

12. Incorporating cattle: governance and an Aboriginal pastoral enterprise

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Drought and dying cattle have always been part of life on pastoral stations in Australia. Banjo Paterson's poem from 1896 captures the desperation of droving cattle to greener pastures in times of drought:

We cannot use the whip for shame
On beasts that crawl along;
We have to drop the weak and lame,
And try to save the strong;
The wrath of God is on the track,
The drought fiend holds his sway,
With blows and cries and stockwhip crack
We take the stock away.
As they fall we leave them lying,
With the crows to watch them dying,
Grim sextons of the Overland that fasten on their prey ...
(Paterson 1896).

On a more contemporary note, the manager of a family run cattle station near Meekatharra in the Murchison Gascoyne region of Western Australia (WA), articulates the inevitability of losing some cattle during periods of extended drought: 'It can be tough during drought years having to deal with the pressure of dying cattle and dragging animals out of dams'.¹

In early February 2005, the WA Department of Agriculture and Food (DAFWA) received a complaint about animal neglect on an Aboriginal owned pastoral lease in the northeastern goldfields region of WA. A chain of bureaucratic responses flowed from this complaint. These responses included intervention by the Royal Society for the Prevention of Cruelty to Animals (RSPCA) Western Australia Inc; a proposal by the State Government to forfeit the lease; an investigation by the Office of the Registrar of Aboriginal Corporations (ORAC);² issuance of a care, control and management order over the station by the Pastoral Lands Board (PLB); and intervention by the Indigenous Land Corporation (ILC) and DAFWA.

¹ Getaccess, n.d., 'Cattle station manager—Ben Forsyth', Government of Western Australia, available at <<http://www.getaccess.com.au/careers/myjob/data/BenForsyth.asp?>> [accessed 13 July 2007].

² As of 1 May 2008, this Australian Government office is now called the Office of the Registrar of Indigenous Corporations.

This chapter explores the role of Aboriginal governance at the intersection between economic activity, corporate responsibility and community aspiration. A lack of attention to governance issues contributed to the problems experienced by the lessees. The preparedness of the community to refine its understanding of its corporate responsibilities, fuelled by an unwavering determination to retain its pastoral enterprise, was instrumental in the resolution of the issue. This chapter also touches on tensions within the community and the pastoral industry relating to Aboriginal pastoralism.

In WA, the 'pastoral industry' refers to the 'grazing industry which occurs on sheep and cattle stations in more remote areas of the state'.³ The PLB has the statutory authority under the *Lands Administration Act 1997* (LAA) to administer pastoral leases. Under s.96 of the LAA, the relevant minister, currently the Minister for Planning and Infrastructure, has the power to direct the PLB with respect to the exercise of its powers. The PLB is required by the LAA (s.137) to establish an 'administrative mechanism' with the Commissioner for Soil and Land Conservation to exchange relevant information about pastoral lease holdings.⁴ In discharging this responsibility, the Commissioner, through DAFWA, provides an annual report to the PLB on the current condition of land under pastoral lease, and also provides ad hoc reports at the request of the PLB. In 2006, DAFWA prepared 116 reports to the PLB (DAFWA 2006: iii). This high level of exchange of information between the agencies is indicative of a significant sharing of responsibility for pastoral rangelands.

PLB figures show that as at July 2007 there were '527 pastoral leases covering 474 pastoral stations'.⁵ Pastoral leases held by Aboriginal entities account for approximately 12 per cent of pastoral leases in WA. The majority (39) of these leases are in the Kimberley region. However, there are a further 26 Aboriginal owned leases in the regions south of the Kimberley.

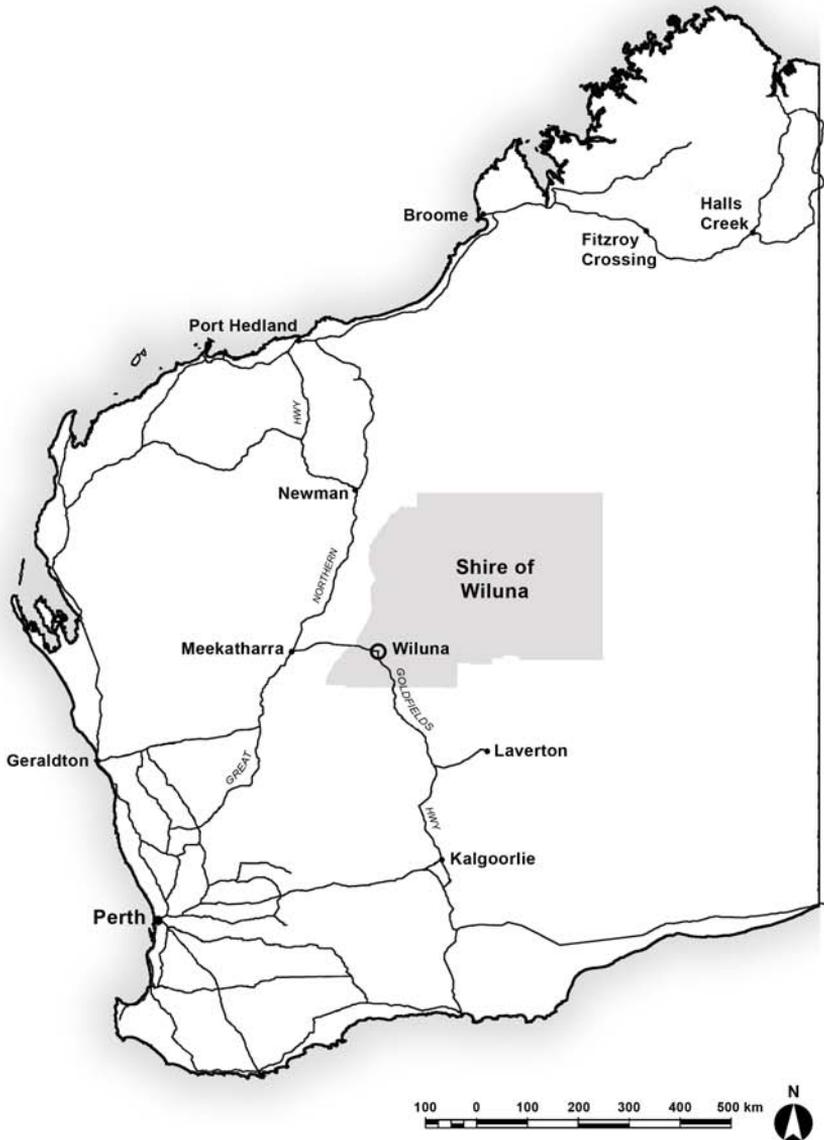
Windidda Station, the Aboriginal owned pastoral lease that is the subject of this chapter, is situated in the Shire of Wiluna approximately 200km east of the town of Wiluna (Fig. 12.1). The town lies close to the western border of the shire boundary and is the only town in the shire. It is approximately 1000km northeast of Perth, and 550km north of the regional centre of Kalgoorlie. The town is the starting point of both the Canning Stock Route, which runs northeast to Halls Creek, and the Gunbarrel Highway, which runs east to Warburton.

³ Department of Planning and Infrastructure (DPI) website, 'Western Australia's Pastoral Industry', Government of Western Australia, available at <<http://www.dpi.wa.gov.au/pastoral/1597.asp>> [accessed 3 July 2007].

⁴ The position of the Commissioner of Soil and Land Conservation is established by the *Soil and Land Conservation Act 1945* (WA). The Commissioner administers the Act for the Minister of Agriculture.

⁵ DPI website, 'Western Australia's Pastoral Industry', Government of Western Australia, last updated 9 January 2006, available at <<http://www.dpi.wa.gov.au/pastoral/1597.asp>> [accessed 3 July 2007]. The differences in the figures indicate that some pastoral stations consist of more than one lease.

Fig. 12.1 Location of the local government Shire of Wiluna and the township of Wiluna, WA



I have been involved with this community since 2005 through my PhD research undertaken in Wiluna, and I also had contact with members of Aboriginal families from Wiluna while working on a native title claim to the south of Wiluna from 2001–04. From late 2005 and throughout the period discussed in this paper, I provided mentoring to the Windidda community and continue to do so. During 2007, I was engaged as a consultant trainer to deliver governance training to Windidda community members.

The Shire of Wiluna covers an area of 184,000km² and is predominantly mining and pastoral land. Mining and pastoralism are part of the ‘culture’ of the Shire. There has been a merging of the pastoral and mining industries through the acquisition of pastoral stations by mining companies in the region. The lack of conformity in the way different agencies categorise pastoral lands creates difficulties in the compilation of data for a more concise area, such as within a shire boundary.⁶ However, research reveals that there are 27 pastoral leases within the Wiluna Shire.⁷ Ten leases are owned by mining companies, some of which have been destocked. The WA Department of Environment and Conservation (DEC) has acquired two of the leases, which have been fully destocked and are run as nature reserves.⁸ The remaining 15 leases are held by family groups or pastoral companies. The Windidda lease is included in this category.

Windidda Station was once part of a larger pastoral station owned by three brothers. In 1992, the large leaseholding was broken up into three smaller leases.⁹ The Windidda lease of 384,000 hectares was purchased at that time by Ngangganawili Community Incorporated (henceforth Ngangganawili), an organisation set up by Aboriginal people in Wiluna. The lease was purchased without any government assistance; funds for the purchase were obtained ‘from people saving up for it through a chuck in account’.¹⁰ It is the only Aboriginal owned pastoral lease in the shire.

Around 1994, Ngangganawili was wound up and its assets distributed to the three dominant kin based groups in Wiluna. The pastoral lease was one of the assets distributed. The extended family group that acquired the lease had a long association with the area previously covered by the original three leases, and a senior member was born and later worked on the leases. In common with the

⁶ For instance, the PLB refers to three regions—the Kimberley, Pilbara, and ‘the Gascoyne, Murchison, Goldfields and Nullabor’—and DAFWA refers to two broad categories—the ‘northern rangelands’ and the ‘southern rangelands’. There is some conformity between the ‘Kimberley’ and the ‘northern rangelands’, but for areas south of the Kimberley it is difficult to correlate data.

⁷ This means that there is a margin for error as my data have been compiled from a range of sources, including from informants with a long association with the industry in the shire.

⁸ DEC has entered into joint management negotiations with the native title applicants’ representative relating to the leases.

⁹ One brother retained one of the leases and still runs it.

¹⁰ Windidda Aboriginal Corporation committee member, pers. comm., 2006.

other family groups to whom Ngangganawili's assets were distributed, it was necessary for this group to become incorporated in order to hold the assets and to receive Australian Government funding for infrastructure. The group incorporated as Windidda Aboriginal Corporation (WAC) under the Commonwealth *Aboriginal Councils and Associations Act 1976* (ACAA) in 1994.¹¹

The transfer of the pastoral lease from Ngangganawili to the newly formed Aboriginal organisation was not properly completed at that time or subsequently. Ngangganawili remained on the books as the leaseholder until the lease reverted to the Commissioner for Fair Trading under the provisions of the *Associations Incorporation Act 1997* (WA).

WAC members were apparently aware that the lease had not been put into the corporation's name but understood that 'DIA were doing something about it'.¹² This view appears to be justified by a Department of Indigenous Affairs (DIA) report which states that the DIA 'Land Branch is arranging [for the] Pastoral Lands Board and Commissioner for Trading [sic] to transfer [the] pastoral lease' (DIA 2004).

Since 1994, WAC has run the station, paid the rates and taxes, and seen itself—and has been acknowledged by others including government agencies—as the owner of the lease. Between 15 and 40 community members live and work on the pastoral lease. In common with most Aboriginal owned leases, the station workers were participants in the Community Development Employment Projects (CDEP) program.

The failure by WAC to ensure that the lease was properly transferred in the intervening years was a sign that something was amiss in the governance process of the corporation. The lack of attention to the transfer also points to some other realities: that land tenure and the transfer of land are arcane to most of us, that these matters are usually left in the hands of people with experience in conveyancing; that in remote areas it is difficult to gain access to professional services; and that there was an underlying assumption that government agencies would conclude the transfer as part of their bureaucratic processes.

Regardless of the perceptions held by the corporation or its understanding of bureaucratic processes, securing the lease in its own name was an important matter that should have been pursued more diligently. It was in the corporation's interests to have done so.

When a complaint was made to DAFWA in early February 2005 that there was insufficient water for the cattle on the lease, the region was in a period of drought. DAFWA (2005: 19–21) stated in its 2005 annual report to the PLB that:

¹¹ On 1 July 2007, the ACAA was replaced by a new package of laws called the *Corporations (Aboriginal and Torres Strait Islanders) Act 2006* (Cth) (CATSIA).

¹² WAC committee member, pers. comm., March 2005.

'To the east of Meekatharra, around Wiluna the run of good seasons ending ... resulted in a number of properties moving stock out of the district in response to the very dry conditions'.

A Bureau of Meteorology (BOM) rainfall deciles¹³ map for the period 1 January to 30 June 2005 shows that rainfall in the area of the pastoral lease was 'very much below average', and that rainfall just to the east of the station was the 'lowest on record'.¹⁴

The complaint to DAFWA triggered a cascade of events over the following months:

February 2005

- DAFWA referred the complaint to the RSPCA;
- the RSPCA seized the cattle at the pastoral station;
- PLB placed the pastoral lease under a temporary care, control and management order; and
- cattle were mustered from the station by the RSPCA, transported to Geraldton and sold.

February–May 2005

- extensive media coverage focused on 'dead cattle' and 'Aboriginal leaseholders'; and
- questions in Parliament suggested that the Minister should rescind the lease.

May 2005

- WAC was advised by ORAC that its affairs would be investigated under s.60 of the ACA.

November 2005

- charges were laid against the corporation and three members by the RSPCA.

This was not the first time concerns about the station had been raised. There had been a previous occasion, in December 2002, when DAFWA had cause to assess rangeland conditions on the lease and report to the PLB. Following that report, the PLB requested that the corporation prepare and submit a management plan, but this request had not been complied with.

On any assessment, the organisation was in trouble. It was in danger of forfeiting its pastoral lease and thereby losing an asset that was the foundation of its

¹³ Deciles provide a measure of the spread of rainfall experiences in the past. Rainfall in a current year can be compared against decile information to see where it stands in relation to historical records. The BOM generally categorises rainfall as 'below average', 'average' and 'above average'. 'Below' and 'above average' rainfall are sometimes further categorised according to the degree of deviation from the average.

¹⁴ BOM website, 'Western Australian Rainfall Deciles 1 January to 30 June 2005', available at <<http://www.bom.gov.au>> [accessed 19 July 2007].

community and work life; it was facing prosecution by the RSPCA; and it was being investigated by the corporate regulator. It was also the subject of a negative media campaign that by any objective criterion was distorting the facts.

The remainder of this chapter takes a closer look at these events and at the remedial strategies that enabled the organisation to favourably resolve the situation over an 18 month period.

RSPCA

DAFWA had referred the complaint that there was insufficient water for cattle on the station to the regional RSPCA office on 8 February 2005. Over the next week, RSPCA officers visited the station and inspected the watering points. In the period they were on the station, the daily temperature was averaging around 41°C. The officers noted that a number of the watering points appeared to have been de-commissioned and others were not fully operational. In the officers' opinion, the watering points on the station were not producing enough water to sustain the cattle. At many of the watering points only minor repairs were necessary to make them productive. The RSPCA subsequently made arrangements for water to be carted to the station.

On 16 February 2005, the RSPCA seized the cattle on the station under s.42(1)(a) of the *Animal Welfare Act 2002* (WA). On 18 February, the Minister transferred temporary care and control of the station to the PLB.

Following these actions, there was a period of negotiation between WAC, the RSPCA, and the PLB to reach agreement on how to resolve the issue. The community was assisted in these negotiations by a legal representative arranged by the Goldfields Land and Sea Council. Agreement was reached on 3 March 2005 that the cattle would be mustered and sold and the proceeds, less costs, would be returned to the corporation.

The muster was completed by 18 March, six weeks after the complaint. The RSPCA mustered 'just over 1800 head of cattle from the station' (Grieve 2005c). The cattle were understood to be in good condition when they arrived at the sale yards, a fact supported by the good sale price received.

The WAC and three of its members were each charged under s.19(3)(d) of the *Animal Welfare Act 2002*. The charge was that the corporation and each member, '[b]eing a person in charge of animals, namely approximately 1500 head of cattle, was cruel to the animals as they were not provided with proper and sufficient water' (Magistrates Court 2005). The Aboriginal Legal Service provided legal representation when the case was heard in the Magistrates Court in May 2006. A plea bargain saw the charges against the three members of the corporation

dropped in exchange for a guilty plea by the corporation. The corporation was fined \$10,000 and ordered to pay costs.¹⁵

An independent assessment of the condition of station infrastructure and the peril of the cattle raises the possibility that the RSPCA's initial response to the allegation of insufficient water on the lease, may have been disproportionate (Centre for Management of Arid Environments 2006). In fact, the RSPCA's statement of material facts read out in the court hearing stated only that 'some dead animals were sighted' when its officers went the station in February. The statement did not identify whether the 'dead animals' were cattle or feral animals. Similarly, all the initial media reports, including RSPCA media comment, sensationalised the incident by claiming that large numbers of dead cattle had been found on an Aboriginal-run station. The following extracts from some of the media reports at the time show it took a while for accurate reports to be given coverage:

[RSPCA] Spokeswoman ... says the pastoral lease, about 200 kilometres east of Wiluna, is held by an Aboriginal corporation, and it's the second time in 12 months the RPSCA has had to intervene (ABC Rural 2005).¹⁶

You might recall, last week, RSPCA inspectors found around five hundred cattle dead on Windidda Station and a further 2500 in need of assistance (Grieve 2005b).

The pastoral lease for a remote West Australian station where 500 cattle were found dead and another 2,500 were struggling to survive must immediately be cancelled, a parliamentarian and a farmers' group said today (AAP 2005).

Later in the same press article, the president of the Pastoralists and Graziers Association stated his view that:

Obviously the lease has got to be taken off them immediately, the cattle removed and the fines that everyone else has to stand by have to be enforced for them as well ... There can't be one rule for Aboriginal stations and one rule for the white stations (AAP 2005).

These media reports show that the Aboriginality of the station management was a significant factor in the outcry about the incident.

By early March, the dead cattle were now only in 'the tens': 'Initial estimates of animal fatalities on the property, provided by State Government staff, appear

¹⁵ Plea bargaining is not unusual in this type of legal proceedings. In this case, concessions were made by the defence and prosecution to expedite the process, protect individuals and arrive at an outcome that all could live with.

¹⁶ This statement by the RSPCA is incorrect. The last intervention was in 2002.

to have been high and ongoing assessment suggests the actual figure would be in the tens rather than the hundreds' (RSPCA 2005).

By mid April reports were more circumspect: '[B]ack in February, the RSPCA found a number of dead cattle on the station' (Grieve 2005a).

The fact that a large number of healthy cattle were mustered from the 385,000 hectare property in the last month of summer, following a period of high temperatures and 'very much below average rainfall', is jarringly at odds with the media reports and public statements made by the RSPCA and other instrumentalities about the extent of animal neglect.

The Pastoral Lands Board

A care and control order issued in February 2005 transferred responsibility for the running of the station to the PLB. The order was to stay in place until the PLB was satisfied that satisfactory care, control and management of the land had been demonstrated by the community.

Following the imposition of the order, the relevant Minister advised the corporation that she intended to go further and rescind the lease. The corporation, through the Goldfields and Sea Council, appealed this decision. The appeal was supported by the independent assessment of the station, which showed that the watering points were generally in sound condition and able to support the station's requirements. The appeal also set out concerns expressed by members of the community that the pumps and bores had been vandalised by outsiders prior to the initial complaint. The RSPCA's statement to the court could be construed as supporting this possibility. It describes how only minor repairs were required to get a number of the watering points back into working order. It stated that wires had been disconnected from some solar pumps, which made them inoperable, and animals were found in a couple of wells, which contaminated the water. The RSPCA attributed these problems to a lack of regular maintenance. The community did not disagree entirely with this view, acknowledging that it had experienced difficulty at times attending to the maintenance of all the watering points on the station. However, community members also believed that there had been acts of sabotage that had interfered with the operation of the wells. For example, the community members pointed out that the animals down the wells cited by the RSPCA were kangaroos that had been shot and then placed there.

Attention to governance issues, particularly in regard to decision making, planning and maintenance of the pastoral station, was identified by the PLB and accepted by the Minister as fundamental to the question of the corporation regaining control of the lease. The Minister demonstrated some confidence in the community by advising that she would 'consider deferring forfeiture action

to give the Windidda community the chance to show it can implement an acceptable management plan for the station' (ABC News 2005).

The WAC was required to satisfy a number of conditions, initially to forestall the forfeiture and, in the event that this was successful, further actions would be required to meet the conditions for the transfer of a pastoral lease. In this regard, the PLB had responsibility for assessing the competence of the community to run the lease and for providing advice to the Minister prior to a decision being made about the transfer of the lease.

Just as the community were coming to terms with these events, another hurdle arose. In June 2005, ORAC advised the WAC that it had authorised an examination of its affairs under its statutory powers.

Office of the Registrar of Aboriginal Corporations

ORAC has a range of regulatory powers under the ACAA, including power under s.60 to examine the documents of a corporation and to report on any financial irregularities.¹⁷ The genesis of this particular s.60 examination is unclear. It was possibly undertaken as part of ORAC's 'program of rolling examinations', under which 61 corporations were investigated in the 2004–05 financial year (Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) 2005: 335). ORAC also acts on complaints about corporations from other bodies, and it is probable that the s.60 examination was triggered by the PLB raising concerns about the governance of the corporation in relation to the pastoral lease.

ORAC's standard terms of reference for a s.60 investigation require the examiner to:

- (a) Assess the level of the Corporation's compliance with its Constitution and the Act.
- (b) Assess the viability/solvency of the Corporation.
- (c) Check whether any conflicts of interest exist within the Governing Committee.
- (d) Report any lack of control, direction and overall management of the affairs of the Corporation by the Governing Committee.
- (e) Report on the ability of the Governing Committee and staff to deliver an effective standard of services to its members and the community.¹⁸

¹⁷ Section 60 of the ACAA states that: 'The Registrar may, at any time, cause a person authorised by the Registrar for the purposes of this section to examine the documents of an Incorporated Aboriginal Association and to report to the Registrar on the results of that examination, drawing attention to any irregularity in the operations or financial affairs of the Association disclosed by that examination'.

¹⁸ This document, entitled 'Terms of Reference of the proposed examination of [name removed by ORAC] Aboriginal Corporation', ORAC 2005, was provided to me by ORAC as an example of the terms of reference for a s.60 examination. Under the CATSIA 2006 (see Chapter 10, parts 10.2–10.4), the Registrar has more extensive regulatory and enforcement powers.

The s.60 investigation was carried out in September and October 2005, and the Examiner presented his final report to ORAC in December 2005.

It is relevant to note at this point that the community had been running the lease and the corporation over the past 12 years with little or no assistance or intervention from WA or Australian Government agencies. The members of the governing committee had assumed—not unreasonably under these circumstances—that since they had not attracted any interest from the regulatory body or the funding bodies, they were adequately fulfilling their responsibilities. The previous attention they had attracted from the PLB appeared to have settled of its own accord.

Staying under the regulatory body's radar is relatively formulaic for a small organisation once it has been set up; namely, hold a general meeting and elect a governing committee on an annual basis, and if possible apply for exemptions for the lodgement of annual reporting requirements. ORAC has a realistic understanding that many organisations receive little or no funding and therefore 'have no capacity to apply for an exemption' (DIMIA 2005: 326). In fact, non-compliance has been the norm under the AACA. In the 2004–05 financial year, ORAC reported that over 60 per cent of corporations were 'not fully or partially compliant' and less than 30 per cent were 'fully compliant' (DIMIA 2005: 326). WAC's records indicate that in most years it would fall into the category of 'partially compliant'. It held general meetings and elected a governing committee on a regular basis throughout its incorporation, and either fulfilled or had been exempted from most of its reporting requirements.

In March 2006, the Registrar advised the organisation that 'the examination identified many instances where the Corporation has not complied with the Act and the Rules of the Corporation's Constitution', and that a notice under s.60A of the ACAA would be issued.¹⁹ The notice required the corporation to remedy a number of matters within a 28 day period. The matters that needed to be addressed focused mainly on the need for the governing committee to exercise greater control of financial and administrative record keeping. The s.60A notice stated that 'due to inexperience, members of the Governing Committee may not understand the importance of some of the requirements of the ACAA and [the] Constitution, and the reasons behind each rule'.

Receipt of the notice challenged the community's assumption that a lack of interest from the regulatory body equated to the satisfactory fulfilment of

¹⁹ Section 60A of the ACAA states that: 'If the Registrar suspects on reasonable grounds that: (a) an Incorporated Aboriginal Association has failed to comply with a provision of this Act, the regulations of the Rules; or (b) there has been an irregularity in the financial affairs of an Incorporated Aboriginal Association; the Registrar may, by notice served on the public officer, require the Governing Committee to take the action specified in the notice within the period specified in the notice, for the purpose of complying with the Act, the regulations or the Rules or remedying the irregularity, as the case may be'.

corporate responsibilities. The serving of the notice also demonstrated that incorporation under the AACA was more complex and far reaching than the community had previously contemplated.

The PLB had assumed responsibility for the lease under the management order and in September 2005 put a manager on the station for a six month period. The PLB had advised the community that it must develop a comprehensive management plan for the future operation of the station and to be able to demonstrate its capacity to put in place best practice management standards on a day-to-day and long term basis.

Following the issuance of ORAC's s.60A notice, the PLB advised that a further condition for transfer was that the corporation had fully complied with ORAC's requirements under the s.60A notice.

Support for the community

In a relatively short period of time, the community had been confronted with a series of challenging incidents: its organisation and three of its members faced prosecution under the *Animal Welfare Act 2002* (WA); it was required to fulfil a bewildering array of conditions imposed by ORAC to prevent the corporation being deregistered; and the PLB had outlined a series of steps that it would need to take to regain control of the lease. In addition, the ground rules had shifted. It was becoming increasingly clear that the running of the corporation and the running of the pastoral lease, which had previously been ticking along without attracting any sustained attention, had been scrutinised in a new and more searching way, and had been found wanting. This time, the problems would not slowly dissipate over time but would require sustained action to overcome them.

The community saw that many of its difficulties could be attributed to a combination of farm management and governance problems, in particular, decision making and the implementation of decisions. This encompassed the need to plan for and develop budgets for maintenance and improvements on the station, to ensure work was carried out at the right time and was properly supervised, and all aspects of record keeping.

The dilemma facing the community was that these adverse events posed a real threat to its ongoing stability, and it had little or no resources on which to draw to fulfil the array of conditions that had been imposed and thus successfully extricate itself from its situation.

Over this period of crisis, assistance for the community came from a number of sources. The Goldfields Land and Sea Council²⁰ provided advocacy support for the community in its dealing with the RSPCA, the PLB and the Minister. This support included regular reporting to the PLB on the progress the community was making and interceding on its behalf when necessary to forestall unwanted actions.

I worked with the governing committee of the WAC throughout 2006 as it progressively dealt with the issues identified in the s.60A notice from ORAC. In November 2006, ORAC confirmed that the committee had satisfactorily addressed all the actions set out in the notice. Concurrently, the ILC funded a facilitated group planning session for the community so that it could outline and document its plans for the lease. Following the workshop, the community's aspirations were paired with the PLB's requirements for the transfer of the lease, and a package of planning, reporting and training was developed. At this point, FarmBis, a partnership between the WA and Australian Governments that supports training in land and business management,²¹ provided training support for the community. FarmBis and the ILC jointly funded a comprehensive training package covering on-farm skills and governance training for community members and the governing committee. These training packages were designed specifically to match the training needs of the community and were delivered over a 12 month period.

FarmBis approached its relationship with the community as a partnership that shared the goal of reaching a point where the corporation could run the station as a strong and financially successful pastoral business. A principal objective for the training package was to get the corporation ready to take part in an Indigenous Management Support Services project run by DAFWA and jointly funded by ILC. This project, which has been operating successfully in the Kimberley and Pilbara, provides an Agriculture Department adviser to work closely with the community to improve pastoral station management practices and to increase the quality and quantity of the cattle herd. The reciprocity in this partnership was that FarmBis brought the training and the opportunity to be involved in the management service support project to the table, and in return the community demonstrated its commitment by attending and contributing to the extensive training programs, and putting the new information into practice. Qualifying to be 'project ready', that is, part of the Indigenous Management Support Services project, was a powerful incentive for community members to actively participate over the many months of training.

²⁰ Although Ngaanyatjarra Council was the representative body for the Wiluna area at the time, there was an agreement between Ngaanyatjarra Council and the Goldfields Land and Sea Council that the latter would provide support to the community on this matter.

²¹ In WA, FarmBis is administered by DAFWA.

The governance training component involved sixteen days of face-to-face training, delivered in Wiluna and on the pastoral station, between June and November 2007. In this training program, the ambit of 'governance' encompassed more than a narrow focus on compliance. Governance was presented comprising a bundle of tools that the community could use to move its aspirations beyond the planning phase into reality. With this perspective in mind, the community used the training sessions to explore its proposals for future development on the lease and drew on the tools of governance to forge a way forward.

Incorporation and the community

In common with many Aboriginal organisations that incorporated in the last two decades, the need to incorporate was externally driven rather than arising from the community's desire to be part of the mainstream, corporate world. Arguably, the motivation for incorporation affects the way the community understands the relationship between its aspirations and its incorporation, and between its incorporation and the requirements of the ACAA. The s.60A notice raised some issues about the governing committee's understanding about the interaction between community activities and corporate identity. The community had used incorporation in 1994 to achieve practical outcomes, which were: (a) to hold the pastoral lease when Nganganawili, the larger community organisation, was dissolved; and (b) to attract funding for community infrastructure and essential services associated with maintaining the pastoral station. However, the identity of the incorporated body was merged with the identity of the community, rather than being seen as an entity separate from the community. Working with the community as it grappled with a range of governance issues, it became clear that it was important to appreciate the interplay between 'community', 'members' and 'the corporation', and to engage the participants in identifying the components of each of these concepts and to disengage each from the other.

An example of the interrelatedness between corporate responsibilities and community activity arose during discussion with the committee about the level of financial record keeping required under the ACAA. The governing committee was surprised and concerned to learn that it was required to provide details of all the corporation's financial transactions to ORAC, including what it termed 'community money'. The need for accountability of government funds to government was not disputed, but the committee made a distinction between 'government money' and 'community money'. The committee's view was that ORAC should only be interested in 'government money', that is, the funding allocated to the community by the regional resource agency.²² 'Community

²² The regional resource agency applied to relevant government departments for funding for the 13 communities it serviced. The resource agency also acquitted these funds. From its funding pool it

money' was money collected and used for the running of 'community' aspects of life on the pastoral station. An example of 'community money' is 'chuck in', which refers to money deducted from each community member's CDEP payments to fund a range of activities, such as attendance at funerals, the purchase of food supplies in bulk, rent and repairs. The committee felt it was inappropriate and unnecessary for 'community money', which was carefully accounted for, to be subjected to public scrutiny through the ORAC reporting process. However, the complication was that since the funds were held in bank accounts in the corporation's name, they were therefore seen as corporation funds and corporations are required to report to ORAC on all activities undertaken in its name.

On the one hand, the notions of 'the community' and 'the organisation' had been conflated by depositing all the funds in the corporation's name, yet on the other hand, there was a desire to maintain the autonomy of 'the community' and to shield it from the public arena of corporate reporting. The reality of day-to-day community life, compared to the requirements of bureaucratic reporting, illustrates that the distinction between community and corporation is an artificial one from a community perspective, and one that is not always easily achieved. For example, there is the practical difficulty of finding an alternative 'body', other than the corporation or an individual, to establish an account to hold the funds of this nature and to distribute them when appropriate.

On 26 November 2007, the Minister wrote to the most senior member of Windidda advising that she had decided to withdraw the management order and 'to approve the transfer of the lease to Windidda Aboriginal Corporation'. The Minister added that: 'Your commitment to the pastoral lease and to the involvement of your family and community to ensure that the lease is run as a successful pastoral enterprise is to be commended'. The State coordinator of FarmBis attended the corporation's Annual General Meeting in November 2007 and advised the meeting that Windidda had acquired 'project ready' status and, pending funding approval from the State Government, would be included in the Indigenous Management Support Services project from July 2008.

Conclusion

Close attention to governance in its broadest sense was integral to reaching this stage. Over an 18 month period the community was confronted with a barrage of bureaucratic and legislative challenges including the RSPCA, the justice system, the pastoral industry, the PLB, ORAC, and the public through the media. Its primary focus throughout was to regain the pastoral lease by resolving outstanding corporate compliance issues, acquiring skills in governance and

allocated resources to each community to meet their individual requirements for infrastructure and municipal services.

farm management, and by employing this expertise in good station management practices. This encompassed planning for the future, making decisions that matched those plans, managing income and assets in a structured way, talking to the local community as well as to industry, keeping records that show what has been done and why, what worked and what did not.

Although it was important for the community to draw a distinction between 'the community' and 'the corporation' to achieve and maintain corporate compliance, governance for pastoral success and governance for community success are intermeshed. The pastoral station is regarded by the community as an important and valuable asset. The station usually turns off between 300–500 head of cattle each year, and provides both meaningful work for members of the community and an alternative living environment for workers and their young families away from the negative aspects of town life, including alcohol. There are more than 25 children of primary school age in the community, which creates a tension between the members' aspirations to live and work on the station and their obligation to be in town so the children can attend school. The community is investigating how to arrange on-station schooling so that workers, their families and other community members are able to stay for extended periods on the pastoral station.

The establishment of additional infrastructure on the station to support community life will directly enhance the likelihood of a stable workforce living on the station, able to support its growth. This infrastructure, identified by the community as recreational facilities, a communal garden and education alternatives for the children, will require an expansion in the income the station generates. The current level of activity on the lease barely covers the costs of rates, maintenance and improvements necessary to maintain the lease, let alone to fund the community's plans. Additional income can potentially be achieved through the Indigenous Management Support Services project which has the potential to provide the long term financial, physical and technical assistance the community will need to drawn on to continue in a positive direction.

One indicator of good governance is having a network in place to call on for help when there is trouble. The community was given initial assistance to put this in place and it has garnered further support along the way. It will need to draw on its own resources and its external network to maintain and build on what it has achieved to date.

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