

Government Response to the Fourth Report of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund on the National Native Title Tribunal Annual Report 1994/1995

Recommendation 1 – That the NNTT revise its conflict of interest policy to be consistent with its mission statement; that both statements refer to the NNTT's responsibility to *facilitate* rather than to *advance* native title.

Response: This is a matter for the consideration of the Tribunal.

Recommendation 2 – That, consistent with Justice French's proposal in March 1995, the National Native Title Tribunal no longer have determinative functions in relation to the acceptance of applications, decisions as to who can or cannot be a party and decisions to make or not make determinations; that the Act be amended accordingly.

Commentary: The Native Title Amendment Bill 1996 contains amendments to the *Native Title Act 1993* (NTA) that are necessary because of the decision of the High Court in *Brandy v Human Rights and Equal Opportunity Commission* (1995) 183 CLR 245. The amendments address the implications of the *Brandy* decision by withdrawing from the NNTT and conferring on the Federal Court the responsibility for receiving all native title applications, controlling the proceedings and making any determinations concerning native title and compensation applications.

Under the amendments, all applications for determinations of native title and compensation under the NTA will be made to the Federal Court. There will be no acceptance test for applications. The Federal Court will determine who are the parties to an application.

The Native Title Registrar will have the administrative function of assessing whether the claims pass a registration test for inclusion on the Register of Native Title Claims but this will not affect an applicant's right to be heard in the Federal Court.

Response: The amendments in the Native Title Amendment Bill 1996 will remove the determinative functions of the Tribunal in relation to native title and compensation applications.

Recommendation 3 – That Appendix L of the report, 'Details of Applications in Mediation' (pp.236-244) be circulated with Appendix M, the 'Timeline Document' (pp.244-256) to interested parties.

Response: This is a matter for the consideration of the Tribunal.