

**Parliamentary Joint Committee on
Native Title and the Aboriginal and
Torres Strait Islander Land Fund**

OPERATION OF THE NATIVE TITLE ACT

**Inquiry Into The Effectiveness Of
The National Native Title Tribunal**

Submission No:27

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Senator J Ferris
Chair, Parliamentary Joint Committee on Native Title
and the Aboriginal and Torres Strait Islander Land Fund
The Senate
Parliament House
Canberra ACT 2600

By facsimile: (02) 6277 5866

Dear Senator Ferris

INQUIRY INTO THE EFFECTIVENESS OF THE NATIONAL NATIVE TITLE TRIBUNAL

I write in response to the Joint Committee's call for submissions, and to invite you and members of the Committee to visit the Kimberley.

The Kimberley Land Council (KLC) is represented by the submission of the Western Australian Aboriginal Native Title Working Group and, naturally, supports the comments and conclusions contained in that submission.

I would also like to record my endorsement of the comments made in the submission to the inquiry by Bruce Harvey, Chief Adviser Aboriginal and Community Relations for Rio Tinto Limited, about the depth of the inadequacy of funding to native title representative bodies, and the consequences of this for the native title process and all parties to it.

These two submissions comment on the following resource issues facing native title representative bodies, and I would like to draw the Committee's particular attention to them:

- ❖ The clear and extreme imbalance in the funding available to the different 'arms' of the native title process — the National Native Title Tribunal (NNTT), the Attorney General's Department (AGD) (which provides third-party funding), the Federal Court and the native title representative bodies (NTRB). This imbalance was exacerbated by funding increases, announced in the

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2001 Federal Budget to the NNTT, the AGD, the Federal Court and ATSIC, but with no additional funding to the representative bodies to meet their statutory responsibilities within the native title system.

- ❖ In spite of the higher workload than envisaged when NTRB funding levels were set, there has been no substantive increase in funding for the last five years. This has been noted in many reports — including a Joint Parliamentary Committee report into indigenous Land Use Agreements, NNTT Annual Report, reports of the Aboriginal and Torres Strait Islander Social Justice Commissioner and ATSIC reports — and by parties to the native title process repeatedly recommending an increase.
- ❖ The operation of the system by the NNTT, by the State Government (for example the blanket application of the expedited procedure in exploration applications), and the listing of cases by the Federal Court (often requiring preparations for trial at the same time as a matter is in mediation) all increase — often unnecessarily — the workload of and resource burden on NTRBs.

These represent just some of the inequities in the native title system that need to be addressed for reasons of justice for the traditional owners of this country, and for the effective operation of the system for all concerned.

I believe that there is no substitute for first-hand experience of these often-abstracted matters to promote understanding and appreciation for the actual situation on the ground. Accordingly, I invite you and members of the Committee to visit us in the Kimberley. We could provide first-hand information and experience of how these resource issues affect people's ability to exercise their rights and interests and, as a result, their everyday lives.

Thank you for considering these comments to the inquiry and this invitation. We look forward to your response.

Yours sincerely


WAYNE BERGMANN
Executive Director