



CENTRAL DESERT

— NATIVE TITLE SERVICES —

Our ref: Legal – General: Submissions; Corporate

8 December 2023

Sophie Dunstone
Senate Legal and Constitutional Affairs Legislation Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600
AUSTRALIA

by email: legcon.sen@aph.gov.au;

Central Desert Native Title Services Limited Submission re: Miscellaneous Measures Bill 2023 introduced 15 November 2023

We refer to the Attorney-General's Portfolio Miscellaneous Measures Bill 2023 and in particular the proposed repeal of section 213A of the *Native Title Act 1993* (Cth) (**NTA**) and the opportunity to provide submissions on this proposal.

Please accept this letter as the submission of **Central Desert** Native Title Services Limited on its own behalf and on behalf of named registered native title bodies corporate.

BACKGROUND

1. Central Desert is a recognised native title service provider for the native title claimants and holders of the Central Desert region of Western Australia and performs all the functions and exercises all the powers described in Part 11, Division 3 of the NTA.
2. Central Desert's statutory area covers approximately 830,935km², nearly one third of Western Australia and among other things, services the following registered native title bodies corporate (**RNTBC**):
 - (a) Barra Parrapi (Aboriginal Corporation) RNTBC – the Prescribed Body Corporate (**PBC**) for the Nangaanya-ku determination area;
 - (b) Kaltupakal Aboriginal Corporation RNTBC – the PBC for the Pilki determination area;
 - (c) Kulyakartu (Aboriginal Corporation) RNTBC – the PBC for the Kulyakartu determination area;
 - (d) Marputu Aboriginal Corporation RNTBC – the PBC for the Gingirana determination area;

- (e) Mungarlu Ngurrarankatja Rirraunkaja (Aboriginal Corporation) RNTBC – the PBC for the Birriliburu determination area;
 - (f) Ngurra Kayanta Aboriginal Corporation RNTBC – the PBC for the Ngurra Kayanta determination area;
 - (g) Parna Ngururpa (Aboriginal Corporation) RNTBC – the PBC for the Ngururpa determination area;
 - (h) Pila Nguru (Aboriginal Corporation) RNTBC – the PBC for the Spinifex/Untiri Pulka determination area;
 - (i) Rapi (Aboriginal Corporation) RNTBC – the PBC for the Lappi Lappi and Ngulupi determination area;
 - (j) Tjamu Tjamu (Aboriginal Corporation) RNTBC – the PBC for the Kiwirrkurra determination area;
 - (k) Tjiwarl (Aboriginal Corporation) RNTBC – the PBC for the Tjiwarl determination area;
 - (l) Wakamurru (Aboriginal Corporation) RNTBC – the PBC for the Manta Rirrtinya determination area;
 - (m) Warnpurru (Aboriginal Corporation) – the PBC for Pila Nature Reserve determination area;
 - (n) Upurli Upurli Nguratja (Aboriginal Corporation) – the PBC for the Upurli Upurli Nguratja determination area; and
 - (o) Yilka Talintji Aboriginal Corporation RNTBC – the PBC for the Yilka and Sullivan/Edwards determination area.
3. Each RNTBC holds on trust the native title rights and interests of the common law holders of native title within the area for which it is determined, and which are recognised and enforced through orders of the *Federal Court of Australia*.

SUBMISSION IN RELATION TO THE ATTORNEY-GENERAL'S PORTFOLIO MISCELLANEOUS MEASURES BILL 2023 – IN PARTICULAR REFERENCE TO THE PROPOSED REPEAL OF SECTION 213A OF THE NTA

4. On behalf of the above RNTBC, Central Desert makes the following submissions:
- (a) The repeal of section 213A will decrease occurrences of parties unnecessarily becoming respondents in matters simply due to them having been eligible for funding to do so.
 - (b) Recipients of funding under section 213A have largely been non-Indigenous people and entities such as pastoralists, who as per the Attorney-General's second reading speech, "are generally commercially viable or sound entities, [who] would have the capacity to deal with native title matters as part of their ordinary business costs."
 - (c) The repeal is not in breach of any imposed obligations of the International Convention on the Elimination of All Forms of Racial Discrimination as Indigenous peoples wishing to protect their non-native title property rights in native title matters may still be eligible for funding under the Attorney-General Department's Special Circumstances Scheme.

- (d) Many questions of law surrounding native title have now been settled so the necessity of litigation has instead shifted to a framework of negotiation and mediation. This paradigm shift has reduced the need for funded litigation.
5. In summary, Central Desert submits section 213A of the NTA should be repealed in line with the Attorney-General's Portfolio Miscellaneous Measures Bill 2023.

Yours sincerely,

Johanna Ramsay
Chief Executive Officer

Dr. Guy Singleton
Chair