



Northern
Territory
Government

Old Admiralty House,
68 the Esplanade, Darwin NT 0800

Postal address GPO Box 1535
Darwin NT 0801

Tel (08) 8935 7669

Fax (08) 8935 7662

Email LawReformCommittee.doj@nt.gov.au

Our ref 20080648

Your ref

Mr Peter Hallahan
Secretary
Legal and Constitutional Affairs Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Mr Hallahan

**RE: INQUIRY INTO THE RIGHTS OF THE TERMINALLY ILL
(EUTHANASIA LAWS REPEAL) BILL 2008**

Thank you for the opportunity to appear at the public hearing in Darwin on Monday, 14 April 2008.

The Northern Territory Law Reform Committee ('the NTLRC') was requested by the Senate Standing Committee to formulate a written response to the question of whether it saw any advantage or disadvantage in the proposed Bill expressly repealing section 50A of the *Northern Territory (Self-Government) Act 1978* (Cth).

The issue arose in the context of a concern expressed in other submissions that the repeal of the *Euthanasia Laws Act 1997* (Cth) ('the 1997 Act'), without expressly repealing section 50A which it introduced, could somehow have the effect of causing that provision to remain in force.

It is the view of the NTLRC that there cannot be any real argument against the proposition that the repeal of the 1997 Act will have the effect of removing section 50A from the *Northern Territory Self-Government Act 1978* (Cth), notwithstanding the absence of a provision expressly repealing section 50A.

The principal effect of the 1997 Act was the introduction of more or less identical provisions into the Self-Government Acts of the Northern Territory, the Australian Capital Territory and the Territory of Norfolk Island limiting the legislative power of their respective Assemblies. The only other provision of the Act concerned the repeal of the *Rights of the Terminally Ill Act 1995* (NT), but this was expressed to be "for the avoidance of doubt".

When viewed in this light, the conclusion that section 50A and its counterparts are removed from the Self-Government Acts by the repeal of the 1997 Act is inescapable. What other effect could its repeal have? The express repeal of those provisions, when coupled with the repeal of the 1997 Act, would be superfluous no doubt, but could also give credence to an argument that something less than the complete repeal of the 1997 Act was intended.

May we also respectfully point out, while it is proper to consider, and if thought necessary, adjust any perceived procedural difficulties in the Bill, (a matter principally for the Parliamentary draftsman), the substance of the Bill is clearly to restore to the Territories an incidence of Self Government taken from them in 1997. Procedure should never ultimately defeat substance in a democratic society.

Yours sincerely

A large black rectangular redaction box covering the signature of Austin Asche.

Austin Asche AC QC
President and Chair
6 May 2008