

Australian Greens Dissenting Report

Aboriginal Land Rights (Northern Territory) Amendment Bill 2006

The Australian Greens are concerned that the ALRA (NT) Amendment Bill 2006 will have significant impacts on Aboriginal communities. We are disappointed that while there has been effective stakeholder consultation over some sections of this Bill (which has produced workable provisions that have community support), this has been undermined by the tacking on of a number of other controversial amendments on which there has been little or no consultation. This problem has been compounded by the inadequate time allowed for the Senate inquiry, which effectively gave stakeholders little more than two weeks to respond to these complex issues.

While the majority committee report lists a number of substantial issues with the Bill, its final recommendation does not adequately address these problems. We question the logic of passing those sections of this Bill which are arguably flawed on the proviso that the Government undertake stakeholder consultation and negotiation after the fact. If parts of the Bill are unworkable or have unintended consequences then these issues need to be addressed first, and no amount of information dissemination can change the on-the-ground impacts of bad law once it is passed.

On this basis the Australian Greens are recommending that the Bill is split so that those provisions on which there has been adequate consultation and for which there is stakeholder support can be passed immediately, while allowing more time to develop amendments to the more controversial provisions for which there has not been proper community consultation and preserving the stated intention of the Bill to foster the economic development so sorely needed in Aboriginal communities.

Economic development

The issue of facilitating economic development on Aboriginal land, particularly in relation to developing enterprise and employment opportunities for remote Aboriginal communities, is an extremely important one that requires a considered and concerted approach. We are pleased to see that the Government is now demonstrating a willingness to address this issue, but are concerned that the current approach is unlikely to prove effective.

Community leasing

We are concerned that while the intention of the proposed changes are laudable (in terms of promoting housing, private investment, entrepreneurship and other forms of economic development) the manner in which they are being implemented is unlikely to produce these desired results and at the same time will have a number of unintended consequences which may in fact undermine economic development. In particular, there is a danger that the head leasing and sub-leasing provisions mean that traditional owners relinquish control and cannot prevent inappropriate commercial development on sub-leased land.

Delegation of Land Council powers

We are concerned that these provisions are likely to undermine the stability and workability of the land councils and promote dispute and litigation. Furthermore, giving the Minister the power to override Land Councils will subvert existing governance and accountability arrangements.

Establishment of new Land Councils

We do not believe that a 55% vote represents a substantial majority, and believe that having such a low threshold increases the likelihood of internal conflict and instability.

Use of the ABA

We do not believe that the use of the Aboriginal Benefits Account to fund the new leasing arrangements is appropriate, and we support the concern of the Minerals Council of Australia that ABA monies are increasingly being seen as a substitute for government funding of basic social services. We are concerned that, by effectively taking over administration of ABA funds, the Government is undermining the fund's role in encouraging and supporting economic development initiatives.

Mining & exploration agreements

We note that the 2003 Joint Submission recommended that there should be no restriction on the content of mining and exploration agreements (because of the extent to which existing arrangements acted as a disincentive to entering into exploration agreements) and that the OIPC appeared to be unable to provide a substantive reason for ignoring this recommendation in their response. Given that there is support for this initiative from both the land councils and the mining industry and that it is likely to encourage greater economic development we believe that these restrictions should be removed.

Intertidal zones

We do not support the termination of non-contiguous claims to intertidal zones, river beds and banks and believe that further work is required to resolve this issue in a satisfactory manner.

Recommendation

That the Bill be split so that those aspects of the Bill on which there has been proper community consultation and on which there is substantive stakeholder agreement can be supported unanimously (i.e. those agreed in the 2003 Joint Submission), and those provisions on which there is significant community concern and an acknowledged need for further information dissemination, negotiation and amendment (i.e. head leases, delegation of powers, what constitutes a 'substantial majority', use of the ABA, restrictions on mining agreements, finalising land claims) can be further developed and return to the Parliament at a later date.

Senator Rachel Siewert, AG, Western Australia