



Australian Government

Office of the Registrar of Indigenous Corporations

www.oric.gov.au

Email: info@oric.gov.au

Freecall: 1800 622 431

Fax: (02) 6133 8080

Level 1, Centraplaza

16 Bowes Place

Woden ACT 2606

PO Box 29

Woden ACT 2606

ABN 18 108 001 191

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Hon Warren Entsch MP

Chair

Joint Standing Committee on Northern Australia

PO Box 6021

CANBERRA ACT 2600

Dear Mr Entsch

Inquiry into destruction of Aboriginal heritage sites at Juukan Gorge

Thank you for the invitation to make a submission to this inquiry. As the Registrar of Aboriginal and Torres Strait Islander Corporations, my role is primarily concerned with the regulation and support (including capacity building) of all corporations registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act).

I am supported by the Office of the Registrar of Indigenous Corporations (ORIC). ORIC assists and regulates corporations that are incorporated under the CATSI Act. It does this in a variety of ways, for example by:

- advising them on how to incorporate;
- training directors, members and key staff in good corporate governance;
- making sure they comply with the law, and
- intervening when needed.

The *Native Title Act 1993* (Native Title Act) requires Registered Native Title Bodies Corporate (RNTBCs) to be incorporated under the CATSI Act. It should be noted however that they represent only about six per cent of the 3,354 CATSI Act corporations registered as at 25 June 2020.

The responsibilities conferred on the Registrar because the CATSI Act is a special measure mean that my office engages in regulatory activity that other regulators would generally avoid, for example, disputes between members and directors. The Registrar has statutory functions that are associated with disputes in relation to corporate governance.

However, at present, ORIC has no role in native title disputes. Disputes within PBCs can take up a disproportionate share of time and money, and in some cases can only be resolved through recourse to the courts. For example, some native title determinations may include more than one language group within the claim area, and there may be disagreements about internal boundaries or be issues around the genealogy of individuals that may lead to disputes.

The PKKP Aboriginal Corporation, representing the Puutu Kunti Kurrama people and the Pinikura people, is a corporation representing two language groups.

Additionally, the consent determination process of native title decisions by common law holders is currently not regulated. Under proposed amendments to the Native Title legislation currently before the Parliament, RNTBCs will be required to lodge with the Registrar certificates confirming native title decisions have been made in accordance with the *Native Title (Prescribed Bodies Corporate) Regulations 1999*. The proposed amendments would also require rule books of RNTBCs to contain dispute resolution processes in relation to native title disputes. This will, I expect, bring more native title disputes into the Registrar's purview.

As currently proposed, the Registrar would also have a role in assisting the NNTT to mediate disputes arising under this process although neither the NNTT Registrar, or the Registrar of Aboriginal and Torres Strait Islander Corporations have a binding arbitral power. This is something I am encouraging the National Indigenous Australians Agency to explore as part of the current review of the CATSI Act.

I would also welcome any input from the committee or its findings into the review. For your information, details of the review can be found at <https://www.niaa.gov.au/indigenous-affairs/economic-development/review-catsi-act>.

Once again, I thank you for seeking our input on this important matter. I would be happy to discuss any of these issues with you and the Committee.

Yours sincerely

Selwyn Button
Registrar