CARPENTARIA LAND COUNCIL ABORIGINAL CORPORATION

ABN 99 121 997 933
NATIVE TITLE REPRESENTATIVE BODY

SUBMISSION OF THE CARPENTARIA LAND COUNCIL ABORIGINAL CORPORATION

TO THE SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

ON THE

INQUIRY INTO THE *NATIVE TITLE AMENDMENT BILL 2006* (SCHEDULES 1 & 2)

2 FEBRUARY 2007

Gulf Regional Office
87 Musgrave Street
PO Box 71
Burketown, Qld, 4830
Tel: 07 4745 5132
Fax: 07 4745 5204

Cairns Office
Suite 8, 46-50 Spence Street
PO Box 6662
Cairns, Qld, 4870
Tel: 07 4041 3833
Fax: 07 4041 3533
Free call: 1800 445 115

Greater Mt Isa Regional Office
31-33 Commercial Road
PO Box 1948
Mount Isa, Qld, 4825
Tel: 07 4743 1322
Fax: 07 4743 1140

SCHEDULE 1 – AMENDMENTS RELATING TO REPRESENTATIVE ABORIGINAL/TORRES STRAIT ISLANDER BODIES

Introduction

1. In a context in which representative Aboriginal/Torres Strait Islander bodies (commonly referred to as native title representative bodies or "NTRBs") remain seriously under-funded[1], the Carpentaria Land Council Aboriginal Corporation (the "CLCAC") has some concern about the prospect of changes to the NTRB legislative regime in the *Native Title Act 1993* (the "NTA") that have the net effect of making it difficult for an NTRB to have reasonable certainty about it's continuing existence as well as its financial security.
2. The CLCAC is particularly concerned about the effect of:
   (a) the proposed introduction of limited period recognition; and,
   (b) the repeal of the provisions requiring NTRBs to make, and the Minister to approve, medium to long term strategic plans.

Limited period recognition

3. The CLCAC is concerned that the enactment of this and related items will mean that:
   (a) NTRBs will need to be concerned from time to time not only about what, if any, funds will be received from the Commonwealth, but also about whether it will continue to be recognised by the Minister as an NTRB, and if so, for how long;
   (b) recognition could be for as short a period as one year which will effect the ability of an NTRB to plan for the effective resolution of native title claims; and,
   (c) the Minister's decisions about the length of time for which NTRBs will be offered recognition will be made on an unspecified basis.

Effects of periodic recognition

4. In connection with the first of these points, the CLCAC has long recognised the importance for NTRBs to engage in medium to long term goal setting and operational planning. Without medium to long term plans informing their actions, NTRBs will quickly find their resources being used up in responding to the immediate demands made on them. This will include responding to requests not only from within their client base, but also from future act proponents, governments, the National Native Title Tribunal (the "NNTT") and the Federal Court. Plans are important when resources are scarce. At the same time, the

[1] See, by way of summary, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Native Title Report 2001*, "Chapter 2: Resourcing Equality". See also the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Account *Report on the Operation of Native Title Representative Bodies* March 2006, particularly "Chapter 3: Availability of Resources" and the "Dissenting Report – Opposition Senators and Members of Parliament".

scarcity of resources is one of the things that makes planning and adhering to plans difficult[2].

5. The CLCAC believes that the making of and adherence to medium to long term plans is not supported or encouraged by government regularly reviewing:

   (a) whether or not to recognise a body as an NTRB; and,

   (b) what funds, if any, and on what conditions, the NTRB is to be given to perform the functions of a representative body.

Discretion to issue an invitation to apply for recognition

6. Before a decision is made about whether or not to recognise a body as an NTRB, the Minister must decide to issue an invitation to apply for recognition (s.203A). This means that after the "transition period", an NTRB will have no reliable basis on which to expect that it will be invited to apply for NTRB status for any further period. Indeed, the Minister could decide not only to issue no invitation to the current representative body, but not to issue any invitations at all.

7. Further, the Act is silent as to how the Minister is to make the decision about whether or not to invite applications. The decision will not be made transparently and this makes it even more difficult for an NTRB to predict with any confidence what its status will be from period to period.

8. If item 7 is to be enacted, there should also be an amendment of s.203A(1) to require the Minister to at least invite an application for recognition for a further period from an incumbent NTRB prior to the expiry of its current recognition period. The invitations should be required to be issued no later than, say, 60 days prior to the expiry of the recognition period.

Unspecified criteria to decide length of recognition periods

9. The CLCAC is also concerned that, if the Minister does decide to issue an invitation to apply for recognition, the Minister will be making decisions about the length of time (from 1 to 6 years) for which a body is to be offered recognition as an NTRB in the absence of any prescribed assessment criteria or guidelines.

10. As with the point made in relation to the Minister's discretion not to invite applications, the lack of criteria in relation to the length of time for which recognition will be offered makes it hard for an NTRB to predict with any confidence what its status will be into the future.

11. It also makes it difficult to be confident that where decisions to recognise for a short period only are made, they will be made only for sound and proper reasons and in accordance with the principles of natural justice.

One year will always be too short

12. The CLCAC is particularly concerned with the prospect that recognition may be for as short a period as one year. Experience shows that one year is unfortunately a very short period of time in the prosecution of native title claims. One year's recognition will never be a sufficient period for the purposes of setting meaningful goals and allocating resources. This is reflected in the current

[2] The authors of the report for ATSIC by Senatore Brennan Rashid entitled *Review of Native Title Representative Bodies*, March 1999, well described the situation in which under-resourced representative bodies find themselves as a "spiral down into a cycle of immediacy" (p.3).

s.203D(1) which requires the Minister to specify a period of no less than 3 years for the making of NTRB strategic plans.

The existence of two periodically exercised discretions

13. It is hard to see why NTRBs should be periodically subject to decisions about both:

    (a) recognition; and

    (b) funding.

    both of which will effectively determine whether the NTRB can continue to operate.

14. This is both irrational and bureaucratically wasteful. It can also only serve to heighten the atmosphere of existential uncertainty in which NTRBs are required to operate.

15. If recognition is to be decided periodically, then funding should also follow from that decision. There is no point in the Minister recognising a body as an NTRB for a period only to have the Secretary of the Department decide not to fund the body to perform its NTRB functions. The Department should be legally obliged to fund recognised NTRBs.

RECOMMENDATION 1

16. The CLCAC's position is that item 7, and related items, should not be enacted.

17. If item 7, and related items, are to be enacted, then:

    (a) s.203A(1) should be amended so that the Minister is obliged to issue an invitation to each NTRB to make an application for a further period of recognition;

    (b) the invitation to apply should be required to be issued to the NTRBs not later than 60 days prior to the expiry of any current period of recognition;

    (c) any discretion that the Minister has about whether or not to invite an application for recognition must be exercised on the same basis, and following the same procedure, as the discretion to withdraw recognition is to be exercised;

    (d) the criteria for making decisions about the length of the recognition period to be offered to an NTRB should be set out in the Act;

    (e) the minimum period of recognition should be increased from the proposed 1 year to 3 years; and,

    (f) there must be a formal binding link established between recognition and funding, so that the Secretary is obliged to provide funds to recognised NTRBs.

Repeal of s.203D – item 31

18. As stated above, the CLCAC believes that medium to long term strategic planning is essential for an NTRB to be effective.

19. The CLCAC is concerned that, if the strategic planning provisions are repealed:

(a) strategic plans will lose status, and it will become more difficult for an NTRB to adhere to its medium to long term goals in the face of pressures from within and outside of its constituent client base; and,

(b) the Minister's discretion to either recognise or not recognise a body as an NTRB will be based solely on the application of broad criteria, the application of which:

(i) will be difficult to predict; and,

(ii) there is the possibility of actual or perceived political influence in the decision making process.

20. In relation to this last point, the existence of an approved strategic plan provides an NTRB with a clear indication in advance that the Minister agrees that he or she considers the pursuit of the identified objectives and strategies to be satisfactory performance of the NTRBs statutory functions. The NTRB can thus be confident that the Minister will not, at a later stage, consider that the NTRB is not satisfactorily performing its functions, and should accordingly have its recognition withdrawn (under the proposed new streamlined procedures), in circumstances where the NTRB is actively pursuing the implementation of an approved strategic plan.

21. Without an approved strategic plan, an NTRB will not know with any certainty how the Minister will form his or her view about whether or not the NTRB is satisfactorily performing its functions. In other words, an approved strategic plan constitutes an appropriate and reliable benchmark having regard to which the Minister can fairly and predictably consider whether or not the NTRB is satisfactorily performing its statutory functions.

RECOMMENDATION 2

22. Item 31, which would have the effect of repealing s.203D, should not be enacted.

Applications for recognition in the 'transition period' – item 8

23. If:

(a) invitations to apply for recognition in the 'transition period' are to be given, at least in the first instance, only to the existing NTRBs (proposed s.203AA(2)); and,

(b) the Minister is to be obliged to recognise any such NTRB that applies (proposed s.203AD(1A)),

the transitional recognition procedures are effectively a waste of time and effort. Any new system of periodic recognition should simply begin at a specified time in the future.

RECOMMENDATION 3

24. Item 8, and related provisions, should not be enacted.

SCHEDULE 2 – CLAIMS RESOLUTION REVIEW

Reducing the range of persons with an automatic right to be a party – items 3 - 5

25. The provisions of the NTA that:

    (a) validate, and authorise the validation of, past actions attributable to governments that affected native title; and

    (b) confirm, and authorise the confirmation of, the extinguishment of native title by past actions in relation to land and waters; and

    (c) authorise and validate future actions in relation to land that will affect native title,

    provide extensively for the protection of the interests of persons other than native title holders in land.

26. In these circumstances, the CLCAC contends that more extensive measures should be put in place to prevent persons from becoming parties to native title applications if they cannot show that their legal interests will be prejudicially affected by a determination that native title exists. In this context there is also little justification for the Commonwealth government not implementing more rigorous criteria for the assessment of respondent party funding.

RECOMMENDATION 4

27. The CLCAC supports the intent of items 3 to 5 but believes that these reforms should go further.

    (a) s.84(3)(a)(iii) should be repealed not amended; and

    (b) s.84(5) should be more extensively amended to read:

    The Federal Court may at any time join any person as a party to the proceedings, if the Court is satisfied that the person's interests will be prejudicially affected by a determination in the proceedings, and that their interests will not otherwise be adequately protected.

    (or some alternative form of words to that effect).

Referral of questions to the Federal Court about a person's right to be a party– item 48

28. The CLCAC also supports the intent of item 48, but believes that the reform should be in stronger terms.

RECOMMENDATION 5

29. The proposed new s.136DA(1) should be reworded so that:

    (a) the presiding member is *obliged* rather than merely empowered to refer the question if it arises; and

    (b) the obligation arises if the presiding member considers that:

        (i) a party to the proceeding is not a person referred to in s.84(3); and

        (ii) the party does not have an interest which will be prejudicially affected by a determination in the proceedings,

rather than if he or she considers that a party does not have a "relevant interest".

NNTT regional progress reports and work plans – items 33 and 51

30. The importance of NTRBs having, and being supported to adhere to, medium to long term plans has been discussed above.

31. It also needs to be recognised that the making and implementation of operational plans has been, and is likely to continue to be, a central aspect of the conditions under which an NTRB is provided funding by the Commonwealth.

32. While the CLCAC can see the benefit in some instances of the NNTT being involved in regional reporting and regional planning, unless the NNTT has proper regard to NTRB strategic and operational plans (including the objectives, strategies and priorities in those plans) this may cause confusion and potentially frustrate efforts by NTRBs to make and adhere to their plans. If the power of the NNTT to engage in regional reporting and planning is to be formally recognised, then the NNTT also needs to be formally required to have proper regard to the views of the NTRB or NTRBs concerned, and to any relevant NTRB strategic and/or operational plan.

RECOMMENDATION 6

33. If items 33 and 51 (and related provisions) are to be enacted they should include a requirement that the NNTT must, for the purposes of making such regional reports and work plans:

    (a) consult with and have proper regard to the views of any relevant NTRB; and

    (b) have proper regard to the NTRB's strategic and operational plans including the objectives, strategies and priorities in the plans.

The requirement that the Court have regard to NNTT reports – item 36

34. Any material provided to the Court for the purposes of influencing the Court's decision-making must be made available to all other parties who may be affected by the Court's decision.

RECOMMENDATION 7

35. If item 36 is to be enacted, further appropriate amendments should be made to oblige the NNTT to serve a copy of any report that it provides to the Court on the applicant, the NTRB and any other party to the proceeding or proceedings concerned that may be affected by the report.

NNTT power to direct the production of documents – item 47

36. The power to compel the production of documents is appropriate to a forum that is concerned with ascertaining and making findings in relation to facts in issue. The NNTT is not and should not be so concerned. The proposal to empower the NNTT to compel the production of documents for the purposes of a mediation conference is misconceived and inappropriate.

37. The parties to mediation should understand that they can not hope to persuade the other parties to agree to their position unless they provide them with sufficient supporting material. The decisions about:

(a) whether to provide material,

(b) what material is sufficient for the purpose of mediation,

(c) when it will be provided, and

(d) who it will be provided to,

are, and must remain, strategic decisions for the party concerned. These are decisions that will affect not only the party's prospects in mediation, but also its position in the proceedings generally. The NNTT should not be permitted or encouraged to directly interfere with a party's conduct of the proceedings.

RECOMMENDATION 8

38. Item 47 (and related provisions) should not be enacted.

Obligation to mediate in good faith – items 46 & 52

39. While doubting that the proposals in relation to the imposition of a duty to mediate in good faith will be enforceable or effective, the CLCAC supports the intent of these provisions.

Review on whether there are native title rights and interests – items 53 to 55

40. The CLCAC is strongly opposed to these proposed provisions. That is because such reviews:

(a) will be routinely requested by respondent parties as a precondition to substantive mediation;

(b) will quickly become a routine procedural step in the mediation of native title proceedings;

(c) will occupy a considerable amount of time and require the expenditure of considerable resources by the applicant, or on behalf of the applicant by the NTRB; and

(d) will be extremely unlikely to lead to any greater willingness on the part of respondent parties to consent to a determination of mediation; and

(e) will be prejudicial to the applicants' case at trial.

In short, and in plain terms, the CLCAC believes that these reviews will be an expensive and unfair waste of time and money.

41. Reviews will be routinely requested and will become a regular feature of mediation because, with the knowledge that reviews are available to the NNTT, Commonwealth funded respondents will argue that they will be best equipped to engage in mediation if a review is held first. There will never be a native title application proceeding in which 'the issue' of 'whether a native title claim group who is a party in [the] proceeding holds native title rights and interests' (which is of course the central question of all claimant and non-claimant applications) does not arise (proposed s.136GC(2)). Further, it is hard to imagine a mediation where the respondents could not sensibly mount a case that the substantive condition in the proposed 136GC(3) are satisfied. In these circumstances, the presiding member will feel themselves compelled to recommend that a review take place.

42. The applicant will, as one of the parties to the proceeding, be consulted about the matter (proposed s.136GC(3)) but ultimately the review will be able to be conducted whether or not the applicant consents.

43. Unless an applicant wishes the review to conclude that there is insufficient evidence to be sure that the claim group holds native title, the applicant will have to prepare carefully for the review, will have to provide well documented supporting material and will have to make well thought out submissions. In short, the applicant will have to present their case.

44. All of this will take considerable time and involve considerable expense.

45. If the NNTT concludes that there is no native title, or that there is insufficient evidence to determine whether or not there is native title, the respondent parties will be very unlikely to consent to a determination of native title. The applicant's negotiating position in relation to the settlement of the proceedings and also in relation to any significant future acts affecting land or waters in the claim area will have been seriously weakened.

46. If the NNTT concludes that there is material to support the existence of native title, the CLCAC's experience in attempting to resolve native title applications by consent strongly suggests that the State and other respondent parties will nevertheless insist on their own revision of the applicant's material. They will do so when the review is completed and they will do so at their own pace and according to their own standard bureaucratic procedures.

47. If the matter then progresses to trial, the applicant's case will, despite the existence of proposed s.136GC(7), have been prejudiced. The NNTT's report will have been provided to the Court as well as to all parties to the proceeding. The respondent parties will be already familiar with the strengths and weaknesses of the applicant's case.

48. Further, it will be only the applicant who will be affected by these proposed provisions. This is simply because it is the applicant who bears the burden of proof.

49. The only justification that has ever been provided for these proposed provisions is that they are to counter the perception that NNTT mediation is a "soft option"[3].

RECOMMENDATION 9

50. Items 53 to 55 should not be enacted.

51. If, against the CLCAC's objection, the Committee intends to support the enactment of these provisions they should be modified to ensure that:

    (a) a review is only conducted at the applicant's request, or with the applicant's consent; and

    (b) a review report is not provided to the Court.

Native title application inquiries – items 56 to 67

52. For much the same reasons as it is opposed to the proposed NNTT native title reviews, the CLCAC is strongly opposed to the proposed provisions in relation to native title application inquiries conducted by the NNTT.

53. In addition to the objections it has raised in relation to the review provisions, the CLCAC is opposed to the inquiry provisions because they seriously confuse and over-complicate the already complicated institutional framework for the resolution of native title application proceedings.

[3] G Hiley QC and K Levy *Native Title Claims Resolution Review* 31 March 2006, paragraphs 4.33 to 4.34.

54. In this regard, the CLCAC also notes and adopts the serious concerns that have been raised by the Federal Court in its submission to this Inquiry.[4]

55. The decision to conduct a review will be taken by the President of the NNTT rather than the presiding member. In making the decision, the President will be required to give 7 days notice to the Chief Justice of the Federal Court but not to the presiding judge.

56. The proposed NNTT reviews are clearly intended to be conducted in the context of, and for the purposes of furthering mediation conducted by the NNTT on referral from the Federal Court (see proposed 136GC(2)). It appears that an inquiry, on the other hand, is envisaged as a separate proceeding that is initiated not by an applicant party, but by the NNTT itself, and without the direct involvement of the judge conducting the related native title application proceeding. The confusion, duplication and inefficiency caused by Registrars of the Federal Court mediating issues in native title proceedings at the same time as the proceeding has been referred to the NNTT for mediation (which the Bill is now intended to remedy), will pale into insignificance by comparison with that caused by the enactment of the inquiry provisions.

57. The inquiry, if it happens, will then be conducted in a similar manner as the hearing of a Court proceeding, with a greater degree of formality and process than a review. Consequently the conduct of an inquiry is likely to involve even greater expense for the applicant and NTRB than a review.

58. One difference to the conduct of Court proceedings is that the parties to an inquiry may include "any other person who notifies the Tribunal, in writing, that the person wishes to be a party to the inquiry" (proposed s.141(5)(d)). While on the one hand the Bill includes provisions designed to reduce the number of unnecessary respondent parties to native title determination application proceedings (items 3 to 5), on the other hand it includes this provision which will relax further the range of persons who may be permitted, presumably with financial assistance from the Commonwealth, to take part in inquiries conducted by the NNTT.

59. As with a review at the end of the inquiry process, nothing will have been determined. The result of an inquiry would be different to a review in that the Court would be required to consider whether or not to receive into evidence in the proceeding the transcript of evidence from an inquiry and would be empowered to draw conclusions from the transcript and to adopt any recommendation made. But the CLCAC's experience in litigating native title determination applications strongly suggests that governments and other respondent parties will argue forcefully, where a transcript would be likely to advance an applicant's case at trial, that there are important reasons why the usual rules of evidence and procedure should be followed and the transcript excluded or disregarded.

60. The CLCAC firmly believes that it is extremely unlikely that, at the end of the review process, whatever the findings and recommendations of the NNTT may be, an applicant's case and the resolution of the proceedings will not have been advanced at all. There is simply no point in a body that does not have the power to determine any of the matters in issue in native title proceedings hearing evidence and argument about those matters.

[4] See the submission provided by the Office of the Registrar, Federal Court of Australia, 'Submission – Inquiry by the Standing Committee on Legal and Constitutional Affairs into the Native Title Amendment Bill 2006'.

61. When the applicant is then faced with the prospect of trial his or her case will have been prejudiced to an even greater extent than it would have been by a review. Whether or not the transcript of the inquiry is admitted into evidence the applicant's witnesses (who will be principally Indigenous people forming part of the claim group) will be cross-examined exhaustively about any perceived inconsistency in their testimony from that given in the inquiry. The respondent parties will have had the benefit of an entire dress rehearsal.

62. The CLCAC is also concerned, given the significance of the institutional change being proposed in these items, that there has been little discussion and analysis of the difficulties or problems with the existing framework that the changes are intended to address and of how the changes will address them. The relevant discussion in the report of the *Native Title Claims Resolution Review* (March 2006) upon which the inquiry provisions is based, is limited to four short paragraphs (4.35 to 4.38) - two of which simply describe the proposal (4.36 to 4.37). What discussion there is simply refers to the potential usefulness of NNTT inquiries into "overlapping claims, authorisation and other kinds of inter-indigenous disputes" (4.35). There is no discussion of why the many existing options at the Court's disposal are not sufficient to these purposes or of how NNTT inquiries will be more useful in this regard.

63. Further, in the translation of the proposal into proposed legislation, it has been significantly expanded so that the issues into which an inquiry may be held are not limited to the sorts of matters contained in the *Claims Resolution Review* report and its recommendations but extend to "a matter or an issue relevant to a determination of native title under section 225" (proposed s.138B(1)).

RECOMMENDATION 10

64. Items 56 to 67 should not be enacted.

65. If, against the CLCAC's objection the Committee intends to recommend the enactment of these provisions in some form, then at least the following changes should be incorporated:

    (a) an inquiry should only be held at the direction of the Federal Court judge presiding in relation to the proceeding, upon the application of the applicant in the proceeding; and

    (b) no person who is not a party to the proceeding should be permitted to be a party to an inquiry in relation to a matter or issue concerned in the proceeding without the leave of the Court.

Determination of native title in relation to part only of a claim area – item 35

66. The CLCAC supports the intent of this item which it sees as potentially useful to avoid contentious issues that affect one part of a claim area from holding up the settlement of an application in relation to the remainder of the area.

67. The CLCAC does have some queries, however, in relation to the drafting in relation to which parties must consent to the partial determination.

    (a) Why is the consent of "each registered native title claimant in relation to any part of the determination area" (proposed s.87A(1)(c)(ii)) required in addition to the consent of the applicant? Does this mean that not only must the applicant consent, but each individual person who is authorised by the group as part of the applicant must consent? This would be problematic. Why is

the terminology of "registered native title claimant", which is otherwise used only in the context of the future act regime, being used in relation to the resolution of an application proceeding?

(b) Why is the consent of "each registered native title body corporate in relation to any part of the determination area who is a party to the proceeding" required (s.87A(1)(c)(iii))? There will not be any registered native title body corporate unless there has already been a determination. Once there has been a determination there cannot be another one. The only sort of application proceeding in which there may be a registered native title body corporate for part of the area concerned would be an application under s.13(1)(b) to revoke or vary an existing approved determination. But it is doubtful that this sort of application is within the contemplation of the proposed s.87A which refers to "a proceeding in relation to an application *for a determination of* native title" (emphasis added).

RECOMMENDATION 11

The intent of item 35 is supported. The drafting of the proposed s.87A(1)(c) needs to be reviewed.

Registration test not to be applied where s.87A has amended an application – items 69 -70

68. The CLCAC also supports the intent of these items but believes that there may have been an error in the drafting of item 69 (proposed s.190(3)(a)). The provision as drafted does not seem to make any sense.

RECOMMENDATION 12

69. The intent of items 69 to 70 is supported. The drafting of item 69 need to be reviewed.

Dismissal of "future act claims" and claims that fail to pass the registration test – items 2, 36 & 73

70. The CLCAC is strongly opposed to these items as being inappropriate and unfairly discriminatory.

71. The bases on which proceedings may be summarily dismissed have been well settled and are now, in the case of the Federal Court, codified in the relevant parts of the *Federal Court Rules*. These are:

(a) Order 35A, which provides for the dismissal of proceedings in the case of default of the Court's directions, and which will apply where a proceeding is not being duly prosecuted by an applicant; and

(b) Order 20 rule 2, which provides for the summary dismissal of a proceeding in which no reasonable cause of action is disclosed, which is frivolous or vexatious, or which is an abuse of process.

These are the only circumstances in which a native title applicant, like any other person bringing any other proceeding, should not be permitted to have their matters determined by the Court.

72. The CLCAC is particularly concerned with the notion that the registration test, which is applied by a delegate of the Registrar (and who will always be an

employee of, or consultant to, the NNTT) for the purposes of determining whether the claim group concerned is to have the benefit of the provisions of the future act regime, is to be used in effect as an assessment of whether or not an applicant has disclosed a reasonable cause of action. This is a wholly inappropriate use of the registration test and the processes by which it is applied and will lead to:

(a) a demand for the greater involvement of respondent parties in the application of the registration test; and

(b) more importantly, substantial injustice for native title claimants.

Section 190B, which sets out the "merits" components of the registration test includes criteria that are not identical to the matters in issue in a native title determination application proceeding. The NNTT has applied the test differently from application to application, and from time to time, in relation to the same application. Furthermore, it can be argued that the registration test has, in some respects, been interpreted by the NNTT more restrictively than the Court has interpreted s.223 and s.225.

RECOMMENDATION 13

Items 2, 36 and 73 should not be enacted.

Conclusion

73. The CLCAC believes that a significant number of the changes proposed in the *Native Title Amendment Bill 2006* either should not be enacted at all, or, if they are to be enacted, require amendment.

74. The CLCAC would be happy to expand on any of the above submissions.

MARNIE PARKINSON
PRINCIPAL LEGAL OFFICER

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