



Australian Government
Indigenous Land Corporation

ECONOMIC ACQUISITION PROGRAM

PROGRAM GUIDELINES

1. VISION

To provide economic benefit to Indigenous Australians by addressing dispossession through the acquisition and grant of land and establishment or continuation of commercially viable and sustainable land-based businesses, under arrangements, to deliver employment, training and significant social and cultural benefits.

2. TERMINOLOGY

Business asset: An asset that has an income earning capacity integral to the profitability of the land-based business.

Commercially viable business: A business that:

- Is managed with the necessary skills and experience;
- Pays all operating expenses, including wages, any lease or finance payments and taxes;
- Pays for all maintenance of business assets and ultimately for the replacement of those assets at the end of their useful life; and
- Provides the business owner(s) with a positive return on any capital invested over the life of the business.

Land-based business: Means activities conducted for profit that consist of, or relate to the managed use, care or improvement of land where the land is integral to the operation of the business.

Land: Any areas of land (including beds and banks of inland waters) that are on the landward side of the sea's low water mark.

Sustainable: Means that the business does not require recurrent ILC or other public funding.

3. ECONOMIC ACQUISITION PROGRAM

3.1 RELATIONSHIP TO OTHER PROGRAMS

The functions conferred on the ILC are in addition to the roles and functions of other agencies. Accordingly, the ILC is committed to ensuring its Economic Acquisition Program does not duplicate the programs of other agencies under laws of the Commonwealth or a State or Territory.

3.2 PROGRAM OBJECTIVE AND PLANNED OUTCOME

The Economic Acquisition Program (ECAP) objective is:

To purchase and successfully operate, through arrangements, commercially viable businesses that deliver economic benefits to Indigenous people. These purchases should also deliver significant social and cultural benefits.

To generate profits for the equity partners.

To grant these lands and the associated ILC purchased business assets to an Indigenous corporation

This objective is principally measured by the planned outcome:

Profitable businesses managed under arrangement; and

An increase in the economic, cultural and social benefits, including employment and training, derived by Indigenous people as a result of land acquisition.

3.3 PROGRAM DELIVERY

3.3.1 APPLICATION

Access to the program is through application. Assistance can only be considered following receipt by the ILC of a fully completed application form including all necessary attachments.

This **must** include a detailed Business Plan. Until such time as the ILC is satisfied that an application form is complete, the ILC will not consider an application to have been made.

Applicants must demonstrate that they have met all criteria.

3.3.2 AVAILABILITY AND USE OF ECAP FUNDING

The funds available for the ECAP program are limited to a specific amount determined by the ILC Board from time to time. The demand for funding will exceed the funds available.

ECAP funding will only be made available for the purpose of purchasing land and business assets to enable the carrying on of land-based businesses on the land.

3.3.3 BUSINESS OPERATION

The Business will be operated under an arrangement where business expertise and/or funds may be supplied by an industry partner. The ILC may take an equity share in the business with the intention that its equity share will be purchased over time by the applicant. The business will have a management structure that consists of the applicant, ILC and where applicable an industry partner.

A mentoring, training and development schedule will have to be incorporated into the Business Plan.

3.4 ELIGIBILITY REQUIREMENTS

The following eligibility requirements apply:

Application - There must be an application by an Indigenous corporation that is accompanied by a Business Plan and that details arrangements including the ILC and/or industry partners;

Eligible Organisations - This program is aimed at assisting broad based Indigenous corporations, **not** individual or family entrepreneurs, seeking to own land for the purpose of operating a business on that land; and

Indigenous Corporations - The applicant must be an Indigenous corporation as specified in the ATSIC Act. An Aboriginal corporation formed for CDEP or non-commercial purposes will need to incorporate a separate entity to undertake a land-based business.

3.5. PROGRAM CRITERIA

In accordance with the National Indigenous Land Strategy (NILS), an ECAP application will need to satisfy the ILC assessment of the following requirements:

3.5.1 STRATEGIC

- The primary purpose of the proposal must be clearly established as economic;
- The business is commercially viable. It does not rely on on-going funding from the ILC or other public agencies;
- The proposal encompasses an arrangement;
- The partner has appropriate experience including business management skills;
- ILC may be an equity partner;
- The application is for a land-based business;
- The business is not a passive investment;
- The proposal demonstrates how Indigenous people will obtain economic benefit;
- The business will deliver significant cultural and social benefits including employment and training; and
- The proposed business is appropriate for the region.

3.5.2 SPECIFIC

- Economic need of the applicant is demonstrated;
- The Business Plan is achievable, sustainable and consistent with sound land management and business principles;
- The business demonstrates sound business fundamentals;
- The land is appropriate for the land-based business;
- The applicants must be able to demonstrate their capacity to undertake activities assigned to them in the Business Plan;
- The application demonstrates suitable expertise to manage the business. This may be provided by an arrangement partner;
- Suitable management arrangements involving the applicant, ILC and/or industry partner are defined;
- The business plan includes an employment, mentoring, training and development schedule for Indigenous people;
- The applicant has demonstrated commitment to the proposed business;
- The applicant will be actively involved in the day-to-day management and running of the business.
- ILC equity to be purchased over time by the applicant;
- The applicant must be able to demonstrate their knowledge and practice of sound corporate governance principles; and
- The level of risk in the business is identified and acceptable to the ILC.

3.5.3 REGIONAL

- The land and business needs are unlikely to be met by other land acquisition or economic development programs; and
- Previous land acquisitions or land claims have been unable to satisfy land needs.

3.6. GRANT OF LAND AND BUSINESS

The ILC will purchase the land and business assets. The business will be operated under arrangements consisting of the equity partners - the applicant, the ILC and/or industry partner. Profits from the business will be shared on a prearranged basis.

A strategy with agreed terms and conditions shall be put in place to grant the land and ILC owned business assets to the applicant.

Until a grant of the land is made, after a reasonable time, the land will be leased to the applicant while the arrangement including the applicant carries out the business. During this time the ILC will hold security and/or title over its business assets.

The eventual transfer of the ILC share of the business assets to the applicant will be dependent upon the successful implementation of the arrangement.

3.7 POST - ACQUISITION PLANNING, REPORTING AND MONITORING OF BUSINESS PERFORMANCE

3.7.1 PLANNING

The business will be required to:

- Prepare an annual work plan and budget consistent with the initial business plan, which must be approved by the ILC.

3.7.2 REPORTING

The business will be required to provide financial reports showing:

- Quarterly budget to actual comparison;
- Quarterly list of aged debtors and creditors;
- Half yearly budget forecast review;
- Annual budget to actual review, provided within 60 days of the end of the previous financial year; and
- Audited financial reports (Profit and Loss and Balance Sheets) provided within 90 days of the end of the previous financial year.

The business will also be required to provide annual reports detailing:

- Employment and training benefits; and
- Social and cultural benefits.

3.7.3 MONITORING

The ILC will undertake regular property inspections and use the reports provided above and any other sources of information it deems necessary to monitor the performance and progress of the business.

3.8 CONDITIONS OF SUPPORT

For successful applications, support will be formalised by a contract between the ILC and relevant parties (applicant and industry partner where relevant). The contract will be legally binding on the parties and will describe the terms and conditions governing the responsibilities of these parties.

Applicants will be required to enter into an arrangement for the land-based business.

The ILC may determine conditions of support on a case-by-case basis.

The ILC and the industry partner, where appropriate, may take an equity share in the business.

The ILC may also offer other forms of support including:

- Grants;
- Loans; and
- Loan guarantees.

3.9 DEFAULT

In the event that the terms and conditions of the ECAP agreement are breached the ILC may end an ECAP agreement at any time.

Where ongoing commitment to the business is not demonstrated by the applicant the ILC may make alternative arrangements for the continuation of the business or its disposal (possibly including the sale of the land).

Where a recipient expects to face difficulties in meeting its ECAP agreement obligations, the ILC expects to be informed in advance in writing. The ILC may come to an agreed arrangement in relation to the business.

3.10 INTENDED OUTCOME

That ECAP recipients, by complying with an ECAP arrangement that involves the ILC taking an equity stake, will at the end of an agreed period, own the land and ILC purchased business assets.