



Australian Government

**Department of Families, Community Services
and Indigenous Affairs**

Box 7788 Canberra Mail Centre ACT 2610
Telephone 1300 653 227
TTY 1800 260 402
Facsimile
E-mail
www.facsia.gov.au

Ms Jackie Morris
Committee Secretary
Senate Legal and Constitutional Affairs Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Ms Morris

Inquiry into the Native Title Amendment Bill 2006

Thank you for the opportunity to appear before the Senate Legal and Constitutional Affairs Committee in connection with its inquiry into the Native Title Amendment Bill 2006. During my appearance on 30 January 2007, I took two questions on notice. Responses to those questions are attached.

Please do not hesitate to contact me should you wish to discuss any aspect of the responses.

Yours sincerely

Greg Roche
Assistant Secretary
Land Branch

9 February 2007

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL
AFFAIRS

INQUIRY INTO THE NATIVE TITLE AMENDMENT BILL 2006

Senator Johnston asked the following question at the hearing on 30 January 2007 (transcript pp 66 – 67):

I am not sure that the organisational structures and administrative processes [referred to in proposed subsection 203AI(1)] advance the claimants at all. We can have the best operating, most gorgeously administered rep body that does nothing – the hospital that is the most efficient, with no-one in the beds. ‘In a fair manner’ as to whom? It may be fair to the miners. It does not talk about the rep body’s statutory obligations. In the fulfilment of those, they should be carried out in a fair manner. I think that the tenor and the direction are fine, but I think some smart lawyers are going to walk through this with a semitrailer – aren’t they?

The answer to the honourable Senator’s question is as follows:

The assessment of a representative body’s organisational structures and administrative processes would not occur in a vacuum, but would be linked to how representative bodies perform their functions. The Minister, as is the case now, will have to assess the fairness of a body’s organisational structures and administrative processes. Under proposed subsection 203AI(1), the Minister will be required to make this assessment when considering *whether a body will satisfactorily perform, or is satisfactorily performing, its functions as a representative body*. Arguably the most significant of these functions is facilitation and assistance to those who hold or may hold native title.

Existing subsection 203AI(2) which is unchanged, goes on to list matters that the Minister must have particular regard to in assessing the fairness of the body's organisational structures and administrative processes. Four of the six matters go directly to issues of engagement with claimants and other indigenous people in the area.

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL
AFFAIRS

INQUIRY INTO THE NATIVE TITLE AMENDMENT BILL 2006

Senator Payne asked the following question at the hearing on 30 January 2007 (transcript p. 67):

One question which I did want to pursue was this 2006 report of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Account. There are 19 recommendations in that. It is clear on the face of it that some of those have been taken up in the legislation, but some have not, and some pertain to evidence which was given to the committee today in relation to NTRBs. What we might do is seek your response on why some of those have not been taken up and whether some of the suggestions advanced to us could be pursued that align with some of these recommendations.

The answer to the honourable Senator's question is as follows:

A Government Response to the Report on the Operation of Native Title Representative Bodies (March 2006) by the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Account has been approved in principle and is expected to be tabled shortly.