiries, ORAC can issue an 'advisory opinion'.
- The number of requests for assistance with complaints and disputes (from corporations, members and boards on ORAC's toll-free line, by email and by letter) fell by 16 per cent (see Attachment 2). However, because of their increasing complexity and the serious consequences they can have for corporations if unresolved, ORAC is devoting more resources to assist with these matters. Reflecting the fall in requests for assistance received, the number of successfully resolved complaints also fell (by 9 per cent). ORAC's key roles in dispute management assistance are:
  - embedding good dispute resolution processes into the corporation's rules (constitution)
  - bringing disputing parties together to discuss issues and, if necessary, conducting general meetings



- issuing advisory opinions on issues of fact or law to assist in the resolution of these matters.
- Changes to constitutions completed during the year rose by 15 per cent from 114 to 131. Significant resources are devoted to these matters, since issues and the compliance environments within which corporations operate are becoming increasingly complex. Also ORAC is devoting more resources to a proactive program encouraging the development and review of constitutions as part of its new focus on preventing problems through better designed corporations, and a new model constitution is near completion.

## Monitoring, examination and regulation

Under the ACA Act all corporations are required to submit certain documents to ORAC which are placed on the Public Register, including a list of members and financial reports, unless the corporation is exempted by the Registrar.

Approximately 40 per cent of corporations have provided the three key reports (audit report, balance sheet, income and expenditure) under the ACA Act for 2003–04. Compliance with reporting is set out in Figure 6 and Attachment 3.

The rate of compliance (where corporations are either partially or fully compliant with reporting under the ACA Act) for those funded by the big funding agencies is well above the average rate of 40 per cent—in the range of 74 per cent and upwards. This is due to the improved capacity of funded corporations to meet reporting requirements and also the extra scrutiny given to funded corporations by ORAC and funding bodies.

Many more corporations are now obtaining exemptions from some reporting requirements, in recognition of their lack of capacity to report—that is, if they are not funded then they are not normally required to provide an audited financial statement and ORAC will usually grant an exemption.

Although most corporations (60 per cent) remain non-compliant with reporting requirements under the ACA Act, partial compliance improved in 2004–05 by 7 per cent (that is, providing three key reports—audit report, balance sheet, income and expenditure—as required under the ACA Act).

CASE STUDY

## A strong culture of governance

The Bawinanga Aboriginal Corporation is a very large Indigenous corporation. With an estimated income in 2004–05 of \$25 million and highly diverse spheres of operation, Bawinanga provides employment and opportunity to a large proportion of the Arnhem Land population. (See its location on Map 1.)

Bawinanga is one of the largest individual employers in the Northern Territory.

In June 2005 ORAC completed an examination of Bawinanga and found it very well run, with good governance and accounting systems in place.

This was not only due to the continuity of service of the senior management group but also its strong culture of training in corporate governance.

The corporation, based in Maningrida on the Northern Territory coast, began operations in 1973 and was incorporated in 1979.

It was originally formed as a support agency for people who chose to live on their homelands, rather than in Maningrida itself. The region consists of 13 groups, each speaking different languages and with deep connections to family and country.

The outstation population is now about 800 people on 32 outstations, requiring not just housing and services but land management and employment.

The services Bawinanga provides includes housing maintenance, water, roads and communication. But business development is the strategy that will help the corporation reach its major goal—that is, to achieve economic independence and self-determination through the sustainable economic development of its resources.

The corporation is underpinned by its CDEP (Community Development Employment Projects). It owns and runs a number of business units that employ CDEP participants and sometimes places them with other agencies and businesses. According to its general manager, CDEP is an essential element in its progress and prosperity, employing 590 participants.

It is important for the corporation that its businesses and projects reinforce its links to traditional Aboriginal culture—therefore, they include such enterprises as the breeding of turtles for the pet industry, the harvesting of crocodile eggs and the development of the renowned Maningrida Arts Centre.

In 2004 the partnership of LoTech Aquaculture Pty Ltd, the Bawinanga Aboriginal Corporation and Waruwi Community Corporation won the NT Small Business Award by working with local Aboriginal communities and providing training, jobs and income in establishing sponge aquaculture projects.

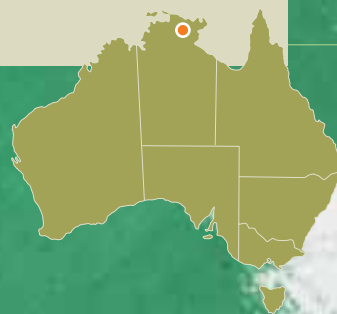




Figure 6: Compliance of corporations, by number of corporations, 1998-99 to 2003-04



Note: 'Fully or partially' compliant means that either 5 or 3 key annual return documents respectively have been provided by the corporation for the relevant 2 consecutive year period. The above figure shows all returns received by ORAC as at 30 June 2005. Corporations are not required to provide annual returns for 2004-05 until 31 December 2005.

**This improvement is a result of ORAC analysing non-compliance and implementing a plan for appropriate follow-up. Many of the non-compliant corporations are not funded at all, hold land only and may have no capacity to apply for even an exemption (see Map 3). The new Corporations (Aboriginal and Torres Strait Islander) Bill 2005 will enable more streamlined exemptions for some reporting—that is, exemptions for audited financial statements when warranted.**

Because of its productive relationships with funding bodies ORAC has been able to establish which corporations are technically non-compliant but have in fact submitted reports required under the ACA Act to

funding bodies and are operating well. Avoiding duplicate reporting by corporations is an aim of the new legislation. Therefore, once the new legislation becomes law these corporations will be classed as compliant. Corporations that should be compliant under the ACA Act were targeted for regulation such as formal follow-up and examination. Non-compliant corporations that are no longer operating were deregistered.

### *Regulation facts and stats*

- ORAC initiated 61 examinations of corporations—an increase of 13 per cent on the previous year, and well over the target of 50. Corporations for examination were selected in response to evidenced problems or as part of a program of rolling examinations responding to risk analysis involving criteria such as size, purpose, time since last examination, compliance status and history of member or other complaints.

Of the 61 examinations initiated in 2004–05:

- 6 (or 10 per cent) are operating well and require no further action
- 22 (or 31 per cent) remain under consideration for further action
- 22 (or 36 per cent), plus a further 15 carried over from 2003–04, required rectification of less serious matters, involving the issue of a section 60A notice under the ACA Act
- 13 (or 21 per cent), plus a further 5 carried over from 2003–04, raised serious matters and have been required to advise why an administrator should not be appointed, involving the issue of a section 71 notice under the ACA Act. Of these 18:
  - 7 administrators were subsequently appointed during 2004–05
  - 3 section 60A notices were subsequently issued
  - 1 monitoring agreement was undertaken
  - 4 MOUs with the corporations were entered into
  - 3 matters are pending
- 1 corporation required a liquidator to be appointed
- 9 administrations continued from previous years, and with the 7 appointed in 2004–05, 16 administrations were in progress at 30 June 2005.

The trends for examinations initiated, administrations appointed and deregistrations completed are shown in Table 7.

Map 3: Non-compliant corporations ICC region, state/territory

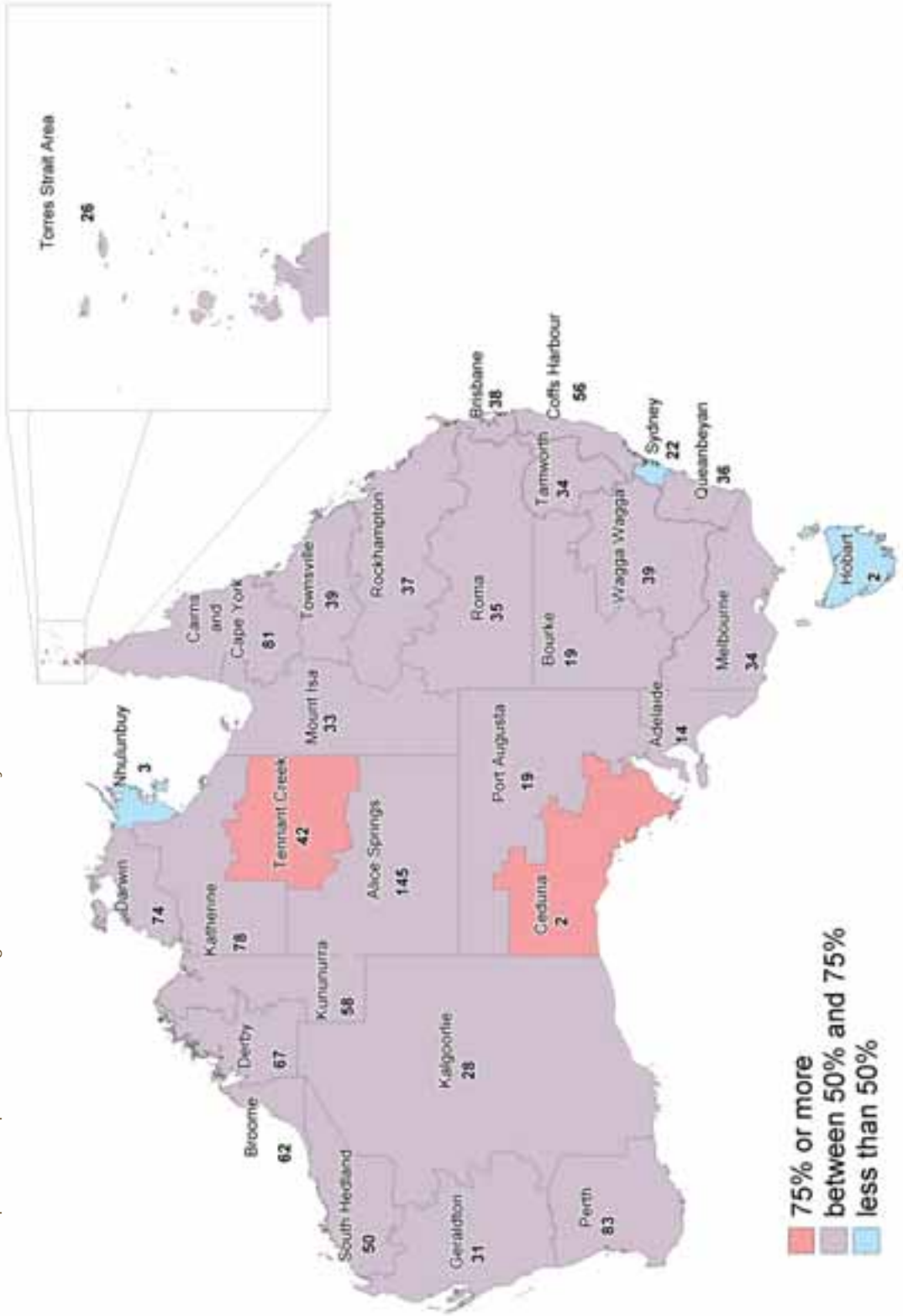


Table 7: Number of examinations initiated, administrations appointed and deregistrations completed 2002-03 to 2004-05

Regulatory actions	2002-03	2003-04	2004-05
Examinations initiated	35	54	61
New administrations appointed	8	7	7
Deregistrations completed	116	282	269

Attachment 4 contains a list of corporations where examinations were initiated during 2004-05 and shows the follow-up action taken by the Registrar at the time of writing, not necessarily during 2004-05. Attachments 5 and 6 show the corporations issued with a section 60A notice or section 71 notice respectively during 2004-05. Some of the actions in these attachments are follow-up to examinations conducted during 2003-04.

Strong emphasis remained on requiring corporations to put things right rather than appointing an administrator. Seven corporations were placed under new administration in 2004-05 (see Attachment 7), the same as the previous year and significantly less than the highest annual number of 17 in 1998-99. At 30 June 2005 a further nine administrations were still in progress following appointments in previous years, making 16 all together (see Attachment 8). Administrations are usually positively received once arrangements are settled because they offer an alternative to liquidation and achieve turnaround for a struggling corporation.

ORAC started the year with 44 liquidations in progress, reduced this number to 34 and is continuing to aim to reduce the time that liquidations take (see Attachments 9 and 10).

Deregistrations continued to be initiated, and 269 were completed during the year (see Attachment 11).

## Information and training

The ORAC training team consolidated its regional program of training in Queensland during 2004–05 and began adapting the three-day workshop and Certificate IV in Business (Governance) for use in remote areas, where 56 per cent of ORAC's corporations are located.

Training is based on ORAC's commitment to develop the capacity of corporations (that is, helping them to build on their strengths) and is undertaken using a tailored training method and materials. The training, which complements rather than duplicates mainstream programs, is offered to targeted localities and groups around Australia. The Certificate IV in Business (Governance) is increasingly being run through some TAFE and private registered training organisations.

An independent impact assessment of the Certificate IV in Business (Governance) concluded it is a successful training program that develops the capacity of individuals, corporations and communities over the longer term (see p. 44). The graduates were found to be largely very satisfied with the program and its outcomes. Overall, graduate experiences of the training program, its content, style, logistics and delivery were extremely positive. A copy of the impact assessment is located on the website ([www.orac.gov.au](http://www.orac.gov.au)).

ORAC conducted a further review of its training in September 2005, looking at external evaluations, internal data, as well as the impact assessment. Its key findings were:

- The training has met its original objectives and has performed well against relevant indicators.
- The scale of social capital built in communities as a result of the training is far greater than anticipated and will assist communities to engage with government.
- The training addresses an important need, and the consequence of not addressing this need will be high levels of corporate failure and poor corporate practices which will ultimately undermine efforts to improve Indigenous outcomes.
- It has contributed to improved Indigenous governance and management by targeting Indigenous directors and Board members and key staff involved with critical sectors (e.g. family violence, women's organisations), highest risk essential service organisations and in high need regions.

ORAC also focuses on developing the capacity of its staff to deliver information and training more effectively. This year, ORAC introduced a new tool, talking paper, into its way of working with corporations. Through a simple but effective participative process, a facilitator elicits ideas, encourages dialogue, clarifies, organises and prioritises the ideas to get agreement in groups. Feedback from staff and the groups they work with is that talking paper is very effective, especially if there is limited English and/or literacy.



*Remote workshop participants work in small groups with a scribe and interpreter.*

### ***Training facts and stats***

ORAC's 2004–05 target of 220 training days (represented by 70 non-accredited and 150 accredited training days) has been exceeded.

- 46.5 one-day and half-day information sessions were run
- 8 three-day introductory corporate governance workshops were held
- 8 accredited Certificate IV in Business (Governance) courses were delivered over four five-day blocks (160 days)
- 80 students have completed the course since it was made available two years ago—74 have completed all assessments to the standard required to be awarded the Certificate IV, giving a retention rate of nearly 93 per cent—and 57 people actually graduated with a Certificate in Business (Governance)
- 144 attended ORAC's three-day workshops.

In the past year ORAC has produced a range of plain English publications and audiovisual materials aimed at making information more accessible to corporations in remote areas. Publications include visual tools and materials targeted toward Indigenous language speakers.



## CASE STUDY

## Adapting the three-day introductory corporate governance workshop for use in remote areas

The ORAC training team has learnt from experience that they must deliver an introductory governance workshop before they deliver their training programs in regional and remote areas. They took up the challenge to adapt their regional governance workshop for use in remote areas.

A collaborative approach was necessary. ORAC approached the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPYWC) in Alice Springs to see if they would work with ORAC, and they agreed.

'When ORAC asked for our help, the organisation was as usual under a lot of pressure just coping with its day-to-day operational functions, but we had already secured a very small grant to run governance training ... We sent the Deputy Chairperson and a staff member to one of the ORAC workshops. The Deputy spoke up strongly about what was hard to understand, and what worked well at that workshop. She could also see that this training was something that all the other Executive would want to have and was keen to continue helping ORAC adapt the program.'

Vicki Gillick, Coordinator, NPYWC

Based on detailed feedback from NPYWC, ORAC came up with a draft approach and program. A planning meeting was held at the NPYWC's Alice Springs office where staff from both organisations, the trainer and board members agreed on content, activities, the use of an interpreter, and the training team. A date was set. In effect the regional workshop content was spread over more workshops to accommodate the needs of participants.

NPYWC also acted as ORAC's community agent, obtaining applications from participants, explaining details of the workshop, and completing joint learning agreements about attendance and participation.

These are some of the comments from participants after the workshop.

'This was the first governance workshop I ever had in Alice Springs. I was excited and also knowing other executives and from Waltja. For me, I did learn about how to run the organisation and I learned and understand some of the hard words, so it was great at the workshop. I think this was the best workshop I ever had. I didn't understand some of the meanings. But I've learned a new way of being a good executive.'

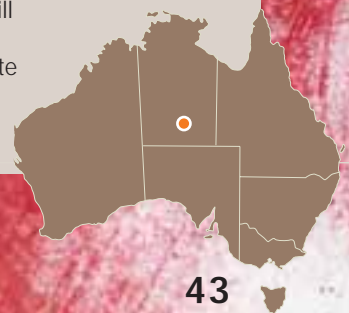
'Law and culture is what makes governance strong. It comes first. We come together to keep us strong and then we can look after the organisation.'

'The most important thing is for executive and staff to have a "good heart", to be kind and look after each other, not to speak badly. Attending the workshop and participating proper way is what governance is all about. You make the commitment.'

'It's important to learn these big words, to help keep the organisation to go straight, not curly-curly—that's when we have problems.'

Major differences between the new adapted program and the original regional workshop include that learning activities are based on oral not written responses, that an interpreter and scribes are present and that participants belong to the same ethno linguistic group.

ORAC will continue to collaborate with NPYWC on the remainder of the introductory workshop content and trial the program in 2005–06. This trial will greatly benefit similar training in other remote areas such as the East Kimberley.



## Impact assessment of Certificate IV in Business (Governance) training pilot (Queensland)

—undertaken by Social Compass in 2005

The aim of the impact assessment was to measure:

- the extent the training program has brought about sustained and transformative change in the lives of those participating in the program
- the extent the change in individual participants has impacted on boards/governing committees and/or corporations
- the ways the training program provides evidence of ORAC's more contemporary capacity building role.

### Key findings

- 1) *The training program is an enabling mechanism for individual, organisational and, ultimately, community empowerment.*
  - Learnings lead to a transformation in the way in which graduates understood their roles and responsibilities and equipped them with necessary skills to perform their core functions effectively and efficiently.
  - Training provides a platform for graduates to extend their knowledge and increase their involvement in their communities, some taking on leadership or mentoring roles in community.
  - Graduates empower others through transference of knowledge and skills.

- 2) *The training program is instrumental in 'two worlds' coming together in a way that allows for Indigenous culture to be supported by the objectives of the course.*

- The style of delivery 'respects' participants' ways of learning.
- Respect makes learnings accessible and builds rapport and trust between trainer and students.
- The style of delivery fosters a mutual learning environment where students also teach the trainer.

- 3) *Social capital is being generated as a result of the training program.*

Social capital refers to the resources available within social groups and the networks of mutual support, reciprocity, trust and obligation that exist within and between them. The presence of social capital is said to facilitate cooperation within and/or between groups. It is a critical component of successful capacity building programs.

- 4) *The training program has increased participants' understanding of the roles of ORAC.*

ORAC has also developed materials explaining the new Corporations (Aboriginal and Torres Strait Islander) Bill, including:

- a national Indigenous radio campaign
- information booklet
- fact sheets
- website animation.

## Legislative reform

During the year ORAC continued its development of the Corporations (Aboriginal and Torres Strait Islander) Bill 2005, which was introduced into the Australian Parliament on 23 June 2005. ORAC is also developing the supporting Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Bill, due to be introduced into parliament in 2006-07.

### *Why a new Bill?*

Currently about 2600 Aboriginal and Torres Strait Islander corporations are registered under the ACA Act. Many play a central role in delivering essential services to remote Indigenous communities, for which substantial amounts of public funds are provided and/or hold land for remote Indigenous groups. Most native title corporations are registered under the ACA Act, similarly many remote Indigenous arts centres.

Since 1976 there have been substantial changes in the legal environment for corporate regulation. The ACA Act is 30 years old and is out of line with modern corporate governance and accountability standards reflected in the *Corporations Act 2001*. Also it needed modernising to respond to contemporary risks and requirements of Indigenous corporations.

Therefore, in 2000 it was decided to review the ACA Act and its administration. The Bill has been developed in the light of this review. Because all provisions of the Corporations Act had to be examined in the light of Indigenous corporations and the Native Title Act, and because of the extensive consultation period during the course of the review, it has taken until now to fully finalise the new legislation.

#### Date of effect

The Bill will probably start on 1 July 2007, to coincide with the start of the financial year 2007–08. A ‘machinery’ Bill—the Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Bill—is currently being drafted to support this first Bill, and it is proposed that it will be introduced into parliament in 2006–07. It will help corporations move from the old ACA Act to the new Bill.

#### Implementation

The Registrar’s office is already delivering a range of capacity building programs for Indigenous corporations. These existing programs, coupled with a variety of other strategies, will be employed during implementation to support Indigenous corporations and stakeholders shift to the new Act and requirements. An important goal of implementation is to enable Indigenous corporations to take up opportunities the Bill offers such as improving ‘cultural and local match’ in corporate design.

An up-to-date summary of the Bill can be found at [www.orac.gov.au](http://www.orac.gov.au) and in Attachment 13.

## Improving corporate governance

All ORAC’s work strives for improved corporate governance in Indigenous corporations. ORAC’s goal is to enable effective decisions in Western law, while maximising Indigenous cultural legitimacy for that decision making.

In Western law, corporate governance arrangements are those through which an organisation directs and controls itself and the people associated with it. Corporate governance is primarily the responsibility of the board as a group.

### *Managing risk*

On 14 October 2004 ORAC, together with the Office of Evaluation and Audit (OEA) and OIPC, hosted the inaugural forum on risk issues for programs funding Indigenous corporations. The forum was attended by key funding agencies to identify key risks and to work out how to improve the treatment of those risks.

The forum sponsors nominated five priority risks and the forum identified a further four. They were:

- failure to achieve government outcomes for Indigenous Australians
- capacity of communities and governments
- failure to implement risk management strategies
- not working as one / contract management failure
- failure of dialogue between communities and government
- new program and restructure program ‘sprints’
- loss of corporate reputation (macros and micro)
- slack on tax
- misuse of funds.

Working groups analysed seven of these risk and found that:

- The contribution that individual risk treatments can make in mitigating high priority risks should not be underestimated.
- Dependencies between priority risks are important and need to be understood and incorporated in risk work.
- There are complexities in implementing whole-of-government approaches for Indigenous policy and programs, and related risk work, which need attention.

As a result, ORAC has worked on a range of strategies, including a joint initiative with the Australian Taxation Office and OIPC to help Indigenous corporations meet their GST obligations—a common cause of corporate failure.



## People and systems

Although not under direction for statutory decisions, the Registrar is subject to performance management and review in administrative matters. The Registrar had a performance agreement as part of an Australian Workplace Agreement with the Associate Secretary of OIPC. The Registrar was supported by 40 staff at 30 June 2005 in ORAC (see Table 8).

ORAC's focus is on building staff skills and aligning systems and processes with reforms to the ACA Act and, as of 4 May 2006, the Families, Community Services and Indigenous Affairs portfolio.

ORAC's Electronic Register of Indigenous Corporations (ERIC)—a workflow and information management system—has continued to help staff in a number of areas, such as highlighting corporations that may require assistance or review. ERIC also continues to provide clients with faster and more streamlined services. During 2004–05 significant progress was made in making public information available online. More improvements are planned for 2005–06 and later.

A project to improve ORAC's services, processes, systems and procedures is in progress and will also enable support for the Bill when it commences. A number of its recommendations are being implemented, including working towards online processing of some material.

### *Staff training*

ORAC continues to encourage staff to improve their skills. Examples of learning opportunities taken up included:

- Three staff members pursued tertiary/professional qualifications.
- Training was provided in project management, procurement and contract management, financial processing, leadership development, systems analysis, Freedom of Information and mediation. Whole-of-office sessions on reforms to the ACA Act were conducted.
- Staff participated in ORAC's corporate governance training for clients.



Table 8: Staff profile at 30 June 2005

	APS 2	APS 3	APS 4	APS 5	APS 6	Exec 1	Exec 2	SES	Total
Aboriginal and Torres Strait Islander staff	0	1	2	0	1	2	0	0	6
Non-ATSI staff	0	5	2	6	4	10	6	1	34
Male	0	2	2	2	1	7	3	0	17
Female	0	4	2	4	4	5	3	1	23
Ongoing	0	3	4	5	4	9	5	0	30
Non-ongoing	0	3	0	1	1	3	1	1	10
Full-time	0	3	4	5	5	12	6	1	36
Part-time	0	3	0	1	0	0	0	0	4
<b>Totals</b>	<b>0</b>	<b>6</b>	<b>4</b>	<b>6</b>	<b>5</b>	<b>12</b>	<b>6</b>	<b>1</b>	<b>40</b>
Non English-speaking background	0	1	0	2	0	2	1	0	6
People with disabilities	0	0	0	0	0	2	0	0	2

ORAC has a relatively diverse workforce by Australian Public Service (APS) standards (as reflected in the Australian Public Service Commission's *State of the service report 2004–05*):

- 15 per cent Indigenous employment (the APS standard is 2.2 per cent)
- 57.5 per cent women (54.2 per cent)
- 5 per cent people with disabilities (3.8 per cent)
- 15 per cent people from non-English speaking backgrounds (5.3 per cent).

## Outlook

The Corporations (Aboriginal and Torres Strait Islander) Bill when enacted provides a unique opportunity for the Indigenous corporate sector to have a more modern and tailored option. It allows for less red tape for smaller community corporations, especially unfunded land holding corporations. It provides for more effective accountability for corporations and their boards and senior managers, in line with mainstream corporations law. Most importantly, the Bill allows 'space' for culture and local practices to be recognised in corporations' rules and processes, which is a well-evidenced success factor. ORAC has a key role in enabling the opportunity of the Bill to be harnessed by the Indigenous corporate sector, and looks forward to this work.

