House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs

Inquiry into the Reeves Report on the *Aboriginal Land Rights (Northern Territory) Act 1976*

Submission
of the
Northern Territory Government

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Introduction

The Aboriginal Land Rights Commission, conducted by Justice Woodward, paid little attention to the future of the Northern Territory generally. The *Aboriginal Land Rights (Northern Territory) Act 1976* (the *Land Rights Act*) was brought into operation before the establishment of the Northern Territory as a body politic. The legislation has been a powerful element in shaping the political and cultural landscape in the Northern Territory for a generation. The comprehensive review of the *Land Rights Act* in 1983 by Justice Toohey did not lead to significant reform although many deficiencies of the Act were certainly noted. Some amendments were made in 1987 but these were limited in scope.

There is little doubt that the *Land Rights Act* has been effective in recognising and protecting the traditional interests of Aboriginal people in land and in transferring land to Aboriginal ownership. Indeed, a far greater proportion of land has been transferred to Aboriginal ownership than was probably envisaged by the Parliament when the legislation was passed. In addition, for over two decades, the development of the Territory, including development on land not owned by Aboriginal interests, has accommodated the special relationships Aboriginal Territorians have with their sacred sites. However, many problems exist for the sound administration and management of land, and the *Land Rights Act* does not provide adequately for future generations of Aboriginal people and the economic and social growth of the Territory.

The need for a further review of the *Land Rights Act* was eventually accepted by the Commonwealth. After inquiring into the legislation, Mr John Reeves QC delivered his report to the Honourable Senator John Herron, Minister for Aboriginal and Torres Strait Islander Affairs, in September 1998. The Northern Territory Government contributed comprehensively and constructively to that inquiry.

The recommendations contained in the Reeves report form an integrated model which attempts to overcome the deficiencies of the past and to provide a new approach for the future which will empower Aboriginal people. This is a vision which the Territory strongly shares.

Many of the recommendations are broadly defined while others are of a technical nature. Their interlocking construction means that the report requires a thorough examination and evaluation.

It is difficult to give a final position on many of the issues arising from the Reeves Review and those which are the focus of the current inquiry. The Act is Commonwealth legislation, therefore the Committee is required to give equal balance to the views of the Northern Territory Government and to those of Aboriginal interests, including the Land Councils, many of whom have a vested interest in maintaining the status quo. This submission is a constructive effort to aid the Committee in its inquiry into the views of people with an interest in the possible implementation of the recommendations made in the Reeves Report.

1. The proposed system of Regional Land Councils, including: the extent to which they would provide a greater level of self-management for Aboriginal people, and the role of traditional owners in decision making in relation to Aboriginal land under that system

1.1. There is considerable dissatisfaction with the Central and Northern Land Councils among traditional Aboriginal owners, sometimes giving rise to requests for new land councils. In other instances, regional Aboriginal groups are evolving and now wish to attain a greater degree of autonomy than is provided under the existing arrangements. Rather than being viewed as some division of power, these movements ought to be seen as a way of involving Aboriginal Territorians more closely in the issues that affect their lives and developing more efficient mechanisms for the management of Aboriginal land.

1.2. As a general view, the Territory believes the Northern and Central Land Councils devote an undue proportion of their resources to political activities rather than assisting traditional Aboriginal owners with the management and beneficial utilisation of their land. Perhaps the evident tardiness in the processing of exploration licence applications and development proposals is a direct result. The major Land Councils also remain implacably opposed to the Community Government scheme, pursuant to the *Local Government Act*, which already functions well throughout the Northern Territory. Such local government arrangements are based on a democratic process, are able to be modified to suit particular traditional situations, and provide services to the Aboriginal community generally.

1.3. Section 21 of the existing legislation provides for land councils to be established where the Commonwealth Minister is satisfied that the area is appropriate and that a substantial majority of adult Aboriginals living in the area are in favour. These provisions have only been used twice; first for the formation of the Tiwi Land Council, and later for the establishment of the Anindilyakwa Land Council. Many applications have been lodged by other groups but successive Commonwealth Ministers have opted to retain the status

quo on the mainland for reasons which have not always been made clear. The Territory supports the aspirations of Aboriginal people who desire to run their own affairs. Submissions by the Territory to the Reeves inquiry emphasised the potential for the positive use s.21 of the current regime to satisfy the legitimate expectations of regional groups. As the *Land Rights Act* was clearly aimed at benefiting Aboriginal Territorians, there should not be any institutional impediment to the establishment of new land councils. Those groups which have the desire and capacity to develop a new land council should be given the opportunity to do so.

1.4. It is clear from his report that Reeves readily recognised many of the failings of the current system and the strong Aboriginal movements pushing for change in many regional areas. Reeves, however, goes far beyond the Territory's initial submission in proposing a radical reform involving the establishment of 18 Regional Land Councils based largely on the administrative regions operating under the current mainland Land Council framework. Such a scheme is integral to the discussion and implementation of the recommendations made elsewhere in his report. While appearing positive and progressive in many respects, particularly in relation to empowering regional groups and allowing the Regional Land Council Directors to be selected according to principles developed by the membership, rather than prescribed by statute, the system may have some flaws in practice.

1.5. Under the Reeves model, an Aboriginal person will be entitled to membership of one Regional land Council only at any point in time. This appears to have merit in that a Regional Land Council will be comprised of persons who have made informed choices about their attachment to the region, whether on a traditional or residential basis, or perhaps both. But there may be difficulties in arriving at important decisions in relation to land where those with traditional responsibilities have opted for membership of a different Regional Land Council. If membership of the Regional Land Council is to be on the basis proposed, it would be necessary for the Regional Land Council to consult with any Aboriginal person crucial to the decision making process regardless of membership. Given that the benefits to flow from any decision would go to members only, other

issues may then arise. Disputes about boundaries may also arise, and even though it is recommended by Reeves that these matters are to be resolved by the Aboriginal Land Commissioner, such issues will at least temporarily affect the capacity of a Regional Land Council to make decisions about important land management problems and economic development projects. If the Regional Land Council system proposed by Reeves is fully and rapidly implemented, it is probable there will be some new bodies without the unity and capacity to function as a responsible and accountable land council. On the other hand, there are some groups who clearly have that potential now. Not withstanding these qualifications and reservations, the Territory believes a system of Regional Land Councils will greatly enhance self management by Aboriginal people and will provide a greater role for traditional Aboriginal owners in decision making in relation to their land.

1.6. An important recommendation by Reeves, which seems to have received little attention, deals with public education on the provisions of the *Land Rights Act*. As the Territory noted in its initial submission, there is a generally very low level of understanding among Aboriginal people of the Act particularly concerning the relationship between traditional Aboriginal owner, Land Council, Land Trust and Commonwealth Minister. This lack of understanding is often cited by the critics of regional land council movements. To the contrary however, the Aboriginal proponents of new land councils often have a much greater understanding of the Act.

1.7. The point of smaller land councils is to bring the decision making process closer to the people affected. Noting the requirement always for access to suitable advice and expertise, smaller land councils have the potential to bring about more direct relations, and to create beneficial partnerships, between regional Aboriginal groups, government and industry. Many decisions, requiring the consent of traditional Aboriginal owners and consultation with other Aboriginal people affected, in the areas of the two mainland Land Councils are made or ratified in the forum of a full meeting of the Land Council. These meetings are usually held only a few times per year, after the consultation phase and often at a locality remote

from the subject region. It is an anathema to traditional Aboriginal owners that decisions affecting their country are taken elsewhere and involve people with no traditional rights to be involved in such decision making. As Reeves points out, much of the decision making under the *Land Rights Act* is actually made by the staff of the Land Councils having obtained the consent of the traditional Aboriginal owners and consulted other affected Aboriginal people. Yet it is frequently left to the Land Council staff to ascertain who these traditional owners are and which people should be consulted. Accordingly, Reeves regards regional autonomy as crucial and his findings and the intent of his recommendations are supported.

1.8. Generally, traditional Aboriginal attachment to land is very strong throughout the Territory. However, there are areas where as a result of the 'washing away by the tide of history', traditional links have diminished and people have had to make adjustments. Further, many people reside in the larger communities so that several language groups congregate on the land of one. Again, the Aboriginal people have had to make adjustments. While some people seek to establish outstations in their own country to avoid this situation, it is an inescapable fact that these larger communities will continue to exist. In this situation, the respective rights and interests of residents and traditional owners need to accommodated and maintained. Although there is cultural homogeneity on the Tiwi Islands, the Tiwi Land Council takes a forward looking approach through its accommodation of the various Community Government Councils in its Land Council structure. Reeves proposes as a central principle that a Regional Land Council should be required to make its decisions in the best interests of the people in its region adopting decision making processes that best reflect Aboriginal traditional processes of the region. These recommendations, underpinned as they would be by a dispute resolution process, are supported.

1.9. Reeves recommends establishing 16 new land councils based on the existing administrative regions of the Central and Northern Land Councils. These regions seem to largely reflect the cultural and language groupings and there is a high degree of correlation with current movements for setting up new land councils. However,

in some regions there must be some doubt currently about the existence of cohesive groups with the capacity to function as a responsible land council. Therefore, it seems that an evolutionary process, whereby regional groups are able to muster support and develop into functional land councils, remains a more practical approach. This would allow geographic issues to be resolved on a case-by-case basis and the motivation behind a successful application would assist in the setting up of an appropriate administrative body. The Territory remains fully supportive of the establishment of new land councils but maintains that such a progression should have occurred before now without having to move to a more radical reform process which may lead to problems in practice. Nevertheless, the Territory believes reform in this area is necessary if there is to be a greater degree of self management exercised by Aboriginal people in decision making. The delegation of functions by the Central and Northern Land Councils, through sections 28 and 29A of the Act, to regional committees is an inadequate approach to achieve this objective.

2. The proposed structure and functions of the Northern Territory Aboriginal Council

2.1. The comments made above, in relation to the proposed system of Regional Land Councils, are relevant here in so far as the recommendations made by Reeves go well beyond the Territory's initial position. The model proposed by Reeves is so integrated with his other recommendations that elements cannot be adequately considered in isolation. However, should a major shift to regionally based land councils occur there will be a need for a higher level body to represent Regional Land Councils in certain roles and to provide some strategic oversight and expertise to the regional operations. The Territory therefore supports, in principle, the concept of the Northern Territory Aboriginal Council but points out that the body proposed by Reeves is predicated on the establishment of 18 Regional Land Councils, a model about which the Territory holds some reservations as to practicality.

2.2.The proposed Northern Territory Aboriginal Council would bring substantial benefits to the membership of Regional Land Councils and to the Aboriginal people of the Territory generally. A shift to a focus on economic and social advancement would be welcome as the outstanding land claims are cleared. Given there would be freedom of choice to a Regional Land Council in procuring expertise and advice, and additional Council resources applied to Regional Land Councils would be at cost, then there are incentives for the effective and efficient operation of both the Council and Regional Land Councils.

2.3.The Territory also recognises that the existing smaller land councils, and those groups aspiring to develop as land councils, under the existing legislation, may have some concerns about the body which is proposed. For example, Reeves envisages that the Council would approve funds for expenditure by the Regional Land Councils and that the Council would be the sole representative body in native title matters. Such an arrangement would be a significant backward step for groups which already have a large degree of autonomy, such as the Tiwi, and would be a less attractive option for those groups, such as the Jawoyn and the

Anmatjere, which are capable of establishing as land councils and conducting their own affairs responsibly. Notwithstanding these comments, the Territory does acknowledge that the underlying ideas and intentions have merit and that some operational details may need to be altered or developed to provide for the diverse aspirations and needs of stakeholders.

2.4. Much is being made of the establishment of the Council with the role envisaged for Commonwealth and Territory Ministers in appointing members. As Reeves has pointed out in his report, there are several examples of authorities and instrumentalities, serving Aboriginal interests, being established in this way. In the Northern Territory, there is a similar model in operation - the Aboriginal Areas Protection Authority established pursuant to the *Northern Territory Sacred Sites Act 1989*. Here, the members are appointed by the Minister on the nominations of the Land Councils. Similarly, the appointment of a Chief Executive Officer for an Authority by Government is common practice. The Territory notes the motivation for these recommendations by Reeves - to promote a relationship built on trust.

2.5. Through this partnership approach, Reeves suggests there is scope for the transfer of funds from both the Territory and ATSIC so that the Northern Territory Aboriginal Council would be in a position to have a substantial impact on the rate of Aboriginal economic and social advancement. He notes however, that it is dependent on whether the Council could develop the necessary strong relationship with Governments. Reeves makes a fleeting reference to the Indigenous Housing Authority of the Northern Territory. The establishment of this Authority, pursuant to a National Commitment agreed to by all Australian jurisdictions, is indicative of the preparedness of the Territory to enter into partnership arrangements with the Commonwealth and ATSIC to the benefit of Aboriginal Territorians. There are a great many assumptions behind this ideal and while it is not being dismissed out of hand, it is an issue that could only be dealt with on a case-by-case over time.

3. The proposed changes to the operations of the Aboriginals Benefit Reserve including the distribution of monies from the Reserve

3.1. The Aboriginals Benefits Reserve has as one of its major functions a requirement to make available a proportion of its revenue for the benefit of the Aboriginal people of the Territory generally. However, there is no requirement for the Reserve to maintain and invest reserves. The Territory submitted to Reeves that the purpose of royalty equivalent payments is confused and that these funds are often not being applied to the long term benefit of the intended beneficiaries. The nature of the payments, the method of incorporating recipient associations as well as their accountability, required systematic examination and overhaul. It was contended by the Territory that the Reserve should be revamped to clarify its objectives and operations and to provide it with a more commercial orientation.

3.2. The Reeves report contains many findings and recommendations which echo the views of the Territory. Agreement can be found in relation to the requirement for clear statement of purposes for the Reserve's operations, the lack of accountability in respect of royalty associations, as well as in connection with the need to discontinue the practice of distributing public funds to individuals. Aside from the philosophical debate about the public character of these funds, and the problems with accountability, individual payments generate conflict among Aboriginal groups and do nothing for the longer term economic well-being of communities and Aboriginal Territorians generally. It is quite clear from an examination of Justice Woodward's two reports that he intended these payments to be applied to the community benefit.

3.3. There has been considerable debate about the meaning of the term 'area affected' employed in section 35 of the Act. This relates to the distribution of 30% of the receipts of the Reserve in relation to mining. These funds are to be transferred to the incorporated associations in the area affected by the mining operation in such proportions as determined by the Land Council but the Act does not provide any guidance for calculating the proportions. Reeves

recommends that these payments be made on the basis of an assessment of the adverse impact of the mining operation net of any benefits directly obtained from the mining operation. The Territory is of the view that this would represent a more rational distribution of the Reserve's funds.

3.4. Reeves calls for the link to be maintained between mining and the Reserve's funds in recognition of unique and historical factors. The Territory acknowledges that the source of these funds is the Consolidated Revenue Fund of the Commonwealth and the application of these funds is an economic benefit to the Territory. To an extent, maintaining the link provides an economic incentive for Aboriginal people to engage in the exploration and mining of minerals and petroleum. However, the present system under the Act has inhibited exploration with the possible result of there being significant forgone revenue to Aboriginal people and the Territory generally. Concerning Reeves' recommendation to abolish the formula for distribution, the Territory notes that more than 40% has been expended on land council administration and less than 30% has been available for investment and for the benefit of Aboriginal Territorians generally. The issue of the Mining Withholding Tax is not one for the Territory being a Commonwealth matter. If there were improved accountability measures placed on 'royalty associations' and there were no payments to individuals, then the Mining Withholding Tax on public money transfers may be unnecessary.

3.5.The Territory, in its submissions to Reeves, said that there should be a further examination into the nature of funds being transferred to 'royalty associations', the purpose of those funds, their application and appropriate accountability. Reeves suggests that 'royalty associations' should be accountable pursuant to the same regulatory regime applying to the Land Councils and ATSIC; ie - *Auditor General Act 1997*, *Financial Management and Accountability Act 1997* and *Commonwealth Authorities and Companies Act 1997*. In another section of the report, Reeves recommends that the Territory and Commonwealth Governments draw up a single scheme to regulate the affairs of incorporated Aboriginal associations in the Northern Territory. The intent behind these

recommendations is accepted but there would be extensive legal, administrative and legislative implications for both Governments. To the extent that 'royalty associations' would exist if the Northern Territory Aboriginal Council and Regional Land Council structure was implemented, then perhaps they should become a 'creature' of the *Land Rights Act* and subject to its enhanced accountability measures.

4. The proposed modifications to the mining provisions of the Act including the continuing role of government in the administration of these provisions

4.1. The provisions of the *Land Rights Act* were substantially amended in 1987 by the previous Labor Federal Government because it reasoned that the legislation was unduly hampering mineral exploration. These amendments introduced the concept of conjunctive agreements, that is - the replacement of the double veto with a single veto. These amendments also introduced timetables for negotiation and arbitration procedures.

4.2. Arguably, these reforms have not functioned effectively. The capacity to obtain continuous extensions to the negotiating periods has increased the transaction costs and inhibited exploration. In 1994, the *Native Title Act 1993* commenced operation nationwide. The significant differences between the Acts are that native title claimants and native title holders have a right to negotiate but not the right to withhold consent, and the *Native Title Act* provides stricter timetables and quicker access to arbitration. Recent amendments have subjected the claimant's right to negotiate to a registration test and, in some jurisdictions and circumstances, a right to be consulted replaces the previous right to negotiate.

4.3. The Territory recommended to Reeves that the Act be amended to remove the requirement for the consent of the Minister and the traditional Aboriginal owners, through the Land Council, for exploration and mining such that the *Native Title Act 1993* would apply. In the alternative, the Act could have been amended such that the negotiation and arbitration procedures reflect those of the *Native Title Act 1993*. In a further alternative, the Territory suggested amendments to Part IV of the Act to provide incentives and sanctions to speed up the negotiating process including, but not limited to, a requirement that traditional Aboriginal owners, opposed to exploration and mining on cultural grounds, exercise the right of refusing consent within six months, limit the capacity of the applicant and the Land Council to extend the negotiation period to a once only period of twelve months, require the Commonwealth Minister to take into account the views of the Northern Territory

Minister when considering an application to extend the negotiating period and to limit that extension to a once only 12 month period.

4.4. Further recommendations were that the Northern Territory Minister for Aboriginal Development have the authority to extend the negotiating period not the relevant Commonwealth Minister. In the alternative, the legislation could be changed so that the Minister for Aboriginal and Torres Strait Islander Affairs is required to consult the Commonwealth Minister with executive responsibility for energy before approving an extension to the negotiating period. Where the Commonwealth Minister refuses consent, or is deemed to have refused consent to the extension of the negotiating period, this refusal is to have immediate effect. Capacity should be given to the Territory Minister to withdraw consent to negotiations on an exploration licence application where the applicant does not enter into diligent negotiations.

4.5. Reeves rejected the Territory submissions ruling out the parallels with native title and coming to the view that further amendments to the existing scheme of Part IV would not work. Accordingly, he made extensive and far reaching proposals for change, many of which require detailed scrutiny and may be difficult to implement. The Territory agrees with Reeves on several issues, however. The existing provisions do not work and the *Land Rights Act* in its current form retards development and economic growth and provides only very limited benefits to Aboriginal and other Territorians. The following tables illustrate these points.

Table 1 Exploration Licences Granted in the Northern Territory

	Aboriginal Land (31/5/99)	Other Land	Total
Applications Received	905	2856	3761
Applications Granted	158	2064	2222
% Granted	17.46	72.27	59.08

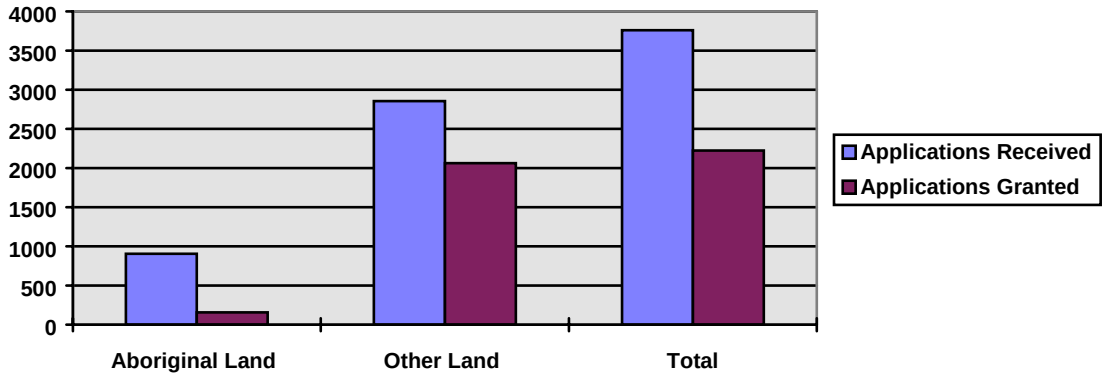

Table 2 Mineral Exploration Expenditure in the Northern Territory

Year	Aboriginal Land	Other Land	Total
1991-92	5 215 266	18 023 775	23 239 041
1992-93	6 412 515	19 909 264	26 321 779
1993-94	10 697 743	26 922 712	37 620 455
1994-95	5 771 290	34 572 289	40 343 437
1995-96	14 230 585	25 191 852	39 422 437
1996-97	12 360 078	28 926 836	41 286 914
Total	54 687 477 (26.3%)	153 546 728 (73.7%)	208 270 205

4.6. The system in relation to mining undoubtedly needs substantial reform, but such an overhaul need not necessarily adopt the Reeves model in its entirety. The proposed reconnaissance licenses are acceptable as a concept and may be of benefit to smaller exploration companies in particular. Such licences could probably be accommodated within the existing system without an additional bureaucratic layer and additional tier of mining tenement. Reeves acknowledges his model provides *de facto* rights to minerals in Aboriginal people when *de jure* those rights are held in the Crown. The Territory has concerns about what is in effect a transfer of property rights and the reduced role of the Crown in the development of mineral and petroleum resources. It is also considered that the proposed system under which mining companies would negotiate with Regional Land Councils in a 'dutch auction' scenario would be unworkable. While this may be aimed at facilitating speedy and direct negotiations, such a system may have anti-competitive elements and problems are likely to arise.

5. Proposals concerning access to Aboriginal land including the removal of the permit system and access to such land by the Northern Territory Government

5.1. Of the many recommendations made by Reeves, the removal of the permit system has been the most widely misunderstood. When the report was first released, the recommendation was the subject of a misleading, mischievous and politically motivated media campaign. Perhaps the only reason for retaining the permit system is the false perception that its removal would give all persons unfettered access to Aboriginal land and in doing so remove any avenues for Aboriginal people to manage their own affairs and land. This is not what Reeves proposed - his recommendations include substantial amendments to the *Trespass Act* as well as other measures to empower regional groups. It is acknowledged that many Aboriginal people do not support the current system and that the Reeves recommendations are rooted in that disagreement.

5.2. In relation to access to Aboriginal land by the Northern Territory Government, the Territory has a philosophical agreement with the reforms advocated by Reeves. The Territory believes it should have the capacity to acquire Aboriginal land for essential purposes and that the *Land Rights Act* inhibits the delivery of a range of services to the community generally. It was submitted by the Territory that section 67 should be removed and that grants of Aboriginal land should exclude easements in gross for essential services. It is generally accepted that no persons' land should be compulsorily acquired except in limited circumstances and these circumstances can arise where it is in the public interest or for an essential public purpose. There is no necessity or desire on the part of the Territory to acquire the freehold interest in land, and the requirement advocated by Reeves to clearly establish the nature of the public purpose for which the land is to be acquired is supported in principle.

5.3. Recommendations in the report such as the passing of specific legislation by the Territory Parliament for each acquisition event, and the provisions for Regional Land Councils to access documents and advice held by the Territory, are clearly aimed at ensuring

transparency and accountability. The Territory contends, however, that public scrutiny can be achieved by various other means and that all of the concerns of Aboriginal people can be addressed in other ways.

5.4. The Territory went to some lengths in its submissions to Reeves to demonstrate that Aboriginal land, with its inalienable character, can be used in the commercial sense. Reeves adopted these submissions which were in substantial accord with at least those by the Northern Land Council. While Reeves continues to support the prohibition on the sale, transfer or perpetual lease of Aboriginal land, he recommends all other restrictions upon the grant of estates and interests in Aboriginal land be removed. Further he recommends that relevant sections be amended to permit dealings in land under claim including for commercial reasons as well as to facilitate land claim settlements. These reforms have the potential to stimulate economic development through a leasehold system where access to private sector finance by mortgaging of a lease is possible and where foreclosure of a business does not threaten the underlying Aboriginal freehold.

6. The proposed application of Northern Territory laws to Aboriginal land

6.1. The Territory noted in its submission to Reeves that the *Land Rights Act* does not affect the operation of Territory laws to the extent that the particular law is capable of operating concurrently with the Commonwealth act. However, this is qualified by other provisions securing the right of use and occupation of the land by an Aboriginal person according to tradition. Coupled with the prohibition on acquisition of Aboriginal land, and the prohibition on dealing with land while it is subject to claim, this creates considerable uncertainty and erodes the sovereignty of the Northern Territory. Whether Territory laws apply to Aboriginal land will depend on the facts and circumstances relating to the particular situation or the activity to be regulated. Predicting the extent to which Territory laws will ultimately be found to be inapplicable is difficult because of the imprecision and uncertainty surrounding the definition and interpretation of Aboriginal tradition.

6.2. It was submitted by the Territory that the *Land Rights Act* be amended to overcome the difficulties arising through the interaction of sections 74 and 71 and the present uncertainty stemming from limited judicial clarification. Territory laws which are applicable to ordinary freehold land should apply to Aboriginal land. This would then have parallels with the *Native Title Act*. The Territory sought amendments to the *Land Rights Act* so that regulations could specify particular laws as capable of concurrent operation. Further, it was recommended that the *Land Rights Act* ought to be amended so that laws of general application dealing with research, environmental protection, public health, public safety, maintenance of law and order and the administration of justice shall be taken as laws capable of concurrent operation.

6.3. Reeves has accepted the arguments for change and has carried out a thorough analysis of the situation. Reeves proceeds on the basis that Aboriginal rights are not absolute, there is a need to preserve to the maximum extent possible the rights of Aboriginal people in Aboriginal tradition to use and occupy land, there is a

need to remove the present uncertainty and there is a requirement protect the interests of the broader community. His recommendations seek to provide legislative certainty by recommending the specification of subject areas for Territory laws to apply to Aboriginal land, the repeal of s.74, amendments to s.71, and other revisions to ensure the protection of traditional Aboriginal rights and compliance with fencing cost requirements under the *Fences Act*. The concepts underpinning the recommendations made by Reeves are therefore supported in principle. There may be some concern about the specifics of the wording of the clauses he proposes but no doubt these will be the subject of negotiation at the appropriate time.