

Dissenting Report – Opposition Senators

Aboriginal Land Rights (Northern Territory) Amendment Bill 2006

Opposition Senators believe that the Majority's Report conveys the acute level of dissatisfaction expressed by key stakeholders in regards to this Bill. It is not necessary to repeat those concerns. Every single non-Government submission argued this Bill should **not** proceed in its current form.

The Opposition upholds that Traditional landowners are the people most affected by these significant changes. Their message at the hearing was strong and clear - the bill should not proceed.

It is noted that the Majority's Report indicated that the amount of time allowed for the inquiry was 'totally inadequate' given the scope and severity of the concerns. One hearing and less than a week to prepare the Report was a woefully inadequate amount of time to canvas opinion and consider possible amendments to the Bill. This is an iconic piece of legislation. The manner in which the Bill has been managed reflects poorly on this Government.

Regrettably, the Majority's recommendation that the Bill proceed with some conditions does not logically follow on from the Report's findings. Opposition Senators believe that in light of such strong and universal opposition from key stakeholders, it is not appropriate to recommend that the Bill proceed. The Chair's recommendation that the Government commit to ongoing negotiations and dissemination of information on the major changes *after* the Bill is passed is no substitute for proper consultation and negotiation *before* it is passed. It does nothing to resolve the key problems identified with the new legislative framework.

Over the past nine years, there have been three reviews of the Aboriginal Land Rights (Northern Territory) Act 1976. In 2003, the NT Land Councils and NT Government made a joint submission to the Commonwealth Government regarding possible amendments to the Act. These amendments were based on the findings of these reviews and their own extensive consultations. The Opposition is pleased that the bulk of these amendments has been adopted in the present Bill. These amendments largely pertain to the mining, exploration and sub-leasing provisions and make it easier for traditional owners to pursue economic development on their land.

This Bill contains amendments that were not part of any review or the NT joint submission. Some of these amendments include the new 99 year leasing on townships, the augmentation of Ministerial power over land decisions and land councils, and the removal of guaranteed funding for land councils. Some of these amendments were first announced in October 2005 by the then Minister for Indigenous Affairs, Senator Vanstone, while others have appeared even more recently.

Opposition Senators recommend that the Bill be split to allow for the amendments that have been negotiated (including those adopted from the Joint Submission of the NT Land Councils and NT Government) to proceed immediately, while the remainder be deferred subject to ongoing consultation and negotiation with traditional owners and their representatives. The amendments that have not been subject to negotiation include the provisions regarding

- 99 year leasing on Aboriginal townships,
- the creation of new land councils,
- the Ministerial power to override a Land Council's decision not delegate its function to a regional body,
- the removal of guaranteed funding for Land Councils
- the altered administration of the Aboriginal Benefits Account (ABA) and composition of the ABA Advisory Board
- the excision of intertidal zones not contiguous with Aboriginal land

The transcript of the inquiry clearly demonstrates the lack of consultation and negotiation on these new amendments. Opposition Senators strongly disagree with the Office of Indigenous Policy Co-ordination's (OIPC) submission that it was not their responsibility to communicate the changes with Traditional Owners. Even if it was the responsibility of the Land Councils, the shortage of time and resources made it physically and logistically impossible for Land Councils to consult their traditional owner base.

Government attempts to tie core funding to the 99 year leases as an 'incentive' for traditional owners to enter the scheme heightens our concerns about the capacity of traditional owners to provide free and informed consent.

The Minister has indicated his acceptance of some of the faults of the Bill by agreeing in recent weeks to remove certain elements of the 99 year leasing scheme. But these concessions are not enough.

These non-negotiated amendments represent some of the most significant changes to the *Aboriginal Land Rights (Northern Territory) Act* since its original enactment thirty years ago. They have the potential to undermine the long-term viability and independence of Land Councils and deny cultural, social and economic enjoyment of land by traditional land owners.

Recommendations

The Opposition recommends:

A. That the Bill be split to allow:

- **Negotiated provisions of the Bill relating to mining, exploration and subleasing (including those that were**

adopted from the Joint Submission of the NT Land Councils and NT Government) to proceed immediately,

- **The remainder of the Bill to be subject to thorough consultation and negotiation with traditional owners, their representatives and other key stakeholders before they are considered by Parliament.**

B. That if the Bill is not split, it does not proceed.

C. That the Government takes every possible step to achieve broad consensus among key stakeholders, particularly traditional owners and their representatives before seeking significant amendments to such important legislation.

Senator Chris Evans
ALP, Western Australia

Senator Trish Crossin
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