NATIONAL INDIGENOUS COUNCIL

Chairperson

Ref: NIC2007/46

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

Dear Ms Morris

Inquiry into the Native Title Amendment (Technical Amendments) Bill 2007

Thank you for your letter, received on 3 April 2007, inviting the National Indigenous Council (NIC) to make a submission to the Inquiry into the Native Title Amendment (Technical Amendments) Bill 2007.

As an advisory body to Government we are not well placed to respond in a meaningful manner to the technical amendments to the *Native Title Act 1993.*

In November 2006 NIC were invited to comment on the discussion paper on technical amendments to the *Native Title Act 1993*, I have attached, for your information, a copy of the correspondence sent to Mr Steven Marshall, Attorney-General's Department which includes comments from NIC members.

Yours sincerely

Dr Sue Gordon AM

20 April 2007

cc: NIC Members

Secretariat, National Indigenous Council
Stakeholder Management and Coordination Branch - Office of Indigenous Policy Coordination
Department of Families, Community Services and Indigenous Affairs
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NATIONAL INDIGENOUS COUNCIL

Chairperson

Ref: NIC2006/218

Mr Steven Marshall
Assistant Secretary
Native Title Unit
Legal Services and Native Title Division
Attorney-General's Department
Robert Garran Offices
National Circuit
Barton ACT 2600

Dear Mr Marshall

Discussion paper on technical amendments to the Native Title Act

Thank you for your letter, received on 24 November 2006 inviting the National Indigenous Council (NIC) to comment on the discussion paper on the technical amendments to the *Native Title Act 1993*.

As an advisory body to Government we do not well placed to respond in a meaningful manner to the technical amendments to the *Native Title Act 1993* Notwithstanding that, I have invited comment from NIC members and submit the following:

On p12 of the discussion paper at paragraph 44 there is discussion of the authorisation process. Sections 251A and 251B of the NTA are commonly interpreted as requiring absolute consensus / agreement among an entire native title group.

The recent era of administration has seen a proliferation of aboriginal organisations competing for grant funding and in many instances competing against other members of the same indigenous community. A successful native title claim can be very bad indeed for the business of some Aboriginal organisations. Therefore the NTA in its current form allows for native title applications to be sabotaged for business reasons unrelated to the operation or existence of native title. For a concrete example of where this happens refer to the Queensland Cultural Heritage Act 2003.

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This QLD Act hinges on native title processes and therefore a successful native title claim can ruin business for a self-interested individual or family. In assessing an application to the Tribunal, for instance the delegate can only look at those matters relevant to the NTA, however, as the Act is currently written a potential objector is able to veil an objection in terms of tradition and custom whilst the real motive may be business related.

It is simply not practical to suggest that all members of all Aboriginal communities will operate with the utmost scruples in every instance - that is the only way S251A and S251B can operate as presently drafted. There must be acceptance that communities operate in often complex ways.

Yours sincerely

Dr Sue Gordon AM

22 January 2007

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