

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates 26 May-6 June 2014

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Outcome/Program: 1.1 Prime Minister and Cabinet

Topic: Regulation regarding Section 28 of the Aboriginal Land Rights Act (Northern Territory) 1976

Senator: Senator Cory Bernardi

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Type of Question: Written

Date set by the committee for the return of answer: 11 July 2014

Number of pages: 3

Question:

1. Could you explain the purpose of the Regulation that the Minister made in relation to the delegation of land council functions under the Northern Territory Land Rights Act?
2. What consultation was undertaken prior to the finalisation of the Regulation?
3. Were any changes made to the Regulation as a result of this consultation?
4. Did the Regulation provide that a Land Council has three months to respond to an application? And that a Land Council could seek an extension of a further three months if it required more time to consider the application?
5. Have there been any cases of a Land Council not responding to an application for a delegation of land council functions? What happened in that case?
6. Would the Regulation that the Labor Party and the Greens disallowed have ensured that this Corporation at least received a response to their application?
7. Now that the Regulation has been disallowed, can a Corporation still apply for a delegation of land council functions?

Answer:

1. The Regulation's purpose was to set a three month timeframe within which a Land Council must make a decision on an application for a delegation of some Land Council powers to an Aboriginal corporation under section 28A of the *Aboriginal Land Rights (Northern Territory) Act 1976* ('the Land Rights Act'). The Regulation also provided guidance as to what an Aboriginal corporation must demonstrate in its application for a delegation of functions.
2. Consultative meetings were held with the four Northern Territory Land Councils in October 2013. The Land Councils were provided a copy of the Exposure Draft of the

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Regulation on 15 November 2013. Land Councils provided their formal submissions on the Exposure Draft over the following fortnight and a second round of consultation meetings with the Land Councils was held 25-28 November 2013. Separate consultations were also held with Northern Territory Government officials, the Minerals Council of Australia, the Northern Territory Cattleman's Association and two Aboriginal Corporations, (Ingerreke and Nauiyu Nambiyu Aboriginal Corporation).

3. The Exposure Draft of the Regulation was developed in light of the feedback received from the Land Councils and other stakeholders. Following the final round of consultations one additional specification was included in the draft regulation, to require that applications for a delegation of powers from a Land Council include information demonstrating the corporation's compliance with s28A(1) of the Land Rights Act.
4. The proposed Regulation set a three month timeframe for deciding on section 28A applications. The Regulation provided flexibility in respect of the timeframe for deciding applications enabling a Land Council to seek an extension of time required to make a decision on an application.
5. There has been one formal application for delegation of Land Council functions made to the Northern Land Council (NLC) in 2010 by the Mangarrayi Aboriginal Corporation (Elsey Station). The NLC did not make a decision on this application. The Mangarrayi Aboriginal Corporation did not pursue the application.
6. The Land Rights Act already provides for the corporation to be notified of the Land Council or Minister's decision on an application for a delegation of powers and functions made under s 28A(1). The proposed Regulation ensures that the Land Council's decision be made within the stipulated three month time period (or longer where the Minister agrees to an extension).
7. An Aboriginal Corporation can still apply to a Land Council for a delegation of functions and powers under s 28A(1) of the Act, however there is no time period requiring the consideration of this application by the Land Council.